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District of Columbia REGISTER

HIGHLIGHTS

- D.C. Council passes Law 26-96 to allow a retailer with commercial street frontage at a location under the jurisdiction of the Washington Convention and Sports Authority to be licensed for a streatery
- D.C. Council passes Law 26-98, to clarify the applicability date for expanded financial reporting requirements for certain boards and commissions
- D.C. Council passes Law 26-99, to mandate residents hosting musical performance on their property as part of a porchfest to apply for block party permits
- D.C. Council schedules a public hearing to discuss the requirement for preparing and submitting a small area plan for the Robert F. Kennedy Memorial Stadium Campus (Bill 26-625)
- D.C. Council schedules a public hearing to consider frequency standardization of the District's contributions in support of benefits for employees of the District government (Bill 26-627)
- D.C. Council schedules a public oversight roundtable on the operations, compliance, and community impact of Cedar Hill Regional Medical Center
- Department of Behavioral Health solicits applications from qualified applicants to provide substance use disorder HIV early intervention services
- Board of Election schedules a meeting to review Initiative Measure No. 87 "District of Columbia Living Wage Amendment Act of 2026"
- Department of Housing and Community Development schedules the Fiscal Year 2027 Needs Assessment Public Hearing to discuss the development of policies and programs for affordable housing, special needs housing, homelessness, homeownership, community development, and public service activities
- DC Water and Sewer Authority schedules a public hearing to discuss proposed retail rates, charges & fees, groundwater sewer rates, and high flow filter backwash sewer rate for Fiscal Years 2027 & 2028 and the new District of Columbia Public Inconvenience Fee

DISTRICT OF COLUMBIA REGISTER

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DISTRICT OF COLUMBIA
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MAYOR

VICTOR L. REID, ESQ.
ADMINISTRATOR

CONTENTS

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA

D.C. LAWS

L26-96 Streatery Program Endorsements and Protest Process Amendment Act of 2025 004482

L26-97 Streatery Program Temporary Amendment Act of 2025 004483

L26-98 District of Columbia Boards and Commissions Financial Reporting Temporary Amendment Act of 2025 004484

L26-99 Porchfest Permitting Temporary Amendment Act of 2025 004485

RESOLUTIONS

Res 26-346 Commission on Fashion Arts and Events Teaira Brewer Confirmation Resolution of 2026 004486

BILLS INTRODUCED AND PROPOSED RESOLUTIONS

Notice of Intent to Act on New Legislation -
Bills B26-0626, B26-0627 and B26-0628, and Proposed Resolutions PR26-0568 through PR26-0578 ..... 004487 - 004489

COUNCIL HEARINGS

Notices of Public Hearings -
B26-625 RFK Campus Small Area Plan Amendment Act of 2026 004490

B26-627 Frequency Standardization for Contributions in Support of District Government Employee Benefits Amendment Act of 2026 004491

PR26-567 Zoning Commission Anthony Hood Confirmation Resolution of 2026 004492

Notice of Public Oversight Roundtable -
Cedar Hill Regional Medical Center Operations, Compliance, and Community Impact ..... 004493 - 004494

ACTIONS OF THE COUNCIL OF THE DISTRICT OF COLUMBIA CONT'D

COUNCIL HEARINGS CONT'D

Notice of Public Roundtables -
PR26-575 Board of Directors of the Washington Metrorail Safety Commission Brad Belzak Appointment Resolution of 2026..... 004495 - 004496
PR26-576 Commission on the Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings Laura Hankins Reappointment Resolution of 2026..... 004495 - 004496
PR26-577 Citizen Review Panel Whitney Miller Reappointment Resolution of 2026 ..... 004495 - 004496
PR 26-578 Citizen Review Panel Carolyn Woods Reappointment Resolution of 2026..... 004495 - 004496

OTHER COUNCIL ACTIONS

Notice of Grant Budget Modification -
GBM 26-0049 Grant Budget Modification as of March 5, 2026.....004497

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES

PUBLIC HEARINGS

Alcoholic Beverage and Cannabis Administration -
Amelie - ANC 2F - Entertainment Endorsement 004498
DC Dank - Medical Cannabis Retailer - ANC 6A - New 004499
Mr. Pollo Peruvian Charcoal Chicken - ANC 1D - New 004500
Skylark - ANC 8F - New 004501
Tap99 - ANC 8F - Streatery.....004502
The Consortium - ANC 6C - Substantial Changes.....004503

Health, Department of (DC Health) -
State Health Planning and Development Agency -
Information Hearing on the Certificate of Need Application of Procare Intermediate Holdings, Inc. (CON No. 2026-5-01) for the change of effective control of Procare Ambulance of Maryland, Inc.- March 20, 2026 004504

Housing and Community Development, Department of -
Fiscal Year 2027 Needs Assessment Public Hearing for the District of Columbia's FY 2027-FY 2031 Consolidated Plan & Neighborhood Revitalization Strategy Area
FY 2027 Annual Action Plan (AAP)
FY 2027 Housing Trust Fund Allocation Plan
FY 2027 Substantial Amendment to the Recovery Housing Plan -
March 31, 2026 004505

Water and Sewer Authority, DC -
Notice of Public Hearing -
Amendments to Water and Sewer Rates, Fees and Charges for FY 2027 and FY 2028 - May 14, 2026..... 004506 - 004507

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

PROPOSED RULEMAKING

Water and Sewer Authority, DC -
Amend 21 DCMR (Water and Sanitation),
Ch. 1 (Water Supply),
Sec. 112 (Fees),
Ch. 41 (Retail Water and Sewer Rates and Charges),
Sec. 4100 (Rates for Water Service) and
Sec. 4101 (Rates and Charges for Sewer Service),
to amend the fees, rates, and charges for Fiscal Year 2027 and 2028 and
establish a new District of Columbia Public Inconvenience Fee ..... 004508 - 004512

EMERGENCY AND PROPOSED RULEMAKING

Housing Authority, DC -
Amend 14 DCMR (Housing),
Ch. 49 (Purpose and Scope of Housing Choice Voucher Program
Administrative Plan) is repealed and replaced with,
Ch. 49 (Purpose and Scope of Housing Choice Voucher Program
Administrative Plan),
Sections 4900 - 4911 ..... 004513 - 004984
Ch. 50 (Reserved) is repealed and replaced with,
Ch. 50 (Fair Housing and Equal Opportunity Non-Discrimination),
Sections 5000, 5001, and 5002 ..... 004513 - 004984
Ch. 51 (Eligibility Considerations and Initial Family Composition)
is repealed and replaced with,
Ch. 51 (Eligibility Considerations and Initial Family Composition),
Sections 5100 - 5120 ..... 004513 - 004984
Ch. 52 (Briefing of Families and Issuance of Vouchers) is repealed
and replaced with,
Ch. 52 (Applications, Waiting List, and Tenant Selection),
Sections 5200, 5201, and 5202 ..... 004513 - 004984
Ch. 53 (Recertifications, Housing Quality Standard Inspections,
and Family Moves) is repealed and replaced with,
Ch. 53 (Briefings and Voucher Issuance),
Sections 5300 and 5301 ..... 004513 - 004984
Ch. 54 (Verification Procedures) is repealed and replaced with,
Ch. 54 (Income and Subsidy Determinations),
Sections 5400, 5401, and 5402 ..... 004513 - 004984
Ch. 55 (Portability) is repealed and replaced with,
Ch. 55 (Verification),
Sections 5500 - 5503 ..... 004513 - 004984
Ch. 56 (Debts and Repayment Agreements) is repealed
and replaced with,
Ch. 56 (Housing Quality Standards and Rent Reasonableness
Determinations),
Sections 5600, 5601, and 5602 ..... 004513 - 004984

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

EMERGENCY AND PROPOSED RULEMAKING CONT'D

Housing Authority, DC - cont'd
Amend 14 DCMR (Housing), cont'd
Ch. 57 (Rental Assistance Demonstration Administrative Plan) is repealed and replaced with,
Ch. 57 (General Leasing Policies)
Section 5700 (General Leasing Policies) ..... 004513 - 004984
Ch. 58 (Owner Eviction Guidelines and Grounds for Termination from the Housing Choice Voucher Program) is repealed and replaced with,
Ch. 58 (Moving with Continued Assistance and Portability)
Sections 5800 and 5801 ..... 004513 - 004984
Ch. 59 (Definitions) is repealed and replaced with,
Ch. 59 (Reexaminations – Housing Choice Vouchers and Project-Based Vouchers)
Section 5900, 5901, and 5902 ..... 004513 - 004984
Ch. 76 (Housing Choice Voucher Program: Waiting Lists, Local Preferences, and Applicant Selection) is repealed and replaced with,
Ch. 76 (Termination of Assistance and Tenancy)
Sections 7600 - 7613 ..... 004513 - 004984
Ch. 83 (Rent and Housing Assistance Payments) is repealed and replaced with,
Ch. 83 (Owners)
Sections 8300 and 8301 ..... 004513 - 004984
Ch. 85 (Housing Choice Voucher Program: Participant Moves) is repealed and replaced with,
Ch. 85 (Program Integrity)
Sections 8500 and 8501 ..... 004513 - 004984
Ch. 89 (Informal Hearing Procedures for Applicants and Participants of the Housing Choice Voucher and Moderate Rehabilitation Program) is repealed and replaced with,
Ch. 89 (Special Housing Types)
Sections 8900 - 8906 ..... 004513 - 004984
Ch. 91 (Housing Choice Voucher Program: Rent Reform Demonstration Program) is repealed and replaced with,
Ch. 91 (Program Administration & Informal Hearings)
Sections 9100 - 9108 ..... 004513 - 004984
Ch. 94 (Affordable Housing Rental Rehabilitation Financial Assistance) is repealed and replaced with,
Ch. 94 (Project-Based Vouchers)
Sections 9400 - 9408 ..... 004513 - 004984
Ch. 100 (Project Based Vouchers (PBV) Under the Rental Assistance Demonstration (RAD) Program) is added,
Sections 10000 - 10007 ..... 004513 - 004984
Ch. 101 (Special Purpose Vouchers) is added,
Sections 10100 - 10103 ..... 004513 - 004984

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

EMERGENCY AND PROPOSED RULEMAKING CONT'D

Housing Authority, DC - cont'd
Amend 14 DCMR (Housing), cont'd
Ch. 199 (Definitions) is added,
Sections 19900, 19901, and 19902 ..... 004513 - 004984
to address and remediate the issues identified by the United States Department of Housing and Urban Development in its 2022 assessment of the District of Columbia Housing Authority; Tenth Emergency and Proposed Rulemaking to allow for more time to continue to work with HUD to obtain specific responses to the Ninth Emergency and Proposed Rulemaking published on March 13, 2026 at 73 DCR 003858 ..... 004513 - 004984

NOTICES, OPINIONS, AND ORDERS
MAYOR'S ORDERS

2026-037 Appointments and Reappointments — District of Columbia Developmental Disabilities Fatality Review Committee (Gregory Koons, Dr. Michaela Zajicek-Farber, and Dr. Laura Hartmann-Villalta) 004985

NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES

Alcoholic Beverage and Cannabis Administration -
ABC Boards Calendar for March 25, 2026 ..... 004986 - 004989

Behavioral Health, Department of -
Notice of Funding Availability -
Substance Use Disorder HIV Early Intervention Services ..... 004990 - 004991

Buildings, Department of -
Notices of Substantial Undue Economic Hardship Determination -
78 Seaton Place, NW - FY26 1st Half 004992

Criminal Justice Coordinating Council -
Prearrest Diversion Taskforce Meeting - March 27, 2026 ..... 004993 - 004994

Education, State Board of -
Educator Excellence Committee Meeting - March 26, 2026 004995

Elections, Board of -
Certification of Filling Vacancy in ANC-SMD -
6A05 Morgan A. Conley 004996

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D

Elections, Board of - cont'd
Monthly Voter Registration Statistics - February 28, 2026 .....004997 - 005005
Notice of Meeting - To adopt Formulations for the Short Title, Summary Statement, and Legislative form for Initiative Measure No. 87 - "District of Columbia Living Wage Amendment Act of 2026" - April 1, 2026 .....005006 - 005014

Employee Appeals, Office of -
OEA Matter No. 1601-0017-21C24, Employee v. DC Department of Consumer and Regulatory Affairs, Addendum Decision on Compliance (Reinstate) ..... 005015 - 005031

Energy and Environment, Department of -
Notice of Intent to Issue a Facility-Wide Title V Air Quality Permit Renewal -
#038 District of Columbia Water and Sewer Authority (DC Water), 5000 Overlook Avenue SW.....005032 - 005036

Friendship Public Charter School -
Request for Proposals -
Exterior and Interior Wayfinding sign Design and Consulting Services 005037

Health, Department of (DC Health) -
Notice of Virtual Board of Medicine Meeting - March 25, 2026 005038

Historic Preservation Review Board -
Notice of Historic Landmark and Historic District Designations -
26-02 Shrine of the Sacred Heart..... 005039

Housing and Community Development, Department of -
Notice of 2026 Public Meeting Schedule -
District of Columbia Housing Production Trust Fund Advisory Board..... 005040

IDEA Integrated Design and Electronic Academy Public Charter School -
Request for Proposals - Rooftop HVAC Unit Replacement 005041

KIPP DC Public Charter Schools -
Request for Proposals -
Special Education Instructional and Operational Systems Review.....005042

Licensing and Consumer Protection, Department of -
Board of Industrial Trades Meeting - March 24, 2026 (Rescheduled) 005043
Board of Professional Engineers Meeting - March 26, 2026 005044

ACTIONS OF THE EXECUTIVE BRANCH AND INDEPENDENT AGENCIES CONT'D

NOTICES, OPINIONS, AND ORDERS CONT'D
BOARDS, COMMISSIONS, AND AGENCIES CONT'D

Out of School Time Grants and Youth Outcomes, Office of -
Notice of Public Meeting - March 26, 2026 005045

Parks and Recreation, Department of -
Notice of Application - 400 Massachusetts Avenue Dog Park 005046

Paul Public Charter School -
Request for Proposals -
10 year Facilities Master plan architectural services 005047
Computer Technology 005048

Public Charter School Board, DC -
Notice of Charter Reviews - Multiple Schools:
Global Citizens Public Charter School,
Inspired Teaching Demonstration Public Charter School, and
Mundo Verde Bilingual Public Charter School -
Comment Accepted Until April 27, 2026 ..... 005049 - 005050

Zoning Adjustment, Board of - Cases
20970-A The Washington Ballet - ANC 3A - Order ..... 005051 - 005053
21252-A Embassy of the Republic of Cuba - ANC 1A and 1C - Order ..... 005054 - 005058
21384 Adetokunbo Harrison - ANC 4C - Order ..... 005059 - 005062

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 26-96

"Streatery Program Endorsements and Protest Process Amendment Act of 2025"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 26-147 on First Reading and Final Reading, on December 2, 2025, and December 16, 2025, respectively. Following the signature of the Mayor on January 12, 2026, pursuant to Section 404(e) of the Charter, the bill became Act 26-240 and was published in the January 16, 2026 edition of the D.C. Register (Vol. 73, page 000439). Act 26-240 was transmitted to Congress on January 22, 2026 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 26-240 is now D.C. Law 26-96, effective March 6, 2026.

Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
January	22,23,26,27,28,29,30
February	2,3,4,5,6,9,10,11,12,13,17,18,19,20,23,24,25,26,27
March	2,3,4,5

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 26-97

"Streatery Program Temporary Amendment Act of 2025"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 26-517 on First Reading and Final Reading, on December 2, 2025, and December 16, 2025, respectively. Following the signature of the Mayor on January 12, 2026, pursuant to Section 404(e) of the Charter, the bill became Act 26-241 and was published in the January 16, 2026 edition of the D.C. Register (Vol. 73, page 000443). Act 26-241 was transmitted to Congress on January 22, 2026 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 26-241 is now D.C. Law 26-97, effective March 6, 2026.

Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
January	22,23,26,27,28,29,30
February	2,3,4,5,6,9,10,11,12,13,17,18,19,20,23,24,25,26,27
March	2,3,4,5

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 26-98

"District of Columbia Boards and Commissions Financial Reporting Temporary Amendment Act of 2025"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 26-519 on First Reading and Final Reading, on December 2, 2025, and December 16, 2025, respectively. Following the signature of the Mayor on January 12, 2026, pursuant to Section 404(e) of the Charter, the bill became Act 26-242 and was published in the January 16, 2026 edition of the D.C. Register (Vol. 73, page 000446). Act 26-242 was transmitted to Congress on January 22, 2026 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 26-242 is now D.C. Law 26-98, effective March 6, 2026.

Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
January	22,23,26,27,28,29,30
February	2,3,4,5,6,9,10,11,12,13,17,18,19,20,23,24,25,26,27
March	2,3,4,5

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE

D.C. LAW 26-99

"Porchfest Permitting Temporary Amendment Act of 2025"

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 26-502 on First Reading and Final Reading, on December 2, 2025, and December 16, 2025, respectively. Pursuant to Section 404(e) of the Charter, the bill became Act 26-243 and was published in the January 16, 2026 edition of the D.C. Register (Vol. 73, page 000448). Act 26-243 was transmitted to Congress on January 22, 2026 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 26-243 is now D.C. Law 26-99, effective March 6, 2026.

Phil Mendelson
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
January	22,23,26,27,28,29,30
February	2,3,4,5,6,9,10,11,12,13,17,18,19,20,23,24,25,26,27
March	2,3,4,5

ENROLLED ORIGINAL

A RESOLUTION

26-346

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

March 3, 2026

To confirm the reappointment of Teaira Brewer to the Commission on Fashion Arts and Events.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Commission on Fashion Arts and Events Teaira Brewer Confirmation Resolution of 2026".

Sec. 2. The Council of the District of Columbia confirms the reappointment of:

Teaira Brewer
Chesapeake Street, SE
Washington, DC 20032
(Ward 8)

as a voting member of the Commission on Fashion Arts and Events, established by section 2 of the Commission on Fashion Arts and Events Establishment Act of 2008, effective April 15, 2008 (D.C. Law 17-148; D.C. Official Code § 3-651), for a term to end April 15, 2029.

Sec. 3. The Council shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Mayor.

Sec. 4. This resolution shall take effect immediately.

COUNCIL OF THE DISTRICT OF COLUMBIA

NOTICE OF INTENT TO ACT ON NEW LEGISLATION

The Council of the District of Columbia hereby gives notice of its intention to consider the following legislative matters for final Council action in not less than 15 days. Referrals of legislation to various committees of the Council are listed below and are subject to change at the legislative meeting immediately following or coinciding with the date of introduction. It is also noted that legislation may be co-sponsored by other Councilmembers after its introduction.

Interested persons wishing to comment may do so in writing addressed to Nyasha Smith, Secretary to the Council, 1350 Pennsylvania Avenue, NW, Room 5, Washington, D.C. 20004. Copies of bills and proposed resolutions are available in the Legislative Services Division, 1350 Pennsylvania Avenue, NW, Room 10, Washington, D.C. 20004, Telephone: 724-8050 or online at http://www.dccouncil.gov.

COUNCIL OF THE DISTRICT OF COLUMBIA	PROPOSED LEGISLATION

B26-0626 Dr. William Keelan Collins, Sr. Way Designation Act of 2026

Intro. 03-11-2026 by Councilmember Felder and referred to the Committee of the Whole

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B26-0627 Frequency Standardization for Contributions in Support of District Government Employee Benefits Amendment Act of 2026

Intro. 03-13-2026 by Chairman Mendelson and referred to the Committee of the Whole

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B26-0628 Public Trash and Recycling Container Budgeting Act of 2026

Intro. 03-16-2026 by Councilmembers Henderson, Lewis George, R. White, Frumin, Parker, and Allen and referred to the Committee on Public Works and Operations

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PR26-0568 Medical Cannabis Qualifying Patient Application Approval Resolution of 2026

Intro. 03-13-2026 by Chairman Mendelson and referred to the Committee of the Whole

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PR26-0569 Commission on the Arts and Humanities Demetrius Butler Confirmation Resolution of 2026

Intro. 03-12-2026 by Chairman Mendelson and referred to the Committee of the Whole

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PR26-0570 Commission on the Arts and Humanities Janice Kim Confirmation Resolution of 2026

Intro. 03-12-2026 by Chairman Mendelson and referred to the Committee of the Whole

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PR26-0571 Commission on the Arts and Humanities Carla Sims Confirmation Resolution of 2026

Intro. 03-12-2026 by Chairman Mendelson and referred to the Committee of the Whole

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PR26-0572 Commission on the Arts and Humanities Hector Torres Confirmation Resolution of 2026

Intro. 03-12-2026 by Chairman Mendelson and referred to the Committee of the Whole

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PR26-0573 Office of Employee Appeals Philip A. McNamara Confirmation Resolution of 2026

Intro. 03-12-2026 by Chairman Mendelson and referred to the Committee on Executive Administration and Labor

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PR26-0574 Maternal Mortality Review Committee Dr. Nancy Gaba Confirmation Resolution of 2026

Intro. 03-12-2026 by Chairman Mendelson and referred to the Committee on Judiciary and Public Safety

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PR26-0575 Board of Directors of the Washington Metrorail Safety Commission Brad Belzak Appointment Resolution of 2026

Intro. 03-13-2026 by Chairman Mendelson and referred to the Committee of the Whole

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PR26-0576 Commission on the Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings Laura Hankins Reappointment Resolution of 2026

Intro. 03-16-2026 by Chairman Mendelson and referred to the Committee of the Whole

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PR26-0577 Citizen Review Panel Whitney Miller Reappointment Resolution of 2026

Intro. 03-16-2026 by Chairman Mendelson and referred to the Committee of the Whole

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PR26-0578 Citizen Review Panel Carolyn Woods Reappointment Resolution of 2026

Intro. 03-16-2026 by Chairman Mendelson and referred to the Committee of the Whole

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COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 26-625, "RFK Campus Small Area Plan Amendment Act of 2026"

on

Tuesday, April 21, 2026 at 3:00 p.m.

Council Chambers, Room 500 (Track A)
John A. Wilson Building
1350 Pennsylvania Avenue NW
DC Council Website (www.dccouncil.gov)

Council Chairman Phil Mendelson announces a hearing before the Committee of the Whole on Bill 26-625, the "RFK Campus Small Area Plan Amendment Act of 2026." The hearing will be held at **3:00 p.m.** on **Tuesday, April 21, 2026.**

The stated purpose of Bill 26-625 is to amend the District of Columbia Comprehensive Plan Act of 1984 Land Use Element Amendment Act of 1984 to modify the requirement for preparing and submitting a small area plan for the Robert F. Kennedy Memorial Stadium Campus. This bill is intended to facilitate the next steps in zoning for the RFK Campus to allow for development of a new stadium and mixed-use development resulting from the Robert F. Kennedy Campus Redevelopment Act of 2025 adopted by the Council last year.

Those who wish to testify must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings by **5:00 p.m. on Friday, April 17, 2026**. **Testimony is limited to three minutes**. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding by emailing cow@dccouncil.gov. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Evan Cash, Committee and Legislative Director, at (202) 724-7002 or ecash@dccouncil.gov.

Public witnesses may participate in person or virtually via the Internet on the Zoom Video Conference platform. Testimony should be submitted through the Council's Hearing Management System (https://lims.dccouncil.gov/hearings) in advance of the hearing. That testimony will be publicly accessible upon Committee review. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements for the record should be submitted through the Hearing Management System or left by voicemail by calling (202) 430-6948 (up to 3 minutes which will be transcribed). The record will close at 5:00 pm on May , 5, 2026.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

Bill 26-627, "Frequency Standardization for Contributions in Support of District Government Employee Benefits Amendment Act of 2026"

on

Monday, April 6, 2026 at 12:00 p.m.
(in conjunction with the DC Retirement Board Budget Oversight Hearing)

Hearing Room 123 (Track C)
John A. Wilson Building
1350 Pennsylvania Avenue NW
DC Council Website (www.dccouncil.gov)

Council Chairman Phil Mendelson announces a hearing before the Committee of the Whole on **Bill 26-627**, the "Frequency Standardization for Contributions in Support of District Government Employee Benefits Amendment Act of 2026." The hearing will be held at **12:00 p.m. on Monday April 6, 2026 in conjunction with the DC Retirement Board's Fiscal Year 2027 proposed budget hearing.**

The stated purpose of Bill 26-627 is to amend the District of Columbia Comprehensive Merit Personnel Act of 1978 and the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan Act of 1998 to standardize and align the frequency of the District's contributions in support of benefits for employees of the District government. The legislation proposes that the annually determined employer contribution be 26 installments rather than the current practice of either one lump sum payment each fiscal year (for the Other Post-Employment Benefits Fund and the Police Officers, Fire Fighters, and Teachers Retirement Benefit Replacement Plan) or quarterly payments (for the Defined Contribution Payment Plan).

Those who wish to testify must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings by **5:00 p.m. on April 2, 2026**. **Testimony is limited to three minutes**. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding by emailing bstum@dccouncil.gov. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Blaine Stum, Deputy Committee Director, at (202) 724-8092 or bstum@dccouncil.gov.

Public witnesses may participate in person or virtually via the Internet on the Zoom Video Conference platform. Testimony should be submitted through the Council's Hearing Management System (https://lims.dccouncil.gov/hearings) in advance of the hearing. That testimony will be publicly accessible upon Committee review. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements for the record should be submitted through the Hearing Management System or left by voicemail by calling (202) 430-6948 (up to 3 minutes which will be transcribed). The record will close at 5:00 pm on Monday, April 20, 2026.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC HEARING

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC HEARING

on

PR 26-567, "Zoning Commission Anthony Hood Confirmation Resolution of 2026"

on

Wednesday, April 8, 2026 at 9:00 a.m.

Hearing Room 412 (Track B)
John A. Wilson Building
1350 Pennsylvania Avenue NW
DC Council Website (www.dccouncil.gov)

Council Chairman Phil Mendelson announces a public hearing before the Committee of the Whole on **PR 26-567**, the "Zoning Commission Anthony Hood Confirmation Resolution of 2026." The public hearing will be held at **9:00 a.m. on Wednesday, April 8, 2026.**

The purpose of PR 26-567 is to confirm the Mayor's nomination to reappoint Anthony Hood to the Zoning Commission for a term to end February 3, 2030. The Zoning Commission is charged with preparing, adopting, and subsequently amending the Zoning Regulations and Zoning Map not inconsistent with the Comprehensive Plan for the National Capital. The Zoning Commission also considers a variety of zoning cases such as Planned Unit Developments, campus plans, and may consider, *sua sponte*, Board of Zoning Adjustment cases. The purpose of this hearing is to receive testimony from government and public witnesses as to the fitness of this nominee for reappointment to the Commission.

Those who wish to testify must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings by **5:00 p.m. on Monday, April 6, 2026**. **Testimony is limited to four minutes**. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding by emailing cow@dccouncil.gov. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Evan Cash, Committee and Legislative Director, at (202) 724-7002 or ecash@dccouncil.gov.

Public witnesses may participate in person or virtually via the Internet on the Zoom Video Conference platform. Testimony should be submitted through the Council's Hearing Management System (https://lims.dccouncil.gov/hearings) in advance of the hearing. That testimony will be publicly accessible upon Committee review. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements for the record should be submitted through the Hearing Management System or left by voicemail by calling (202) 430-6948 (up to 3 minutes which will be transcribed). The record will close at 5:00 pm on April 22, 2026.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON HEALTH
NOTICE OF PUBLIC OVERSIGHT ROUNDTABLE
1350 Pennsylvania Avenue, NW, Washington, DC 20004

COUNCILMEMBER CHRISTINA HENDERSON, CHAIRPERSON
COMMITTEE ON HEALTH
ANNOUNCES A PUBLIC OVERSIGHT ROUNDTABLE

ON

Cedar Hill Regional Medical Center Operations, Compliance, and Community Impact

ON

Monday, April 6, 2026, 9:00 A.M.
Hybrid in Room 123 and Virtual via Zoom
To Watch Live:
https://dccouncil.gov/council-videos/
https://www.christinahendersondc.com/live
https://www.youtube.com/@cmchenderson

Councilmember Christina Henderson, Chair of the Committee on Health, announces a public oversight roundtable Cedar Hill Regional Medical Center Operations, Compliance, and Community Impact. The roundtable will be held on **Monday, April 6, 2026, 9:00 A.M.,** hybrid in Room 123 of the John A. Wilson Building, and Virtual via Zoom.

The purpose of this roundtable is to examine the first year of operations at Cedar Hill Regional Medical Center and to assess compliance with the Hospital Operations Agreement between the District of Columbia and Universal Health Services East End Sub, LLC.

Cedar Hill Regional Medical Center opened in April 2025 as the District's long awaited replacement hospital east of the river, representing an investment of more than $400 million in public funds and a commitment to expand access to high quality health care for residents of Wards 7 and 8. The Agreement contemplated that the District would transition out of direct hospital operations while ensuring that the private operating entity met clear standards related to accreditation, staffing, services, community engagement, workforce development, and financial accountability.

Since opening, several significant issues have raised concerns about whether the hospital was fully prepared to begin operations. The hospital did not receive full accreditation from The Joint Commission or federal approval to accept Medicare benefits for several months after opening. The ambulatory care facility was not operational at launch, resulting in service gaps and continued delays in providing certain outpatient services. Data from late 2025 also showed

extended ambulance drop off wait times compared to other District hospitals, raising concerns about capacity and patient flow. Reports of clinical and administrative staffing shortages have further prompted questions about the hospital's ability to meet required service and quality standards.

In addition, the Committee will review compliance with contractual obligations related to community partnerships, the development of a Community Engagement Plan, the establishment of a Patient and Family Advisory Council, required quality reporting, residency and training programs, and the $75 million community health investment commitment in Wards 7 and 8. Committee on Health seeks to understand the current operational status of the hospital, evaluate whether it is meeting its legally binding commitments, and identify any corrective actions necessary to ensure that Cedar Hill delivers the level of care and accountability that District residents were promised.

This roundtable is by invite only. The public may submit written testimony through the Council's Hearing Management System https://lims.dccouncil.gov/hearings. Testimony will be publicly accessible upon Committee review. Testimony submitted in advance of the roundtable may be reviewed and referenced during the roundtable. Statements for the record should be submitted through the Hearing Management System at the link above. The record will close at 5:00pm on Thursday, April 9, 2026.

COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE
NOTICE OF PUBLIC ROUNDTABLE

1350 Pennsylvania Avenue, NW, Washington, DC 20004

CHAIRMAN PHIL MENDELSON
COMMITTEE OF THE WHOLE
ANNOUNCES A PUBLIC ROUNDTABLE

on

PR 26-575, "Board of Directors of the Washington Metrorail Safety Commission Brad Belzak Appointment Resolution of 2026"

PR 26-576, "Commission on the Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings Laura Hankins Reappointment Resolution of 2026"

PR 26-577, "Citizen Review Panel Whitney Miller Reappointment Resolution of 2026"

PR 26-578, "Citizen Review Panel Carolyn Woods Reappointment Resolution of 2026"

on

Monday, March 30, 2026 at 3:30pm

Council Hearing Room 123 (Track C)
John A. Wilson Building
1350 Pennsylvania Avenue NW
DC Council Website (www.dccouncil.gov)

Council Chairman Phil Mendelson announces a public roundtable before the Committee of the Whole on **PR 26-575**, the "Board of Directors of the Washington Metrorail Safety Commission Brad Belzak Appointment Resolution of 2026," **PR 26-576**, the "Commission on the Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings Laura Hankins Reappointment Resolution of 2026," **PR 26-577**, the "Citizen Review Panel Whitney Miller Reappointment Resolution of 2026," and **PR 26-578**, the "Citizen Review Panel Carolyn Woods Reappointment Resolution of 2026." The roundtable will be held at **3:30 p.m. on Monday, March 30, 2026.**

The stated purpose of PR 26-575 is to appoint Mr. Brad Belzak to the Board of Directors of the Washington Metrorail Safety Commission (WMSC). This measure was introduced by Chairman Mendelson on March 13, 2026. The Washington Metrorail Safety Commission is the independent entity with oversight and enforcement authority to ensure continual safety improvements in the Washington Metropolitan Area Transit Authority's (WMATA) Metrorail system. WMSC also is responsible for safety event investigations within the rail system. The WMSC Board of Directors is comprised of 6 commissioners and 3 alternates who serve 4-year terms. The District of Columbia, Maryland and Virginia each appoint two commissioners and one alternate. Each member must have expertise in transportation safety or related fields.

The stated purpose of PR 26-576 is to reappoint Ms. Laura Hankins to the Commission on the Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings (COST). This measure was introduced by Chairman Mendelson on March 16, 2026. COST was established by law in 2002 to appoint, reappoint, discipline, and remove Administrative Law Judges of the Office of Administrative Hearings (OAH). COST's mission is to ensure the recruitment and retention of a well-

qualified, efficient, and effective corps of Administrative Law Judges at the OAH. The COST is comprised of 3 voting members who serve 3-year terms.

The stated purpose of PR 26-577 is to reappoint Mr. Whitney Miller to the Citizen Review Panel. The stated purpose of PR 26-578 is to reappoint Ms. Carolyn Woods to the Citizen Review Panel. Both measures were introduced by Chairman Mendelson on March 16, 2026. With historical roots stemming from the federal Child Abuse Prevention and Treatment Act (CAPTA), the Citizen Review Panel was codified into District law in 2004. The Panel serves as an independent oversight body for the District's child welfare system, to evaluate the District government agencies involved in child protection as well as services provided by vendors. The Panel consists of 15 members, all of whom must be District residents. The Panel is required to be broadly representative of the community and must include members who have expertise in the prevention and treatment of child abuse and neglect. Panel members serve 3-year terms.

The purpose of the roundtable is to receive testimony from public witnesses as to the fitness of these nominees for appointment or reappointment. Those who wish to testify about this legislation must register using the Council's Hearing Management System at https://lims.dccouncil.gov/hearings by **5:00 p.m. on Thursday, March 26, 2026**. **Testimony is limited to three minutes**. Witnesses who anticipate needing spoken language interpretation, or require sign language interpretation, are requested to inform the Committee office of the need as soon as possible but no later than five business days before the proceeding by emailing cow@dccouncil.gov. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests received in less than five business days may not be fulfilled. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Christian A. Washington, Special Counsel, at (202) 724-8083 or cow@dccouncil.gov.

Public witnesses may participate virtually via the Internet on the Zoom Video Conference platform. Testimony should be submitted through the Council's Hearing Management System in advance of the hearing. Testimony will be publicly accessible upon Committee review. If you are unable to testify at the hearing, written statements are encouraged and will be made a part of the official record. Statements for the record should be submitted through the Hearing Management System or left by voicemail by calling (202) 430-6948 (up to 3 minutes which will be transcribed). The record will close at 5:00 pm on Monday, April 20, 2026.

COUNCIL OF THE DISTRICT OF COLUMBIA
Notice of Grant Budget Modifications

Pursuant to the Consolidated Appropriations Act of 2017, approved May 5, 2017 (P.L. 115-31), the Council of the District of Columbia gives notice that the Mayor has transmitted the following Grant Budget Modification (GBM).

A GBM will become effective on the 15th day after official receipt unless a Member of the Council files a notice of disapproval of the request which extends the Council's review period to 30 days. If such notice is given, a GBM will become effective on the 31st day after its official receipt unless a resolution of approval or disapproval is adopted by the Council prior to that time.

Comments should be addressed to the Secretary to the Council, John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 5 Washington, D.C. 20004. Copies of the GBMs are available in the Legislative Services Division, Room 10.
Telephone: 724-8050

GBM 26-0049 Grant Budget Modification as of March 5, 2026

RECEIVED: 14-day review begins March 12, 2026

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 20, 2026
Protest Petition Deadline:	May 4, 2026
Roll Call Hearing Date:	May 26, 2026
License No.:	ABRA-123774
Licensee:	Amelie Wine Bar, LLC
Trade Name:	Amelie
License Class:	Retailer's Class "C" Tavern
Address:	1315 14th Street, N.W.
Contact:	Samie R. Didda: (415) 310-4853, samiedidda@ameliewinebar.com

WARD 2 ANC 2F SMD 2F04

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on May 26, 2026 at 10 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline.

NATURE OF SUBSTANTIAL CHANGE

Request for an Entertainment Endorsement to provide Live Entertainment indoors only.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES AND SIDEWALK CAFE

Sunday through Thursday 11am – 12am, Friday and Saturday 11am – 1am

PROPOSED HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES ONLY

Sunday through Thursday 11am – 10pm, Friday and Saturday 11am – 11pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 20, 2026
Protest Petition Deadline:	May 4, 2026
Roll Call Hearing Date:	May 26, 2026
Protest Hearing Date:	July 8, 2026
License No.:	ABCA-135138
Licensee:	Hit, LLC
Trade Name:	DC Dank
Registration/License Type:	Medical Cannabis Retailer
Address:	712 15th Street N.E.
Contact:	Hussein Dib; (703) 589-6174; upics999@gmail.com

WARD 6 ANC 6A SMD 6A06

Notice is given that the above-named medical cannabis retailer applicant has requested a new license to be located at **712 15th Street, N.E.** Pursuant to Title 22-C of the DCMR (Medical Cannabis Program) objectors are entitled to be heard regarding the endorsement application. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the petition deadline. **The Roll Call Hearing is scheduled for May 4, 2026 at 10 a.m., Suite 4200-A, 899 North Capitol Street N.E., Washington, DC, 20002.** The **Protest Hearing date** is scheduled for **July 8, 2026 at 1:30 p.m.** All hearings before the Board are conducted virtually.

NATURE OF OPERATION

The medical cannabis retailer applicant is requesting to locate its operations at **712 15th Street, N.E.** The proposed facility with approximately 1,200 square feet of space will provide cannabis flowers, cannabis concentrates, and a line of edible products and home delivery services to registered patients in Washington, D.C. The applicant is requesting a delivery endorsement.

HOURS OF OPERATION FOR RETAILER

Sunday – Saturday 10 am – 10 pm

HOURS OF RETAILER SALES OPEN TO THE PUBLIC

Sunday – Saturday 10 am – 10 pm

HOURS OF DELIVERY FOR RETAILER

Sunday – Saturday 10 am – 10 pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 20, 2026
Protest Petition Deadline:	May 4, 2026
Roll Call Hearing Date:	May 26, 2026
Protest Hearing Date:	July 8, 2026

License No.:	ABRA-133854
Licensee:	Neon Bull Creation, LLC
Trade Name:	Mr. Pollo Peruvian Charcoal Chicken
License Class:	Retailer's Class "D" Restaurant
Address:	3174 Mount Pleasant Street, N.W.
Contact:	Manny Desai: (703) 380-0467, Crosonstore@aol.com

WARD 1 ANC 1D SMD 1D01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on May 26, 2026 at 10 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled on **July 8, 2026 at 1:30 p.m.**

NATURE OF OPERATION

New Class "D" Restaurant serving Peruvian foods. Total Occupancy Load of 14 with indoor seating for 12. Sidewalk Café with seating for 12. Game of Skill Endorsement request to place five (5) devices offering the game District of Skill by Pace-o-Matic.

HOURS OF OPERATION FOR INSIDE PREMISES

Sunday 8am – 9pm, Monday through Friday 5am – 11pm, and Saturday 6am – 11pm

HOURS OF OPERATION FOR SIDEWALK CAFÉ

Sunday 8am – 9pm, Monday through Saturday 5am – 11pm

HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION INSIDE PREMISES AND FOR SIDEWALK CAFÉ

Sunday 12pm – 9pm, Monday through Saturday 12pm – 11pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 20, 2026
Protest Petition Deadline:	May 4, 2026
Roll Call Hearing Date:	May 26, 2026
Protest Hearing Date:	July 8, 2026
License No.:	ABRA-135120
Licensee:	WGL DC, LLC
Trade Name:	Skylark
License Class:	Retailer's Class "C" Tavern
Address:	1201 Half Street, S.E.
Contact:	Stephen J. O'Brien: (202) 625-7700, sobrien@malliosobrien.com

WARD 8 ANC 8F SMD 8F02

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on May 26, 2026, at 10 a.m., Suite 4200 - B, 899 North Capitol Street, N.E., Washington, DC 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline. The **Protest Hearing date** is scheduled for **July 8, 2026, at 1:30 p.m.**

NATURE OF OPERATION

New Retailer's Class "C" Tavern with indoor seating for 139 and an indoor occupancy load of 186. Summer Garden with a seating capacity of 152. Total Occupancy Load of the entire establishment will be 338. The Licensee is also requesting an Entertainment Endorsement to include Cover Charge and Dancing inside the premises only, and the Holiday Extension of Hours Endorsement.

HOURS OF OPERATION, HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION, AND HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES

Sunday through Thursday 6am – 2am, Friday and Saturday 6am – 3am

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR SUMMER GARDEN

Sunday through Thursday 6am – 2am, Friday and Saturday 6am – 3am

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 20, 2026
Protest Petition Deadline:	May 4, 2026
Roll Call Hearing Date:	May 26, 2026
License No.:	ABRA-116883
Licensee:	Taphouse Management, LLC
Trade Name:	Tap99
License Class:	Retailer's Class "C" Tavern
Address:	1250 Half Street, S.E.
Contact:	Jason Cherry: (410) 271-8002, jason@cherryholdings.com

WARD 8 ANC 8F SMD 8F02

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on May 26, 2026 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abra.legal@dc.gov on or before the Petition deadline.

NATURE OF SUBSTANTIAL CHANGE
Licensee is requesting a Streatery Endorsement with 88 seats.

HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR INSIDE PREMISES
Sunday through Thursday 11am – 2am, Friday and Saturday 11am – 3am

HOURS OF OPERATION AND HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR THE SIDEWALK CAFÉ
Sunday 12pm – 8pm, Closed Monday, Tuesday through Saturday 11am – 10pm

HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES
Sunday through Thursday 11am – 1am, Friday and Saturday 11am – 2am

PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION FOR STREATERY
Sunday through Saturday 11am – 10pm

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date:	March 20, 2026
Protest Petition Deadline:	May 4, 2026
Roll Call Hearing Date:	May 26, 2026
License No.:	ABRA-130329
Licensee:	Consortium for Sustainable Workforce, Inc.
Trade Name:	The Consortium
License Class:	Retailer's Class "C" Tavern
Address:	201 Massachusetts Avenue, N.E.
Contact:	Robert Jordan: (202) 596-7628, robert.jordan@cswpbc.org

WARD 6 ANC 6C SMD 6C02

Notice is hereby given that this licensee has requested a Substantial Change to their license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on May 26, 2026 at 10 a.m., Suite 4200-B, 899 North Capitol Street N.E., Washington, DC, 20002**. Petitions and/or requests to appear before the ABC Board must be filed electronically to abca.legal@dc.gov on or before the Petition deadline.

NATURE OF SUBSTANTIAL CHANGE
Request for a Change of Hours of Operation and Alcoholic Beverage Sales. Licensee is also requesting an Entertainment Endorsement to provide Live Entertainment.

CURRENT HOURS OF OPERATION
Sunday 12pm – 10pm, Monday through Thursday 9am – 11pm, Friday 9am – 12am, Saturday 12pm – 12am

CURRENT HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday 12pm – 10pm, Monday through Friday 4pm – 11pm, Saturday 12pm – 12am

PROPOSED HOURS OF OPERATION
Sunday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

PROPOSED HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION
Sunday 7am – 2am, Monday through Thursday 4pm – 2am, Friday and Saturday 7am – 3am

PROPOSED HOURS OF LIVE ENTERTAINMENT
Sunday through Thursday 6pm – 2am, Friday and Saturday 6pm – 3am

DEPARTMENT OF HEALTH
STATE HEALTH PLANNING AND DEVELOPMENT AGENCY

NOTICE OF INFORMATION HEARING

Pursuant to D.C. Official Code §§ 44-406(b)(2) and (b)(4), the District of Columbia State Health Planning and Development Agency ("SHPDA") will hold an information hearing on the Certificate of Need Application of Procare Intermediate Holdings, Inc. (CON No. 2026-5-01) for the change of effective control of Procare Ambulance of Maryland, Inc. The hearing will be held on **Friday, March 20, 2026**, beginning at **10:00 a.m**. using WebEx Conferencing. **Please send an email to dana.mitchener@dc.gov to register for the Information Hearing and receive a link to WebEx Conferencing**.

The hearing will include a presentation by Procare Intermediate Holdings, Inc. describing its plans and addressing the certifications required pursuant to D.C. Official Code § 44-406(b). The hearing will also include an opportunity for affected and interested persons to testify. Persons who wish to testify should contact Dana Mitchener at the email address above **before 4:45 p.m. on Thursday, March 19, 2026**. Each member of the public who wishes to testify must register in advance of the information hearing and will be allowed a maximum of five (5) minutes. Written statements may be submitted to Dana Mitchener at the email address above or to the following address:

The State Health Planning and Development Agency
2201 Shannon Place, S.E.
Sixth Floor
Washington, D.C. 20020

Written statements must be received before the record closes at **4:45 p.m. on Friday, March 27, 2026**. Persons who would like to review the Certificate of Need applications or who have questions related to the hearing may contact the SHPDA at (202) 442-5875.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF NEEDS ASSESSMENT PUBLIC HEARING

Fiscal Year 2027 Needs Assessment Public Hearing for the District of Columbia's
FY 2027-FY 2031 Consolidated Plan & Neighborhood Revitalization Strategy Area
FY 2027 Annual Action Plan (AAP)
FY 2027 Housing Trust Fund Allocation Plan
FY 2027 Substantial Amendment to the Recovery Housing Plan

The Department of Housing and Community Development (DHCD) announces the public hearing on "Housing and Community Development Needs in the District of Columbia". The Department is interested in receiving community feedback.

DHCD Fiscal Year 2027 Needs Assessment Public Hearing Details:

Date: Tuesday, March 31, 2026

Time: 6:00 PM

Location: DC Department of Housing and Community Development

1909 Martin Luther King Jr Avenue SE, Washington, DC 20020

Residents and stakeholders are strongly encouraged to come out and participate in the development of policies and programs in the following areas: 1) affordable housing; 2) special needs housing; 3) homelessness; 4) homeownership; and 5) community development and public service activities.

If you would like to provide input during the hearing, you are encouraged to register by sending an e-mail to opm.questions@dc.gov. The public may also contact the agency by telephone at (202) 442-7239 to join the webinar, register, speak at the hearing, or ask general questions about the hearing. When registering for the hearing, please provide your name, address, telephone number, and organization affiliation, if any.

Deadline for requesting services of an interpreter is five days prior to the hearing date. An American Sign Language (ASL) interpreter will be available; residents who require language interpretation in Spanish, Amharic, Chinese-Mandarin/Cantonese, French, Korean, or Vietnamese, must notify the agency by e-mail to opm.questions@dc.gov.

Written statements may be submitted for the record at the hearing or until the close of business, Friday, April 24, 2026. Mail written statements to Colleen Green, Director, Department of Housing and Community Development, 1909 Martin Luther King Jr., Avenue SE, Washington, DC 20020. Statements may also be sent via email to opm.questions@dc.gov.

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PUBLIC HEARING

Thursday, May 14, 2026
6:30 p.m.
Also via Microsoft Teams or Telephone
Instructions will be provided on DC Water website prior to Hearing Date

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), in accordance with Section 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996, (D.C. Law 11-111; D.C. Official Code § 34-2202.16 (2012 Repl.), approved Board Resolution 26-22, dated March 5, 2026, which, if adopted, would amend Sections 112 (Fees) of Chapter 1 (Water Supply) and Sections 4100 (Rates for Water Services), 4101 (Rates for Sewer Service), and Section 4102 (Customer Assistance Programs) of Chapter 41 (Retail Water and Sewer Rates) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR). Pursuant to D.C. Official Code § 34-2202.16(b), the Board will conduct a public hearing at the above stated date and time to receive comments on the Notice of Proposed Rulemakings published in this edition of the *D.C. Register* on the March 20, 2026.

Below is the draft agenda for this meeting. A final agenda and information on how to participate in the meeting remotely will be posted to the Board Calendar on DC Water's website at www.dcwater.com.

Each individual or representative of an organization who wishes to present testimony remotely or by telephone at the public hearing is requested to furnish his or her name, address, telephone number and name of the organization (if any) by calling (202) 787-2330 or emailing the request to Michelle Rhodd at Board.Secretary@dcwater.com no later than 5:00 p.m., Tuesday, May 12, 2026. Other persons wishing to present testimony may testify after those on the witness list. Persons making presentations are urged to address their statements to relevant issues.

Oral presentations by individuals will be limited to five (5) minutes. Oral presentations made by representatives of an organization will not be longer than ten (10) minutes. Statements should summarize extensive written materials so there will be time for all interested persons to be heard. Oral presentations will be heard and considered, but for accuracy of the record, all statements should be written and submitted to Board.Secretary@dcwater.com. The public hearing will end when all persons wishing to testify have been heard.

Written testimony or comments on the Notice of Proposed Rulemaking may be submitted by mail to Michelle Rhodd, Secretary to the Board, District of Columbia Water and Sewer Authority, 1358 Canal Street, S.E., Washington, D.C. 20003, or by email to Board.Secretary@dcwater.com. Such written testimony to be clearly marked "Written Testimony for Public Hearing, May 14, 2026" and received by 5:00 p.m. Thursday, May 21, 2026.

PUBLIC HEARING ON
Proposed Retail Rates, Charges & Fees, Groundwater Sewer Rates, and High Flow Filter Backwash Sewer Rate for Fiscal Year 2027 & Fiscal Year 2028 and new District of Columbia Public Inconvenience Fee

Thursday, May 14, 2026

6:30 p.m.

DRAFT AGENDA

1. Call to Order ..... Dr. Unique Morris-Hughes, Chair

2. Roll Call ..... Michelle Rhodd, Board Secretary

3. Opening Statement ..... Dr. Unique Morris-Hughes, Chair

4. Opening Statement ..... David Gadis, CEO & General Manager

5. DC Water Management Presentation ..... Lola Oyeyemi, Acting CFO/EVP Finance & Procurement
   - Proposed FY 2027 & FY 2028 Retail Water and Sewer Service Rates, PILOT Fees, ROW Fees, CRIAC, Groundwater Sewer Service Rates, High Flow Filter Backwash Sewer Rates, and new District of Columbia Public Inconvenience Fee

6. Presentation by Independent Consultant ..... Amawalk Consulting Group
   - Independent Review of Proposed FY 2027 & FY 2028 Retail Water and Sewer Service Rates, PILOT Fees, ROW Fees, CRIAC, Groundwater Sewer Service Rates, High Flow Filter Backwash Sewer Rates, and new District of Columbia Public Inconvenience Fee

7. Public Witnesses
   - Pre-registered Speakers
   - Other comments (time permitting)

8. Closing Statement ..... Dr. Unique Morris-Hughes, Chair

9. Adjournment ..... Dr. Unique Morris-Hughes, Chair

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov

DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

NOTICE OF PROPOSED RULEMAKING

The Board of Directors (Board) of the District of Columbia Water and Sewer Authority (DC Water), pursuant to the authority set forth in Sections 203(3) and (11) and 216 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111, §§ 203(3), (11), and 216; D.C. Official Code §§ 34-2202.03(3) and (11) and § 34-2202.16 (2019 Repl.)); Section 6(a) of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(a) (2016 Repl.)); and in accordance with Chapter 40 (Retail Ratemaking) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR), hereby gives notice that at its regularly scheduled meeting on March 5, 2026, the Board approved Resolution #26-22 to propose the amendment of Section 112 (Fees) of Chapter 1 (Water Supply) and Sections 4100 (Rates for Water Service) and 4101 (Rates and Charges for Sewer Service) of Chapter 41 (Retail Water and Sewer Rates and Charges) of Title 21 DCMR.

The purpose of this rulemaking is to amend the fees, rates, and charges for Fiscal Year 2027 and 2028 for the Payment-in-Lieu-of-Taxes (PILOT) Fee, Right-of-Way (ROW) Fee, Retail Rates for Metered Water Services, Retail Rates for Sewer Services, Clean Rivers Impervious Area Charge (CRIAC), Retail Rates for Groundwater Sewer Services, High Flow Filter Backwash Sewer Rate, and establish a new District of Columbia Public Inconvenience Fee, effective October 1, 2026 and October 1, 2027 as noted herein.

The Board requests comments on this proposed rulemaking. The Board will also receive testimony at a public hearing on the proposed amendments of the PILOT Fee, ROW Fee, Retail Rates for Water Service, Retail Rates for Sanitary Sewer Service, Retail Rates for Groundwater Services, Retail Rates for High Flow Filter Backwash Sewer Services, and establish a new District of Columbia Public Inconvenience Fee. A Notice of Public Hearing is published in this edition of the *District of Columbia Registe*r. The Public Hearing will be held via Microsoft Teams or telephone at 6:30 pm on May 14, 2026. Final rulemaking action shall be taken in not less than seventy (62) days from the date of publication of this notice in the *District of Columbia Register*.

This proposed rulemaking, if finalized and after publication in the *District of Columbia Register*, will become effective October 1, 2026.

Chapter 1, WATER SUPPLY, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Subsection 112.8 of Section 112, FEES, is amended to read as follows:

112.8 The District of Columbia Right-of-Way Occupancy (ROW) Fee pass through charge, Payment-in-Lieu of Taxes (PILOT) Fee and Public Inconvenience Fee shall be as follows:

(a) District of Columbia Right-of-Way Fee, assessed to recover the cost of fees charged by the District of Columbia to DC Water for use of District of Columbia public space and rights of way, for each one hundred cubic feet (1 Ccf) of water use shall be:

	Effective October 1, 2026		Effective October 1, 2027	
Customer	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
All Customers	$0.20	$0.27	$0.20	$0.27

(b) Payment-in-Lieu of Taxes (PILOT) Fee to the District of Columbia Office of the Chief Financial Officer (OCFO), assessed to cover the amount which DC Water pays each fiscal year to the District of Columbia, consistent with DC Water's enabling statute for public goods and services received from the District of Columbia, for each one hundred cubic feet (1 Ccf) of water use shall be:

	Effective October 1, 2026		Effective October 1, 2027	
Customer	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
All Customers	$0.62	$0.83	$0.63	$0.84

A new Paragraph 112.8(c) is added to read as follows, effective October 1, 2026:

(c) District of Columbia Public Inconvenience Fee, assessed to recover the charges associated with occupancy permits when construction projects in public spaces extend beyond thirty (30) days shall be as follows:

	Effective October 1, 2026		Effective October 1, 2027	
Customer	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
All Customers	$0.42	$0.56	$0.42	$0.56

Chapter 41, RETAIL WATER AND SEWER RATES AND CHARGES, of Title 21 DCMR, WATER AND SANITATION, is amended as follows:

Subsection 4100.3 of Section 4100, RATES FOR WATER SERVICE, is amended to read as follows:

4100.3 The retail rates for metered water service for each one hundred cubic feet (1 Ccf) of water use shall be as follows:

	Effective October 1, 2026		Effective October 1, 2027	
Customer	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
Residential - 0 to 4 Ccf	$6.49	$8.68	$7.11	$9.51
Residential - Greater than 4 Ccf	$8.40	$11.23	$9.40	$12.57
Multi-Family	$7.21	$9.64	$7.98	$10.67
Non-Residential	$8.66	$11.58	$9.71	$12.98

Section 4101, RATES AND CHARGES FOR SEWER SERVICE, is amended as follows:

Paragraph 4101.1(a) is amended to read as follows:

4101.1 (a) The retail rates for sanitary sewer service for each one hundred cubic feet (1 Ccf) of water use shall be as follows:

	Effective October 1, 2026		Effective October 1, 2027	
Customer	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
All Customers	$12.91	$17.26	$13.39	$17.90

Subsection 4101.2 is amended to read as follows:

4101.2 The retail rates for sanitary sewer service for the discharge of groundwater, cooling water, and non-potable water sources shall be as follows:

(a) The retail groundwater sewer charge for an unimproved real property, property under construction, or under groundwater remediation shall be:

	Effective October 1, 2026		Effective October 1, 2027	
Customer	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
All Customers	$3.90	$5.21	$3.90	$5.21

(b) The retail cooling water sewer charge shall be the retail sanitary sewer service rate as provided in Section 4101.1(a) for cooling water discharged into the District's wastewater sewer system.

(c) The retail non-potable water source sewer charge shall be the retail sanitary sewer service rate as provided in Section 4101.1(a) for non-potable water discharged into the District's wastewater sewer system.

Subsection 4101.3 is amended to read as follows:

4101.3 The annual Clean Rivers Impervious Area Charge (CRIAC) per Equivalent Residential Unit (ERU) shall be as follows:

	Effective October 1, 2026		**Effective October 1, 2027**	
Customer	Annual CRIAC per ERU	Monthly CRIAC per ERU	Annual CRIAC per ERU	Monthly CRIAC per ERU
All Customers	$306.00	$25.50	$326.64	$27.22

Subsection 4101.8 is amended to read as follows:

4101.8 High Flow Filter Backwash sewer rate and conditions shall be as follows:

(a) Charged the following sewer service rate:

	Effective October 1, 2026		**Effective October 1, 2027**	
Customer	Per Ccf of water use	Per 1,000 Gals. of water use	Per Ccf of water use	Per 1,000 Gals. of water use
All Customers	$3.54	$4.73	$3.54	$4.73

(b) Subject to the following conditions:

(1) Discharge must exceed an annual average of one (1) million gallons per day (MGD), but not more than an annual average of ten (10) MGD;

(2) Discharge must be interruptible and only occur during periods of dry weather flow, as determined by DC Water; and

(3) Discharge is subject to a wastewater discharge permit.

These proposed FY 2027 and FY 2028 rates and fees are also posted on DC Water's website, which includes the *DC Water FY 2027-FY 2028 Cost of Service Study Report*, dated March 2026, that provides the basis for the rate and fee proposals, *Independent Review of the Proposed Budget and Rates for FY 2027 and FY 2028*, dated March 2026, a Rate Comparison Tool that can be used to help our customers understand the impact of these rate and fee changes, and other information about the rate making process. This information can be found on DC Water's Finance webpage under Ratemaking at: https://www.dcwater.com/about-dc-water/finance.

All persons desiring to comment on this Notice of Proposed Rulemaking should submit comments in writing not later than May 21, 2026. The Public is also invited to attend and testify at the Public Hearing on May 14, 2026. Please see the Notice of Public Hearing published in this edition of the *District of Columbia Register*. Instructions to participate by Microsoft Teams or telephone will be provided on DC Water website prior to Public Hearing date. Comments should be submitted to Michelle Rhodd, Secretary to the Board, District of Columbia Water and Sewer Authority, 1385 Canal Street, S.E., Washington, D.C. 20003 or by email to Board.Secretary@dcwater.com. Copies of the Notice of Proposed Rulemaking may be obtained from DC Water at the same address or by contacting Ms. Rhodd at (202) 787-2330.

DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF TENTH EMERGENCY AND PROPOSED RULEMAKING

The Stabilization and Reform Board (Board) of the District of Columbia Housing Authority (DCHA), pursuant to the authority set forth in the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 and § 6-210.02 (2018 Repl.)), hereby gives notice of the adoption, and continuation, on an emergency basis, of amendments to Chapters 49 (Purpose and Scope of Housing Choice Voucher Program Administrative Plan), 50 (Reserved), 51 (Eligibility Considerations and Initial Family Composition), 52 (Briefing of Families and Issuance of Vouchers), 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves), 54 (Verification Procedures), 55 (Portability), 56 (Debts and Repayment Agreements), 57 (Rental Assistance Demonstration Administrative Plan), 58 (Owner Eviction Guidelines and Grounds for Termination From the Housing Choice Program), 59 (Definitions), 76 (Housing Choice Voucher Program: Waiting Lists, Local Preferences, and Applicant Selection), 83 (Rent and Housing Assistance Payments), 85 (Housing Choice Voucher Program: Participant Moves), 89 (Informal Hearing Procedures for Applicants and Participants of the Housing Choice Voucher and Moderate Rehabilitation Program), 91 (Housing Choice Voucher Program: Rent Reform Demonstration Program), and 94 (Affordable Housing Rental Rehabilitation Financial Assistance) and the addition of Chapters 100 (Project-Based Vouchers (PBV) Under the Rental Assistance Demonstration (RAD) Program), 101 (Special Purpose Vouchers), and 199 (Definitions) to Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking is filed to keep in place for one hundred twenty (120) days the amendments to Chapters 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 76, 83, 85, 89, 91, and 94 and additions of Chapters 100, 101, and 199 of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR) that were previously set forth in the Ninth Emergency and Proposed Rulemaking to address and remediate the issues identified by the United States Department of Housing and Urban Development (HUD) in its 2022 assessment of DCHA.

DCHA made no changes in the Chapters of the Tenth Emergency and Proposed Rulemaking. The Chapters in the Tenth Emergency and Proposed Rulemaking are the same as the Chapters in the Ninth Emergency and Proposed Rulemaking.

On April 12, 2023, the First Notice of Emergency and Proposed Rulemaking was adopted by the Board. The emergency rules became effective on that date and were published in the *District of Columbia Register* on May 19, 2023 at 70 DCR 007115.

On August 2, 2023, the Second Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective August 10, 2023. The emergency rules became effective on that date and were published in the *District of Columbia Register* on September 8, 2023 at 70 DCR 012004.

On December 13, 2023, the Third Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective on that date and was published in the *District of Columbia Register* on January 5, 2024 at 71 DCR 000092.

On April 10, 2024, the Fourth Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective the same day and was published in the *District of Columbia Register* on May 10, 2024 at 71 DCR 005526.

On June 12, 2024, the Fifth Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective the same day and was published in the *District of Columbia Register* on July 19, 2024 at 71 DCR 008744.

On July 10, 2024, the Sixth Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective the same day and was published in the *District of Columbia Register* on September 20, 2024 at 71 DCR 010984.

On November 13, 2024, the Seventh Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective the same day and was published in the *District of Columbia Register* on December 13, 2024 at 71 DCR 015259.

On March 12, 2025, the Eighth Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective the same day and was published in the *District of Columbia Register* on March 6, 2026 at 73 DCR 003249.

On July 9, 2025, the Ninth Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective the same day and was published in the *District of Columbia Register* on March 13, 2026 at 73 DCR 003858.

On October 8, 2025, the Tenth Notice of Emergency and Proposed Rulemaking was adopted by the Board and became effective the same day.

These emergency rules will remain in effect for up to one hundred twenty (120) days from the date of adoption or upon publication of a Notice of Final Rulemaking in the *District of Columbia Register*, whichever occurs first.

Per D.C. Official Code § 2-505(c) emergency rulemakings are promulgated when the action is necessary for the immediate preservation of the public peace, health, safety, welfare, or morals. In reissuing the proposed rulemaking, DCHA will continue to work with HUD to obtain specific responses to the regulations before adoption of Final Regulations. HUD has advised DCHA it is still undertaking its review of the regulations. As stated above, the emergency and proposed rulemaking needed to be filed to keep in place, for DCHA's operational purposes, the current Administrative Plan. Before adoption of the Final Regulations for the Administrative Plan, DCHA will review any comments that are provided to DCHA on the proposed Tenth Amendment to the Administrative Plan rulemaking. During the Emergency and Proposed rulemaking period, community stakeholders, advocates, residents, and resident councils have the opportunity to provide DCHA with proposed changes before DCHA adopts Final Regulations.

The Board also gives notice of intent to take rulemaking action to adopt these proposed regulations as final in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

This rulemaking, which is being published after its expiration, has been superseded by the Eleventh Emergency and Proposed Rulemaking.

Chapter 49, PURPOSE AND SCOPE OF HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN, of Title 14 DCMR, HOUSING, is deleted and replaced in its entirety to read as follows:

CHAPTER 49

PURPOSE AND SCOPE OF HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN

4900 STATEMENT OF POLICIES AND OBJECTIVES

4900.1 The Section 8 Program was established by the Housing and Community Development Act of 1974, 42 U.S.C. § 1437 (1976), and amended by the Housing and Community Development Act of 1981 (Pub. L. 97-35), the Housing and Urban-Rural Recovery Act of 1983 (Pub .L. 98-181), the Technical Amendments Act of 1984 (Pub. L. 98-479), and the Housing and Community Development Act of 1987 (42 U.S.C. § 3543).

4900.2 Administration of the Housing Program and the functions and responsibilities of the District of Columbia Housing Authority (DCHA) shall be in compliance with the personnel policy of DCHA, the Equal Opportunity Plan, and the Department of Housing and Urban Development's (HUD) Housing Choice Voucher regulations and guidance.

4900.3 Administration of the Housing Choice Voucher (HCV) Program shall be consistent with all federal, state, and local laws, including but not limited to:

(a) Fair Housing Act (42 U.S.C. §§ 3601, *et seq*.);

(b) Federal and D.C. Fair Housing regulations;

(c) D.C. Human Rights Act (D.C. Official Code §§ 2-1401.01, *et seq*.);

(d) American with Disabilities Act (ADA) (42 U.S.C §§ 12101, *et seq*.);

(e) Violence Against Women Act (VAWA) (42 U.S.C. § 13981); and

(f) Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §§ 701, *et seq*.).

4901 STATEMENT OF LOCAL OBJECTIVES

4901.1 Consistent with the purpose and policy of the United States Housing Act of 1937, as amended, the mission of DCHA is to provide rental assistance for decent, safe, and affordable housing to eligible families in accordance with the provisions set forth in Section 24 of the Code of Federal Regulations, other applicable sections of the Code of Federal Regulations, and applicable HUD notices and guidance.

4901.2 In addition, through the creative use of federal grants and local resources, DCHA seeks to respond to special local housing concerns such as homelessness and the de-institutionalization of mental health care consumers.

4901.3 This Administrative Plan (Plan), comprising Chapters 49 through 59 and Chapters 76, 83, 85, 89, 91, 94, and 100 through 102 of this title of the DCMR, outlines how DCHA shall implement the requirements found in the applicable federal laws, regulations, and notices, as well as the requirements of the District of Columbia Code regarding the HCV Program. Accordingly, there may be times when DCHA is obligated to implement changes in federal law and regulations that have not yet been incorporated into the regulations that comprise the Plan.

4902 PROGRAM DESCRIPTION

4902.1 The HCV Program is designed to achieve four major objectives:

(a) To provide improved living conditions for very low-income families while maintaining their rent payments at an affordable level;

(b) To promote freedom of housing choice and spatial deconcentration of lower income and minority families;

(c) To provide decent, safe, and sanitary housing for eligible participants; and

(d) To provide incentives to private property owners to rent to lower income families by offering timely assistance payments and protection against unpaid rent, damages, and vacancy loss.

4902.2 HUD chose DCHA as a Moving-to-Work (MTW) agency and has a HUD-approved MTW plan that shall be updated every two (2) years. This program has been named Making an IMPACT. This Plan is designed to implement the MTW goals applicable to the HCV Program. These goals are to:

(a) Develop enhanced housing opportunities;

(b) Sustain quality property management;

(c) Achieve effective customer support services; and

(d) Organize efficient businesslike operating systems.

4902.3 DCHA is responsible for complying with all subsequent changes in HUD regulations pertaining to the HCV-administered programs. If such changes conflict with this Plan, HUD regulations shall control.

4902.4 DCHA is legally permitted to enter into contracts within the jurisdictional boundaries known as the District of Columbia.

4903 APPLICABILITY OF THE ADMINISTRATIVE PLAN

4903.1 This Plan, comprising Chapters 49 through 59 and Chapters 76, 83, 85, 89, 91, 94, and 100 through 102 of this title of the District of Columbia Municipal Regulations (DCMR):

(a) Outlines how DCHA shall implement the requirements found in the applicable federal laws, regulations, and notices, as well as the requirements of the District of Columbia Code related to the HCV Program; and

(b) Establishes policies for items which are not covered under other chapters of the DCMR or Federal regulations for the following programs directly funded by HUD and administered by DCHA's HCV Program office:

(1) Tenant-Based Vouchers;

(2) Project-Based Vouchers;

(3) Enhanced Vouchers;

(4) Family Unification Program Vouchers;

(5) Veterans Affairs Supportive Housing (VASH) Vouchers;

(6) Mainstream and Non-Elderly Disabled Vouchers;

(7) Homeownership Vouchers;

(8) Portable Vouchers;

(9) Set-asides for Special Needs Populations as determined by the Board of Commissioners; and

(10) Moderate Rehabilitation Program.

4903.2 There are certain issues that may not be addressed in the Plan related to HCV Program applicants and participants where DCHA turns to guidance provided by the HUD HCV Guidebook, Federal regulations, HUD Memos and Notices, and guidelines or other applicable law.

4903.3 This Administrative Plan was adopted by a resolution of DCHA Board of Commissioners on April 12, 2023.

4903.4 The Board of Commissioners shall approve any changes to the Plan.

4903.5 The Plan incorporates by reference portions of Title 14 of the DCMR, as follows:

(a) Chapter 61 – Fair Housing and Equal Opportunity;

(b) Chapter 74 – Reasonable Accommodation Policies and Procedures;

(c) Chapter 92 – Housing Choice Voucher/Home Ownership Assistance Program (HCV/HOAP); and

(d) Chapter 93 – Partnership Program for Affordable Housing.

4903.6 To the extent that other chapters of Title 14 of the DCMR regulate areas relating to the HCV Program, the Plan shall control unless otherwise indicated by the Plan.

4903.7 If other chapters of Title 14 of the DCMR regulate areas that apply to HCV Program where the Plan is silent, those regulations shall control.

4903.8 Pursuant to D.C. Official Code § 6-227(c), this Plan applies to locally funded programs except to the extent that:

(a) Such program has unique rules and procedures for its administration; and

(b) The Plan is inconsistent with any of the unique rules and procedures or applicable local or federal regulations.

4904 VETERANS AFFAIRS SUPPORTIVE HOUSING – SPECIAL PROGRAM RULES

4904.1 Veterans Affairs Supportive Housing (VASH) vouchers are generally administered in accordance with the HCV Program tenant-based rental assistance regulations set forth at 24 C.F.R. § 982, the DCMR, and this Plan.

4904.2 To be HUD-VASH eligible, a family must include at least one homeless veteran. Section 8(o)(19) of the United States Housing Act of 1937, 42 U.S.C. §

1437f(o)(19) (2006) requires homeless veterans to have chronic mental illnesses or chronic substance use disorders with treatment of these disorders required as a condition of receipt of HUD-VASH assistance. This requirement shall be waived for the VASH program.

4904.3 HUD has prescribed additional operating requirements for this program which DCHA shall follow. Those additional requirements can be found in Department of Housing and Urban Development, *Section 8 Housing Choice Vouchers: Revised Implementation of the HUD-Veterans Affairs Supportive Housing Program,* Docket No. FR-6243-N-01, 86 FR 53207, effective September 27, 2021.

4904.4 Pursuant to the guidance issued by HUD, if DCHA recommends a VASH participant for termination, DCHA may first consult with the VASH participant's case manager prior to terminating to discuss the reasons for terminating and discuss whether termination can be avoided.

4904.5 If HUD waives or specifies alternative requirements in connection with the VASH Program, DCHA shall incorporate these changes in the administration of the VASH Program where applicable.

4904.6 Upon turnover, HUD-VASH vouchers shall be issued to eligible families as identified by the Veterans Affair Medical Center (VAMC).

4904.7 If a HUD-VASH voucher participant no longer requires case management by VAMC, he or she may qualify to receive a voucher under the regular HCV Program. DCHA has allotted a certain number of vouchers specifically for veterans in this situation.

4904.8 VAMC shall be responsible for maintaining lists of eligible veterans requesting a voucher who do not qualify for case management.

4905 MODERATE REHABILITATION

4905.1 The following provisions of the Plan shall not apply to the Moderate Rehabilitation program, as defined at 24 C.F.R. § 882:

(a) 14 DCMR Chapter 52 – Applications, Wait List, and Tenant Selection;

(b) 14 DCMR § 5103 – Spouse, Cohead, Other Adult, and Dependent;

(c) 14 DCMR § 5107 – Absent Family Members;

(d) 14 DCMR § 7600 - Termination of HCV Assistance-Eviction; and

(e) 14 DCMR § 8500 – Participant Household Moves

4905.2 The following annual and special rent adjustments policies shall apply:

(a) DCHA shall adjust the Contract Rent upon receipt of a revised Contract Rent schedule from the owner, provided that each unit is in decent, safe, and sanitary condition and that the owner is otherwise in compliance with the terms of the Lease and HUD Tenancy Addendum;

(b) The Annual Adjustment Factors which HUD publishes shall be utilized in calculating the Family's rent. On or after each annual anniversary date of the Contract, the Contract Rent may be adjusted in accordance with HUD procedures, effective for the month following the submittal by the Owner of a revised schedule of Contract Rents. The changes in rent as a result of the adjustment cannot exceed the amount established by multiplying the Annual Adjustment Factor by the base rents;

(c) Approved rent adjustments as provided in this section shall not result in material differences between the rents charged for assisted and comparable unassisted units;

(d) The participant's Security Deposit shall be the lesser of the Total Tenant Payment (TTP) or Fifty Dollars ($50), which is the maximum permissible security deposit;

(e) DCHA shall pay vacancy claims for up to sixty (60) Days at eighty percent (80%) of the Housing Assistance Payment (HAP) of the previous tenant; and

(f) DCHA does not pay any claims for damages.

4906 FAIR HOUSING POLICY

4906.1 DCHA shall comply fully with all federal, state, and local nondiscrimination laws in accordance with the rules and regulations governing Fair Housing and Equal Opportunity in housing and employment.

4906.2 Specifically, DCHA shall not on account of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, familial status, family responsibilities, genetic information, disability, matriculation, political affiliation, source of income, status as a victim of an intrafamily offense, or place of residence or business deny any Family or individual the opportunity to apply for or receive assistance under HUD's Section 8 Housing Voucher Program within the requirements of the HUD regulations and the D.C. Human Rights Act.

4906.3 To further its commitment to full compliance with applicable civil rights laws, DCHA shall provide information to participants regarding discrimination and any

recourse available to them should they feel they have been the victim of discrimination on one (1) or more protected grounds. Such information shall be made available during the Family briefing session and all applicable Fair Housing Information and Discrimination Complaint Forms shall be made a part of the briefing packet.

4906.4 DCHA subscribes to HUD's "open-housing" policy and, as such, shall maintain lists of available housing submitted by owners and in all neighborhoods within DCHA's jurisdiction to ensure "greater mobility and housing choice" to low-income households that DCHA serves.

4906.5 DCHA shall review and update its Equal Opportunity Housing Plan annually to ensure that these objectives are being met.

4907 PROTECTIONS FOR APPLICANTS AND PARTICIPANTS UNDER THE VIOLENCE AGAINST WOMEN ACT

4907.1 In certain circumstances, as further explained below, applicants or participants may be afforded additional protections from HCV PROGRAM requirements and policies under the Violence Against Women Act (VAWA). DCHA shall comply with the terms of VAWA in administration of the HCV PROGRAM. VAWA protections are for victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. DCHA shall not discriminate against VAWA victims based on any protected categories pursuant to 24 CFR § 5.105(a) including race, color, national origin, religion, sex, familial status, disability, or age.

4907.2 Applicants seeking admission to the HCV Program or to a Project-Based Voucher unit shall not be denied admission based on, or as a direct result of, the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for admission, assistance, participation, or occupancy.

4907.3 Family or a Family member participant shall not be terminated from the HCV Program or a Project-Based Voucher unit based on, or as a direct result of, the fact that the family member participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

4907.4 If a member of the assisted Family is removed from the family composition due to that member of the assisted Family being the perpetrator in criminal acts of domestic violence, dating violence, sexual assault, or stalking and the victim is part of the assisted Family, the perpetrator may not be considered a remaining Family member or an eligible Family member.

4907.5 In making its decision as to who retains assistance, DCHA shall consider all credible evidence, including, but not limited to, documentation submitted to

DCHA pursuant to § 4907.12.

4907.6 (a) Pursuant to federal regulations, the denial of continued HCV Program assistance to a Family member who engages in criminal acts related to domestic violence, dating violence, sexual assault, or stalking against members of the assisted Family shall be considered a form of termination of the individual Family member. DCHA shall follow the procedures described in Chapters 58 and 89 of this title of the DCMR when terminating assistance to such an individual unless the individual is absent or expected to be absent pursuant to paragraph (b) of this subsection.

(b) If the Family member who engages in criminal acts related to domestic violence, dating violence, sexual assault, or stalking against another Family member is absent, or expected to be absent due to court order or incarceration, from the assisted unit for more than one hundred and twenty (120) consecutive days, DCHA shall remove that Family member and the individual shall no longer be considered part of the family composition.

(c) An absent family member removed from the family composition pursuant to paragraph (b) of this subsection shall also be denied continued HCV Program assistance. DCHA shall follow the same procedures as described in Chapters 58 and 89 of this title of the DCMR when terminating of the participation of the removed absent family member.

4907.7 Pursuant to federal regulations, criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a participant's household or any guest or other person under the participant's control, shall not be cause for termination of tenancy, occupancy rights of, or assistance to the victim, if the participant or immediate family member of the participant is the victim.

4907.8 Notwithstanding § 4907.7, DCHA may terminate assistance to a participant for violating a program obligation not premised on an act of domestic violence, dating violence, sexual assault, or stalking, provided that DCHA does not subject such a participant to a more demanding standard than other participants in making the determination to terminate assistance to the participant.

4907.9 A victim of domestic violence, sexual violence, dating violence, or stalking who is absent for more than one hundred twenty (120) days may still be considered a Family member based on documentation that the victim is expected to return to the Family in a reasonable time if the victim provides to DCHA documentation that meets the requirements of § 4907.12.

4907.10 If a Family or Family member participant has been a victim of domestic violence, dating violence, sexual assault, or stalking by an individual, the participant may

port to another PHA jurisdiction in violation of the lease as explained in Chapter 55 of this title of the DCMR so long as the Family has complied with all other obligations of the HCV Program.

4907.11 If a Family or Family member participant who has been the victim of domestic violence, dating violence, stalking, or sexual assault moves in violation of the lease, DCHA shall not terminate assistance or deny a Family's request to move under portability if the move was related to the act of domestic violence, dating violence, stalking, or sexual assault. The portability regulations outlined in Chapter 55 of this title shall apply.

4907.12 A Family may document an incident or incidents of domestic violence, dating violence, sexual assault, or stalking as follows:

(a) The HUD-approved certification form;

(b) A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking (*i.e.*, police reports, protective orders, and restraining orders); or

(c) Documentation that is

(1) Signed by the victim;

(2) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or mental health or medical provider (collectively, "professional") from whom the victim has sought assistance in the situation; and

(3) Attested, under penalty of perjury, that the professional believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.

(d) DCHA will notify the household member seeking relief under VAWA of the member's status under § 4907.1 within fourteen (14) business days of receiving documentation as explained in paragraphs (a) through (c) of this subsection. Notice will be provided by first-class mail to the address of record or an alternative address or email address, if one is provided, and by phone, if a phone number is provided.

4907.13 Any information submitted to DCHA under this section, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be maintained in strict confidence by DCHA.

(a) DCHA shall not allow any individual administering assistance on behalf

of the HCV Program or any persons within their employ (e.g., contractors) or any employee of DCHA to have access to confidential information unless explicitly authorized by DCHA for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

(b) DCHA shall not enter confidential information submitted to DCHA pursuant to this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:

(1) Requested or consented to in writing by the individual in a time-limited release;

(2) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or

(3) Otherwise required by applicable law.

4907.14 (a) If DCHA receives conflicting documentation submitted pursuant to § 4907.12 from two (2) or more members of a household, each petitioning for VAWA protections under this section and each claiming to be a victim and naming one (1) or more of the other petitioning household members as the perpetrator, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations.

(b) DCHA will determine which household members shall continue to be assisted in accordance with §§ 4907.21 and 5317.6. DCHA shall provide written notice to the household member(s) who will not retain assistance with the opportunity for an informal hearing in accordance with § 8908.

4907.15 If a Family or Family member participant who has been a victim of domestic violence, dating violence, sexual assault, or stalking by an individual, requests an emergency transfer voucher pursuant to §§ 5333 or 5501 of this title, the family or family member participant must submit the request in writing. A family or family member participant may submit a DCHA or HUD-approved emergency transfer voucher form, or provide a written statement that includes either:

(a) A statement expressing and certifying, under penalty of perjury, that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit assisted under the HCV Program; or

(b) A statement certifying, under penalty of perjury, that the participant was a sexual assault victim and that the sexual assault occurred on the premises during the ninety (90)-calendar-day period preceding the participant's

request for an emergency transfer voucher.

4907.16 If a family or family member participant requests an emergency transfer voucher under the protections of VAWA, DCHA will request in writing that the family or family member participant provide at least one (1) form of documentation specified in § 4907.12.

4907.17 (a) Participants must provide the documentation required under § 4907.16 within fourteen (14) business days of receiving the written request for documentation. If DCHA receives documentation containing information that conflicts with existing information already available to DCHA, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. Third-party documentation must be provided within thirty (30) calendar days of the date of the request for the third-party documentation.

(b) If DCHA receives conflicting documentation of domestic violence, dating violence, sexual assault, or stalking from two more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, § 4907.14 shall apply.

(c) DCHA will administratively withdraw a family or family members' request pursuant to § 4907.16 if documentation is not provided as explained in paragraph (a) of this subsection.

(d) DCHA will notify the household member seeking relief under VAWA of the member' status under § 4907.1 within fourteen (14) business days of receiving documentation as explained in paragraphs (a) through (c) of this subsection. Notice will be provided by first-class mail to the address of record or an alternative address or email address, if one is provided, and by phone, if a phone number is provided.

4907.18 For families residing in Partnership Program units, also called Project-Based Voucher ("PBV") units, the following provisions shall apply:

(a) If a family or family member participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, makes a written emergency transfer request in the manner specified by § 4907.15 and provides documentation in the manner specified by § 4907.16 and § 4907.17, DCHA may transfer the family to another Project-Based subsidized unit or another unit in the Public Housing program subject to availability and at DCHA's discretion. Upon written request, the family may receive priority to receive the next available opportunity for continued tenant-based rental assistance.

(b) Notwithstanding § 5333.2, a family or family member participant is not required to give advanced written notice, with a copy to DCHA, of intent to vacate the PBV unit if the family moved to protect the health or safety of the victim.

4907.19 For families residing in the Moderate Rehabilitation Program, as defined in § 4905.1, and Single Room Occupancy (SRO) housing facilities, as defined in § 1901.3, the following provisions shall apply:

(a) If a family or family member participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, makes a written emergency transfer request in the manner specified by § 4907.15 and provides documentation in the manner specified by § 4907.16 and §4907.17, DCHA may transfer the family to another Moderate Rehabilitation Program unit (for a family residing in a Moderate Rehabilitation Program unit) or SRO unit (for a family residing in a SRO unit) subject to availability. If at the time of the transfer request there is no available Moderate Rehabilitation unit or SRO unit, DCHA may transfer the family to a Project-Based subsidized unit subject to availability and at DCHA's discretion. If there is no available Project-Based subsidized unit, then upon written request and at DCHA's discretion, the family may receive the opportunity for tenant-based rental assistance.

(b) Notwithstanding § 5333.2, a family or family member participant is not required to give advanced written notice, with a copy to DCHA, of intent to vacate the Moderate Rehabilitation Program unit or SRO unit if the family moved to protect the health or safety of the victim.

4907.20 DCHA will provide to applicants deemed ineligible for the HCV Program and participants in the HCV Program the "Notice of Occupancy Rights under the Violence Against Women Act" and the HUD-approved certification form in accordance with HUD rules and regulations.

4907.21 Conflicting Allegations Panel.

(a) If DCHA receives conflicting documents submitted pursuant to § 4907.12 from two (2) or more members of a household, each claiming to be a victim and naming one (1) or more of the other petitioning household members as the perpetrator, DCHA shall convene a conflicting allegations panel within five (5) business days to recommend which Family member should remain in the voucher program by requiring third-party documentation to resolve the conflict in accordance with the Violence Against Women Act (VAWA) and its implementing regulations, as explained in §§ 4907.12 and 4907.14, and other applicable laws using the following guidelines:

(1) Prior to making any recommendation on who retains assistance, the conflicting allegations panel shall attempt to notify both adult family members involved in the alleged incident by first-class mail to the address of record or an alternative address or email address, if one is provided, and by phone, if a phone number is provided, that only one (1) part of the family shall continue to receive assistance;

(2) The notice shall inform both adults of how DCHA will determine who retains assistance, and what relevant information each adult can provide to assist DCHA in making its recommendation;

(3) After making its recommendation using the factors as enumerated in § 5317.6, the documentation provided pursuant to §§ 4907.12 and 4907.14, and any additional relevant information provided (including, but not limited to, police report(s), protective orders, restraining orders, photographs, video footage, any past history of abuse, or evidence of who is the primary aggressor), DCHA shall notify both adults in writing within five (5) business days of its decision and the basis for the decision; and

(4) The adult family member who DCHA determines shall not continue to receive assistance shall be entitled to an informal hearing pursuant to Chapter 89 of this title of the DCMR.

(b) The Conflicting Allegations Panel will consist of three members, two (2) HCV Program staff members, designated by the HCV Program Director, and a victims' service provider employee or agent.

4908 DECONCENTRATION OF POVERTY

4908.1 DCHA encourages owners of decent, safe, and sanitary housing units to lease to Housing Choice Voucher families by encouraging program participation by owners of units located outside areas of poverty or minority concentration.

4908.2 DCHA encourages program participation by owners of units in low poverty areas by initiating personal contact with owners and managers by conducting formal and informal discussions and meetings to encourage participation of owners of units located outside areas of poverty or minority concentration.

4908.3 DCHA shall periodically evaluate the geographic distribution of assisted families to identify areas within the jurisdiction where owner outreach should be targeted. The purpose of these activities is to provide more choices and better housing opportunities to families. DCHA shall hold briefings for those owners who were identified as owners of units within these targeted areas.

4909 OWNER OUTREACH

4909.1 DCHA issues invitations to owners as needed to make dwelling units available for leasing by eligible families in accordance with the Equal Opportunity Housing Plan. DCHA welcomes the continuous participation of owners of decent, safe, and sanitary housing units.

4909.2 DCHA shall maintain a list of interested owners and their properties which are available for HCV Program. As inquiries from prospective new owners are received, program staff records the necessary information on units and shall make such information available to prospective participants upon request.

4909.3 Owner meetings with HCV Program staff shall be held periodically to maintain a positive relationship and to provide owners further knowledge regarding Program rules and operations.

4910 FAMILY OUTREACH

4910.1 DCHA continues to publicize and disseminate information, as needed, concerning the availability and nature of housing assistance for very low-income families. Upon execution of an Annual Contributions Contract (ACC) for additional units, DCHA shall make known to the public through publication in a newspaper of general circulation, minority media, and other suitable means the availability and nature of housing assistance for very low-income families, unless application taking has been suspended according to HUD regulations or there is a sufficient number of families on DCHA's waiting list that advertising would not be necessary.

4910.2 The Notice to the public pursuant to § 4912.1 shall:

(a) Advise families that applications shall be taken at the Client Placement Division;

(b) Briefly describe the HCV program; and

(c) State that applicants for Public Housing may also apply for the HCV Program and shall not lose their place on the Public Housing waiting list.

4910.3 When notice to the public is required per § 4912.1, DCHA shall also distribute fact sheets to the broadcasting media to reach persons who cannot read. Personal contacts with the news media and with community service personnel, and public service announcements shall be made.

4911 PRIVACY RIGHTS

4911.1 In conjunction with the HUD Form 50058, applicant and participant families shall be required to sign the Federal Privacy Act Statement, which states under what conditions HUD will release Family and owner information.

4911.2 DCHA shall only release information to third parties under one or more of the following circumstances:

(a) With the signed and written consent of the Head of Household;

(b) To HUD and/or other housing agencies on amounts owed to DCHA for claims paid and not reimbursed by a participant and/or landlord regardless of whether there is a repayment agreement; or

(c) As permitted or required by law.

Chapter 50, RESERVED, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 50

FAIR HOUSING AND EQUAL OPPORTUNITY NON-DISCRIMINATION

5000 INTRODUCTION

5000.1 Federal laws require PHAs to treat all applicants and participants equally, providing the same opportunity to access services, regardless of family characteristics and background. Federal law prohibits discrimination in housing based on race, color, religion, sex, national origin, age, familial status, and disability. In addition, HUD regulations provide for additional protections regarding sexual orientation, gender identity, and marital status. DCHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

(a) Title VI of the Civil Rights Act of 1964;

(b) Title VIII of the Civil Rights Act of 1968 (as amended by the Housing and Community Development Act of 1974 and the Fair Housing Amendments Act of 1988);

(c) Executive Orders 11063 and 13988;

(d) Section 504 of the Rehabilitation Act of 1973;

(e) The Age Discrimination Act of 1975;

(f) Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern);

(g) The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the Federal Register February 3, 2012, and further clarified in Notice PIH 2014-20; and

(h) Violence Against Women Reauthorization Act of 2013 (VAWA).

5000.2 When more than one civil rights law applies to a situation, the laws will be read and applied together.

5000.3 Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted will also apply.

5000.4 The District of Columbia Housing Authority (DCHA) will protect individual rights of tenants, applicants, or staff according to the District of Columbia Housing Authority Human Rights Act of 1977 and Regulation Revisions (Section 4-705 Filing of Complaints).

5000.5 Federal regulations prohibit discrimination against certain protected classes and other groups of people. State and local requirements, as well as DCHA policies, can prohibit discrimination based on other factors.

5000.6 DCHA shall not discriminate because of race, color, sex, religion, familial status, age, disability, or national origin (called “protected classes”).

5000.7 Familial status includes children under the age of eighteen (18) living with parents or legal custodians, pregnant women, and people securing custody of children under the age of eighteen (18).

5000.8 DCHA will not discriminate based on marital status, gender identity, or sexual orientation.

5000.9 DCHA will not discriminate based on the following protected classes defined in the District of Columbia Human Rights Act below:

(a) Age: Eighteen (18) years of age or older.

(b) Color: skin pigmentation, including variations in skin pigmentation.

(c) Credit Information: any written, oral, or other communication of information bearing on an employee's creditworthiness, credit standing, credit capacity, credit score, or credit history.

(d) Disability: a physical or mental impairment substantially limiting one or more major life activities; physical can include auditory, speech, visual, and/or neurological impairments and mental can include cognitive and learning impairments.

(e) Family Responsibilities: supporting an individual in a legal dependent or blood relationship, which includes, but is not limited to children, grandchildren, and parents.

(f) Familial Status: a pregnant individual or a parent, guardian, or caregiver who has legal status with respect to children under the age of 18.

(g) Gender Identity or Expression: a gender-related identity, appearance, expression, or behavior of an individual, regardless of the individual's assigned sex at birth.

(h) Genetic Information: an individual's DNA or genetic predisposition, a family member's genetic predisposition; information resulting from requests for genetic testing, or history which may indicate the likelihood or increase risk of an individual's predisposition to develop a disease, illness, syndrome, or condition.

(i) Homeless Status: an individual, family, or youth who lacks, lost, or will imminently lose a fixed, regular, and adequate nighttime residence, which can include the result of escaping an unsafe environment.

(j) Marital Status: married, in a domestic partnership, single, divorced, separated or widowed, and the usual conditions associated therewith, including pregnancy or parenthood.

(k) Matriculation: being enrolled in a college, university, or some type of secondary school or program, including vocational programs.

(l) National Origin: the state, country, or nation state where an individual or their ancestors are from.

(m) Personal Appearance: outward appearance, irrespective of sex and gender identity or expression, including hair style and color, facial hair, tattoos,

body size or shape, and body piercings, subject to business requirements and standards.

(n) Place of Residence or Business: the geographical location of home or work.

(o) Political Affiliation: the state of belonging to or endorsing any political party.

(p) Race: classification or association based on an individual's ancestry, ethnicity and/or physical traits.

(q) Religion: a personal set or institutionalized system of attitudes, beliefs, and practices relating to a supernatural force or being, or its equivalent in secular faiths, including the presence or absence of commitment or devotion to any faith.

(r) Sealed Eviction Record: an eviction record that has been sealed by the Superior Court of the District of Columbia for specific reasons or upon motion by the tenant demonstrating that sealing is warranted.

(s) Sex: the state of being biologically male, female, or intersex including medical conditions and reproductive health decisions associated therewith.

(t) Sexual Orientation: an individual's romantic and/or sexual attraction for another person(s); includes relationship types such as aromantic, ethical non-monogamy, open relationships, polyamory, etc.

(u) Source of Income: the origination of an individual's personal and professional finances, including from housing choice vouchers (Section 8), emergency assistance payments, SSI Income, alimony, and disability benefit programs.

(v) Status as a Victim or Family Member of a Victim of Domestic Violence, a Sexual Offense, or Stalking (DVSOS): when an individual is a victim or family member of a victim of domestic violence, sexual offense, or stalking.

(w) Status as a Victim of an Intrafamily Offense: an individual, their family, or a household member who is a victim of domestic violence, sexual assault, stalking, and/or cruelty to the victim's animal.

5000.10 DCHA will not use any of these factors to:

(a) Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program.

(b) Provide housing that is different from that provided to others.

(c) Subject anyone to segregation or disparate treatment.

(d) Subject anyone to sexual harassment.

(e) Restrict anyone's access to any benefit enjoyed by others in connection with the housing program.

(f) Treat a person differently in determining eligibility or other requirements for admission.

(g) Steer an applicant or participant toward or away from a particular area based any of these factors.

(h) Deny anyone access to the same level of services.

(i) Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program.

(j) Discriminate in the provision of residential real estate transactions.

(k) Discriminate against someone because they are related to or associated with a member of a protected class.

(l) Publish or cause to be published an advertisement or notice indicating the availability of housing that prefers or excludes persons who are members of a protected class.

5000.11 DCHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, DCHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods. The Housing Assistance Payments (HAP) contract informs owners of the requirement not to discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability in connection with the contract.

5000.12 If an applicant or participant believes that any family member has been discriminated against by DCHA or an owner, the family should advise DCHA. DCHA should make every reasonable attempt to determine whether the applicant’s or participant’s assertions have merit and take any warranted

corrective action. In addition, DCHA is required to provide the applicant or participant with information about how to file a discrimination complaint.

5000.13 Upon receipt of a housing discrimination complaint, DCHA is required to:

(a) Provide written notice of the complaint to those alleged and inform the complainant that such notice was made.

(b) Within 20 business days of receiving the complaint, DCHA will investigate and attempt to remedy discrimination complaints made against DCHA.

(c) Advise the family of their right to file a fair housing complaint with HUD's Office of Fair Housing and Equal Opportunity (FHEO).

(d) Post HUD's fair housing poster, in conspicuous and accessible locations in DCHA's location which shall reference how to file a complaint with FHEO.

(e) Keep records of all complaints, investigations, notices, and corrective actions.

5000.14 Applicants or participants who believe that they have been subject to unlawful discrimination may notify DCHA either orally or in writing.

5000.15 Within ten (10) business days of receiving the complaint, DCHA will provide a written notice to those alleged to have violated the rule. DCHA will also send a written notice to the complainant informing them that notice was sent to those alleged to have violated the rule, as well as information on how to complete and submit a housing discrimination complaint form to HUD's Office of Fair Housing and Equal Opportunity (FHEO).

5000.16 DCHA will attempt to remedy discrimination complaints made against DCHA and will conduct an investigation into all allegations of discrimination.

5000.17 Within ten (10) business days following the conclusion of DCHA's investigation, DCHA will provide the complainant and those alleged to have violated the rule with findings and either a proposed corrective action plan or an explanation of why corrective action is not warranted.

5000.18 DCHA will keep a record of all complaints, investigations, notices, and corrective actions.

5001 POLICIES RELATED TO PERSONS WITH DISABILITIES

5001.1 One type of disability discrimination prohibited by the Fair Housing Act is the refusal to make reasonable accommodation in rules, policies, practices, or services when such accommodation may be necessary to afford a person with a disability the equal opportunity to use and enjoy a program or dwelling under the program.

5001.2 DCHA must ensure that persons with disabilities have full access to DCHA's programs and services. This responsibility begins with the first contact by an interested family and continues through every aspect of the program.

5001.3 DCHA will ask all applicants and participants if they require any type of accommodations, in writing, on the intake application, reexamination documents, and notices of adverse action by DCHA, by including the following language:

> "If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to fully utilize our programs and services, please contact the housing authority."

5001.4 A specific name and phone number of designated staff will be provided to process requests for accommodation.

5001.5 DCHA will display posters and other housing information and signage in locations throughout DCHA's office in such a manner as to be easily readable from a wheelchair.

5001.6 A reasonable accommodation is an adjustment made to a rule, policy, practice, or service that allows a person with a disability to have equal access to the HCV program. For example, reasonable accommodations may include making home visits, extending the voucher term, or approving an exception payment standard for a participant to lease an accessible dwelling unit.

5001.7 Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for DCHA, or result in a "fundamental alteration" in the nature of the program or service offered. A fundamental alteration is a modification that alters the essential nature of a provider's operations.

5001.8 When needed, DCHA will modify normal procedures to accommodate the needs of a person with disabilities. Examples include:

(a) Permitting applications and reexaminations to be completed by mail.

(b) Conducting home visits.

(c) Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside DCHA range) if DCHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit.

(d) Providing time extensions for locating a unit when necessary because of lack of availability of accessible units or special challenges of the family in seeking a unit.

(e) Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with DCHA staff.

5001.9 If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that DCHA treat the information as a request for a reasonable accommodation, even if no formal request is made.

5001.10 The family must explain what type of accommodation is needed to provide the person with the disability full access to DCHA's programs and services.

5001.11 If the need for the accommodation is not readily apparent or known to DCHA, the family must explain the relationship between the requested accommodation and the disability. There must be an identifiable connection, or nexus, between the requested accommodation and the individual's disability.

5001.12 DCHA will encourage the family to make its request in writing using a reasonable accommodation request form. However, DCHA will consider the accommodation any time the family indicates that an accommodation is needed whether or not a formal written request is submitted.

5001.13 The regulatory civil rights definition for persons with disabilities is provided at the end of this chapter. The definition of a person with a disability for the purpose of obtaining a reasonable accommodation is much broader than the HUD definition of disability which is used for waiting list preferences and income allowances.

5001.14 Before providing an accommodation, DCHA must determine that the person meets the definition of a person with a disability, and that the accommodation will enhance the family's access to DCHA's programs and services.

5001.15 If a person's disability is obvious or otherwise known to DCHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required.

5001.16 If a family indicates that an accommodation is required for a disability that is not obvious or otherwise known to DCHA, DCHA must verify that the person meets the definition of a person with a disability, and that the limitations imposed by the disability require the requested accommodation.

5001.17 When verifying a disability, DCHA will follow the verification policies provided in § 5500. All information related to a person's disability will be treated in accordance with the confidentiality policies provided in § 5001.17(d). In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

(a) Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual's disability may provide verification of a disability.

(b) DCHA must request only information that is necessary to evaluate the disability-related need for the accommodation. DCHA will not inquire about the nature or extent of any disability.

(c) Medical records will not be accepted or retained in the participant file.

(d) In the event that DCHA does receive confidential information about a person's specific diagnosis, treatment, or the nature or severity of the disability, DCHA will dispose of it. In place of the information, DCHA will note in the file that the disability and other requested information have been verified, the date the verification was received, and the name and address of the knowledgeable professional who sent the information.

5001.18 DCHA must approve a request for an accommodation if the following three (3) conditions are met:

(a) The request was made by or on behalf of a person with a disability;

(b) There is a disability-related need for the accommodation; and

(c) The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on DCHA, or fundamentally alter the nature of DCHA's HCV operations (including the obligation to comply with HUD requirements and regulations).

5001.19 Requests for accommodations must be assessed on a case-by-case basis, considering factors such as the overall size of DCHA's program with respect to the number of employees, type of facilities and size of budget, type of operation including composition and structure of workforce, the nature and cost of the

requested accommodation, and the availability of alternative accommodations that would effectively meet the family's disability-related needs.

5001.20 Before deciding whether to approve the request, DCHA may enter into discussion and negotiation with the family, request more information from the family, or may require the family to sign a consent form so that DCHA may verify the need for the requested accommodation.

5001.21 After a request for an accommodation is presented, DCHA will respond in writing within ten (10) business days.

5001.22 If DCHA denies a request for an accommodation because there is no relationship, or nexus, found between the disability and the requested accommodation, the notice will inform the family of the right to appeal DCHA's decision through an informal review (if applicable) or informal hearing.

5001.23 If DCHA denies a request for an accommodation because it is not reasonable (it would impose an undue financial and administrative burden or fundamentally alter the nature of DCHA's operations), DCHA will discuss with the family whether an alternative accommodation could effectively address the family's disability-related needs without a fundamental alteration to the HCV program and without imposing an undue financial and administrative burden.

5001.24 If DCHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, DCHA will notify the family in writing of its determination within 10 business days from the date of the most recent discussion or communication with the family. The notice will inform the family of the right to appeal DCHA's decision through an informal hearing (if applicable) or the grievance process.

5001.25 DCHA shall ensure that persons with disabilities related to hearing and vision have reasonable access to DCHA's programs and services.

5001.26 At the initial point of contact with each applicant, DCHA shall inform all applicants of alternative forms of communication that can be used other than plain language paperwork.

5001.27 To meet the needs of persons with hearing impairments, TTD/TTY (text telephone display / teletype) communication will be available.

5001.28 To meet the needs of persons with vision impairments, large-print and audio versions of key program documents will be made available upon request. When visual aids are used in public meetings or presentations, or in meetings with DCHA staff, one-on-one assistance will be provided upon request.

5001.29 Additional examples of alternative forms of communication are sign language interpretation; having material explained orally by staff; or having a third party representative (a friend, relative or advocate, named by the applicant) to receive, interpret and explain housing materials and be present at all meetings.

5001.30 DCHA must comply with a variety of regulations pertaining to physical accessibility, including the following:

(a) Notice PIH 2010-26;

(b) Section 504 of the Rehabilitation Act of 1973;

(c) The Americans with Disabilities Act of 1990;

(d) The Architectural Barriers Act of 1968; and

(e) The Fair Housing Act of 1988.

5001.31 DCHA's policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three (3) key documents:

(a) This plan describes the key policies that govern DCHA's responsibilities with regard to physical accessibility;

(b) Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs; and

(c) DCHA Plan provides information about self-evaluation, needs assessment, and transition plans.

5001.32 The design, construction, or alteration of DCHA facilities must conform to the Uniform Federal Accessibility Standards (UFAS). Newly-constructed facilities must be designed to be readily accessible to and usable by persons with disabilities. Alterations to existing facilities must be accessible to the maximum extent feasible, defined as not imposing an undue financial and administrative burden on the operations of the HCV program.

5001.33 When issuing a voucher to a family that includes an individual with disabilities, DCHA will include a current list of available accessible units known to DCHA and will assist the family in locating an available accessible unit, if necessary.

5001.34 In general, owners must permit the family to make reasonable modifications to the unit. However, the owner is not required to pay for the modification and may require that the unit be restored to its original state at the family's expense when the family moves.

5001.35 A DCHA's decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation.

5001.36 When applicants with disabilities are denied assistance, the notice of denial must inform them of DCHA's informal review process and their right to request an informal review. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal review process.

5001.37 When a participant family's assistance is terminated, the notice of termination must inform them of DCHA's informal hearing process and their right to request a hearing and reasonable accommodation.

5001.38 When reviewing reasonable accommodation requests, DCHA must consider whether any mitigating circumstances can be verified to explain and overcome the problem that led to DCHA's decision to deny or terminate assistance. If a reasonable accommodation will allow the family to meet the requirements, DCHA must make the accommodation.

5002 IMPROVING ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY (LEP)

5002.1 Language for Limited English Proficiency Persons (LEP) can be a barrier to accessing important benefits or services, understanding, and exercising important rights, complying with applicable responsibilities, or understanding other information provided by the HCV program. In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally-assisted programs and activities may violate the prohibition under Title VI against discrimination on the basis of national origin. DCHA will take affirmative steps to communicate with people who need services or information in a language other than English. These persons will be referred to as Persons with Limited English Proficiency (LEP).

5002.2 LEP is defined as persons who do not speak English as their primary language and who have a limited ability to read, write, speak, or understand English. For the purposes of this Plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

5002.3 In order to determine the level of access needed by LEP persons, DCHA will balance the following four (4) factors:

(a) The number or proportion of LEP persons eligible to be served or likely to be encountered by the HCV program;

(b) The frequency with which LEP persons come into contact with the program;

(c) The nature and importance of the program, activity, or service provided by the program to people's lives; and

(d) The resources available to DCHA and costs related to the access.

5002.4 DCHA will offer competent interpretation services free of charge, upon request to the LEP person.

5002.5 DCHA will utilize a language line for telephone interpreter services.

5002.6 When exercising the option to conduct remote briefings, informal reviews, or hearings, however, DCHA will coordinate with a remote interpretation service which, when available, uses video conferencing technology rather than voice-only interpretation.

5002.7 Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by DCHA. DCHA, at its discretion, may choose to use the language services even when LEP persons desire to use an interpreter of their choosing. The interpreter may be a family member or friend. If the interpreter chosen by the family is a minor, DCHA will not rely on the minor to serve as the interpreter.

5002.8 DCHA will analyze the various kinds of contacts it has with the public, to assess language needs and decide what reasonable steps should be taken. "Reasonable steps" may not be reasonable where the costs imposed substantially exceed the benefits.

5002.9 Where feasible and possible, according to its language assistance plan (LAP), DCHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs, and will standardize documents.

5002.10 Translation is the replacement of a written text from one language into an equivalent written text in another language.

5002.11 In order to comply with written-translation obligations, DCHA will take the following steps:

(a) DCHA will provide written translations of vital documents for each eligible LEP language group that constitutes five percent (5%) or one thousand (1,000) persons, whichever is less, of the population of persons eligible to be served or likely to be affected or encountered. Translation of other documents, if needed, can be provided orally; or

(b) If there are fewer than fifty (50) persons in a language group that reaches the five percent (5%) trigger, DCHA does not translate vital written materials, but provides written notice in the primary language of the LEP language group of the right to receive competent oral interpretation of those written materials, free of cost.

5002.12 After completing the four (4) factor analysis and deciding what language assistance services are appropriate, DCHA shall determine whether it is necessary to develop a written implementation plan to address the identified needs of the LEP populations it serves.

5002.13 If DCHA determines that it is not necessary to develop a written implementation plan, the absence of a written plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to DCHA's HCV program and services.

5002.14 If it is determined that DCHA serves very few LEP persons, and DCHA has very limited resources, DCHA will not develop a written LEP plan, but will consider alternative ways to articulate in a reasonable manner a plan for providing meaningful access. Entities having significant contact with LEP persons, such as schools, grassroots and faith-based organizations, community groups, and groups working with new immigrants will be contacted for input into the process.

5002.15 If DCHA determines it is appropriate to develop a written LEP plan, the following five (5) steps will be taken:

(a) Identifying LEP individuals who need language assistance;

(b) Identifying language assistance measures;

(c) Training staff;

(d) Providing notice to LEP persons; and

(e) Monitoring and updating the LEP plan.

5002.16 A person with a disability, as defined under federal civil rights laws, is any person who:

(a) Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual;

(b) Has a record of such impairment; or

(c) Is regarded as having such impairment.

5002.17 The phrase "physical or mental impairment" includes:

(a) Any physiological disorder or condition, cosmetic or disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

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

5002.18 "Major life activities" includes, but is not limited to, caring for oneself, performing manual tasks, walking, seeing, hearing, breathing, learning, and/or working.

5002.19 "Has a record of such impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

5002.20 "Is regarded as having an impairment" is defined as having a physical or mental impairment that does not substantially limit one or more major life activities but is treated by a public entity (such as DCHA) as constituting such a limitation; has none of the impairments defined in this section but is treated by a public entity as having such an impairment; or has a physical or mental impairment that substantially limits one or more major life activities, only as a result of the attitudes of others toward that impairment.

5002.21 The definition of a person with disabilities does not include:

(a) Current illegal drug users;

(b) People whose alcohol use interferes with the rights of others; or

(c) Persons who objectively pose a direct threat or substantial risk of harm to others that cannot be controlled with a reasonable accommodation under the HCV program.

5002.22 The above definition of disability determines whether an applicant or participant is entitled to any of the protections of federal disability civil rights laws. Thus, a person who does not meet this disability is not entitled to a reasonable accommodation under federal civil rights and fair housing laws and regulations.

5002.23 [RESERVED]

5002.24 [RESERVED]

Chapter 51, ELIGIBILITY CONSIDERATIONS AND INITIAL FAMILY COMPOSITION, of Title 14 DCMR, HOUSING, is deleted and replaced in its entirety to read as follows:

CHAPTER 51

ELIGIBILITY CONSIDERATIONS AND INITIAL FAMILY COMPOSITION

5100 INTRODUCTION

5100.1 The District of Columbia Housing Authority (DCHA) shall ensure that every individual and family admitted to the Housing Choice Voucher (HCV) program meet all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by DCHA to confirm eligibility and determine the level of the family's assistance.

5100.2 To be eligible for the HCV program, the applicant family must:

(a) Qualify as a family as defined by the U.S. Department of Housing and Urban Development (HUD) and DCHA;

(b) Have income at or below HUD-specified income limits;

(c) Qualify on the basis of citizenship or the eligible immigrant status of family members;

(d) Provide social security number information for household members as required;

(e) Consent to DCHA's collection and use of family information as provided for in PHA-provided consent forms; and

(f) Not currently receiving a duplicative subsidy.

5100.3 DCHA shall determine that the current or past behavior of household members does not include activities that are prohibited by HUD or DCHA.

5100.4 Each family must identify the individuals to be included in the family at the time of application and must notify DCHA if the family's composition changes.

5100.5 The following definitions shall apply under this § 5100:

Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than thirty (30%), fifty (50%), or eighty (80%) percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

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

Committed relationship means a familial relationship between two (2) individuals characterized by mutual caring and the sharing of a mutual residence.

Dependent means a family member who is under eighteen (18) years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, co-head, foster children/adults and live-in aides.

Dependent Child means in the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of "dependent" in 24 CFR § 5.603, which states that the dependent must be a member of the assisted family, other than the head of household or spouse, who is under eighteen (18) years of age, or is a person with a disability, or is a full-time student. Foster children and foster adults are not considered dependents.

Developmental Disability means a severe, chronic disability of an individual that:

(a) is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) is manifested before the individual attains age twenty-two (22);

(c) is likely to continue indefinitely; and

(d) results in substantial functional limitations in three (3) or more of the following areas of major life activity:

(1) Self-care,

(2) Receptive and expressive language,

(3) Learning,

(4) Mobility,

(5) Self-direction,

(6) Capacity for independent living,

(7) Economic self-sufficiency; and

(8) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

An individual from birth to age nine (9), inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting three (3) or more of the criteria described in (d) above if the individual, without services and supports, has a high probability of meeting those criteria later in life.

Disabled family means one in which the head, spouse, or co-head is a person with disabilities.

Elderly family means one in which the head, spouse, co-head, or sole member is an elderly person.

Elderly person means a person who is at least 62 years of age.

Extremely low-income family means a family whose annual income does not exceed the federal poverty level or thirty percent (30%) of the median income for the area, whichever number is higher.

Family means as defined by HUD and includes, but is not limited to the following, regardless actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to, a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. DCHA has the discretion to determine if any other group of persons qualifies as a family. A family also includes two or more individuals who

are not related by blood, marriage, adoption, or other operation of law but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family.

Family member means:

(a) A domestic partner; or

(b) A dependent child of a domestic partner, which shall include, for the purposes of this section, an unmarried person under twenty-two (22) years of age, an unmarried person under twenty-five (25) years of age who is a full-time student, or an unmarried person regardless of age who is incapable of self-support because of a mental or physical disability that existed before age twenty-two (22). A dependent child of a domestic partner shall include a natural child, adopted child, stepchild, foster child, or child in the legal custody of a domestic partner.

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone.

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

Full-time student (FTS) means a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Gender Identity means actual or perceived gender characteristics. DCHA also adheres to definitions presented in the District of Columbia Human Rights Act.

Guest means a person temporarily staying in the unit with the consent of a member of the household who has expressed or implied authority to so consent.

Household includes additional people who, with DCHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Independent student means a student that meets one or more of the following criteria:

(a) The individual is at least twenty-four (24) years old by December 31 of the award year for which aid is sought;

(b) The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was thirteen (13) years of age or older;

(c) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by a court of competent jurisdiction in the individual's state of legal residence;

(d) The individual is a veteran of the U.S. Armed Forces or is currently serving on active duty in the Armed Forces for other than training purposes;

(e) The individual is a graduate or professional student;

(f) The individual is married;

(g) The individual has one or more legal dependents other than a spouse (for example, dependent children or an elderly dependent parent); or

(h) The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

(1) A local educational agency homeless liaison;

(2) The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director;

(3) A financial aid administrator; or

(4) The individual is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

Individual with Handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(a) Physical or mental impairment includes:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

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

(b) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

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

(d) "Is regarded as having an impairment" means:

(1) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation;

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

(3) Has none of the impairments defined in paragraph (1) of this section but is treated by a recipient as having such an impairment.

Institution of higher education has the meaning given in the Higher Education Act of 1965 in 20 U.S.C. §§ 1001 and 1002.

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(a) is determined to be essential to the care and well-being of the persons;

(b) is not obligated for the support of the persons; and

(c) would not be living in the unit except to provide the necessary supportive services.

Low-income family means family whose annual income does not exceed eighty percent (80%) of the median income for the area, adjusted for family size. DCHA shall consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from DCHA's waiting list.

Marriage partner means the partner in a "common law" marriage as defined in state law.

Near-elderly person means a person who is fifty to sixty-one (50-61) years of age.

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

Parents For purposes of student eligibility restrictions, parents includes biological or adoptive parents, stepparents (as long as they are currently married to the biological or adoptive parent), and guardians (e.g., grandparents, aunt/uncle, godparents, etc.).

Person with Disabilities means a person who has any of the following types of conditions:

(a) Has a disability, as defined in 42 U.S.C. § 423(d)(1)(A), which reads:

(1) 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 twelve (12) months;

(2) In the case of an individual who has attained the age of fifty-five (55) and is blind (within the meaning of "blindness" as defined in Section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time; or

(3) Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.§ 15002(8)].

(b) Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes 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.

(c) People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Sexual orientation means homosexuality, heterosexuality, or bisexuality. DCHA also adheres to definitions presented in the District of Columbia Human Rights Act.

Spouse means the marriage partner of the head of household. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners.

Very low-income family means a family whose annual income does not exceed fifty percent (50%) of the median income for the area, adjusted for family size.

Veteran means a person who served in the active military, naval, or air service and who was discharged or released from such service under conditions other than dishonorable.

Vulnerable Youth means an individual who meets the U.S. Department of Education's definition of independent student in paragraphs (b), (c), or (h), as adopted in Section II of FR Notice 9/21/16:

(a) The individual is an orphan, in foster care, or a ward of the court, or was an orphan, in foster care, or ward of the court at any time when the individual was thirteen (13) years of age or older;

(b) The individual is, or was immediately prior to attaining the age of majority, an emancipated minor or in legal guardianship as determined by

a court of competent jurisdiction in the individual's state of legal residence; or

(c) The individual has been verified during the school year in which the application is submitted as either an unaccompanied youth who is a homeless child or youth, or as unaccompanied, at risk of homelessness, and self-supporting by:

(1) A local educational agency homeless liaison;

(2) The director of a program funded under subtitle B of title IV of the McKinney-Vento Homeless Assistance Act or a designee of the director, or

(3) A financial aid administrator.

5101 FAMILY BREAKUP AND REMAINING MEMBER OF TENANT FAMILY

5101.1 Except under the following conditions, DCHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

(a) If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, DCHA must ensure that the victim retains assistance.

(b) In accordance with Notice PIH 2017-08, for HUD–Veterans Affairs Supportive Housing (HUD–VASH) vouchers, when the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's HUD–VASH voucher, the victim should be given a regular HCV if one is available, and the perpetrator's HUD–VASH voucher should be used to serve another eligible family. If a regular HCV is not available, the victim will continue to use the HUD–VASH voucher, which must be issued to another eligible family upon the voucher's turnover.

(c) If a court determines the disposition of property between members of the assisted family, DCHA is bound by the court's determination of which family members continue to receive assistance.

5101.2 When a family on the waiting list breaks up into two (2) otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

5101.3 If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.

5101.4 If a court determines the disposition of property between members of an applicant or resident family, DCHA shall abide by the court's determination.

5101.5 In the absence of a judicial decision or an agreement among the original family members, DCHA shall determine which family will retain their placement on the waiting list or continue to receive assistance. In making its determination, DCHA shall take into consideration the following factors:

(a) the interest of any minor children, including custody arrangements;

(b) the interest of any ill, elderly, or disabled family members;

(c) the interest of any family member who is the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave an assisted unit as a result of such actual or threatened abuse; and

(d) any possible risks to family members as a result of criminal activity.

5101.6 The HUD definition of family includes the remaining member of a tenant family, which is a member of an assisted family who remains in the unit when other members of the family have left the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

5101.7 [RESERVED]

5102 HEAD OF HOUSEHOLD

5102.1 The family may designate any qualified family member as the Head of Household.

5102.2 The Head of Household must have the legal capacity to enter into a lease under state and local law. DCHA may designate a minor who is emancipated under state law as Head of Household.

5103 SPOUSE, COHEAD, OTHER ADULT, AND DEPENDENT

5103.1 A family may have a spouse or co-head, but not both.

5103.2 DCHA may designate a minor who is emancipated under state law as a Spouse.

5103.3 DCHA may designate a minor who is emancipated under state law as a co-head.

5103.4 DCHA shall not consider foster adults and live-in aides as Other Adults.

5103.5 DCHA shall consider dependents that are subject to a joint custody arrangement a member of the family, if they live with the applicant or participant family fifty percent (50%) or more of the time.

5103.6 When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, DCHA shall make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

5104 PERSONS WITH DISABILITIES AND DISABLED FAMILY

5104.1 Under the HCV program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities.

5104.2 DCHA shall make all aspects of the HCV program accessible to persons with disabilities and consider reasonable accommodations requested based upon a person's disability.

5104.3 Even though persons with drug or alcohol dependencies are considered persons with disabilities, DCHA may deny assistance for reasons related to alcohol and drug abuse in accordance with the policies found in this § 5100 chapter, or from terminating assistance in accordance with the policies in § 7600.

5105 GUESTS

5105.1 A guest can remain in the assisted unit no longer than thirty (30) consecutive days or a total of ninety (90) cumulative calendar days during any twelve (12) month period.

5105.2 Children who are subject to a joint custody arrangement or for whom a family has written visitation privileges, that are not included as a family member because they live outside of the assisted household more than fifty percent (50%) of the time, are not subject to the time limitations of guests as described above.

5105.3 A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure is expected to last forty (40) consecutive days). DCHA shall not make an exception unless the family can identify and provide documentation of the residence to which the guest will return.

5105.4 DCHA shall consider guests who represent the unit address as their residence address or address of record for receipt of benefits or any other purposes as unauthorized occupants.

5105.5 DCHA shall consider guests who remain in the unit beyond the allowable time limit as unauthorized occupants, and their presence constitutes a violation of the guest policy.

5106 FOSTER CHILDREN AND FOSTER ADULTS

5106.1 DCHA shall consider foster children and foster adults who are living with an applicant or who have been approved by DCHA to live with a participant family as household members but not as family members.

5106.2 The income of foster children and foster adults is not counted in family annual income.

5106.3 Foster children and foster adults do not qualify for a dependent deduction.

5106.4 A foster child or foster adult may be allowed to reside in the unit if their presence would not result in a violation of HQS space standards according.

5107 ABSENT FAMILY MEMBERS

5107.1 Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, illness, incarceration, and court order.

5107.2 Generally an individual who is or is expected to be absent from the assisted unit for one hundred twenty (120) consecutive days or less is considered temporarily absent and continues to be considered a family member.

5107.3 Generally an individual who is or is expected to be absent from the assisted unit for more than one hundred twenty (120) consecutive days is considered permanently absent and no longer a family member except as follows:

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

(b) Children temporarily absent from the home as a result of placement in foster care are considered members of the family. If a child has been placed in foster care, DCHA shall verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless

the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

(c) An employed head, spouse, or co-head absent from the unit more than one hundred twenty (120) consecutive days due to employment will continue to be considered a family member.

(d) If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted. DCHA shall request verification of the family member's permanent absence from a responsible medical professional. If the responsible medical professional cannot provide a determination, the person will be considered temporarily absent. If the family certifies that the family member is confined on a permanent basis, they may present, and DCHA shall consider, any additional documentation or evidence.

5107.4 A family must request DCHA approval for the return of any adult family members that DCHA previously determined to be permanently absent. Such an individual is subject to the eligibility and screening requirements as set forth elsewhere in this chapter.

5108 LIVE-IN AIDE

5108.1 DCHA shall approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR § 8, to make the program accessible to and usable by the family member with disabilities.

5108.2 The income of a live-in aide is not counted in the calculation of annual income for the family.

5108.3 Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide.

5108.4 Because live-in aides are not "family" members, a relative who serves as a live-in aide would not be considered a remaining member of a tenant family.

5108.5 A family's request for a live-in aide must be made in writing.

5108.6 DCHA shall require written verification from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.

5108.7 For continued approval, the family must submit a new, written request - subject to DCHA verification - at each biennial/triennial reexamination.

5108.8 The family and live-in aide must submit a certification stating that the live-in aide is:

(a) not obligated for the support of the person(s) needing the care; and

(b) would not be living in the unit except to provide the necessary supportive services.

5108.9 DCHA shall not approve a particular person as a live-in aide, and may withdraw such approval if:

(a) The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(b) The person commits drug-related criminal activity or violent criminal activity; or

(c) The person currently owes rent or other amounts to DCHA or to another DCHA in connection with Section 8 or public housing assistance under the 1937 Act.

5108.10 DCHA shall notify the family of its decision in writing within twenty (20) business days of receiving a request for a live-in aide, including all required documentation related to the request.

5109 INCOME ELIGIBILITY AND TARGETING

5109.1 HUD establishes income limits for all areas of the country and publishes them annually in the *Federal Register*. They are based upon estimates of median family income with adjustments for family size. The income limits are used to determine eligibility for the program and for income targeting purposes as discussed in this section.

5109.2 Income limits are used for eligibility only at admission. Income eligibility is determined by comparing the annual income of an applicant to the applicable income limit for their family size.

5109.3 In order to be income eligible, an applicant family must be one of the following:

(a) A very low-income family;

(b) A low-income family that has been "continuously assisted" under the 1937 Housing Act. A family is considered to be continuously assisted if the family is already receiving assistance under any 1937 Housing Act program at the time the family is admitted to the HCV program. DCHA

shall consider a family to be continuously assisted if the family was leasing a unit under any 1937 Housing Act program at the time they were selected from DCHA's waiting list;

(c) A low-income family that qualifies for voucher assistance as a non-purchasing household living in HOPE 1 (public housing homeownership), HOPE 2 (multifamily housing homeownership) developments, or other HUD-assisted multifamily homeownership programs covered by 24 CFR § 248.173;

(d) A low-income or moderate-income family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract on eligible low-income housing as defined in 24 CFR § 248.101; or

(e) DCHA has not established any additional categories of eligible low-income families.

5109.4 At least seventy-five percent (75%) of the families admitted to DCHA's program during DCHA fiscal year must be extremely low-income families. HUD may approve exceptions to this requirement if DCHA demonstrates that it has made all required efforts but has been unable to attract an adequate number of qualified extremely low-income families.

5109.5 Families continuously assisted under the 1937 Housing Act and families living in eligible low-income housing that are displaced because of prepayment of a mortgage or voluntary termination of a mortgage insurance contract are not counted for income targeting purposes.

5110 CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS

5110.1 Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

5110.2 All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with DCHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

5110.3 HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are ineligible noncitizens. For citizens, nationals and eligible noncitizens

the declaration must be signed personally by the head, spouse, co-head, and any other family member eighteen (18) or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status. No declaration is required for live-in aides, foster children, or foster adults.

5110.4 In general, citizens and nationals are required to submit only a signed declaration as verification of their status. However, HUD regulations permit DCHA to request additional documentation of their status, such as a passport.

5110.5 Family members who declare citizenship or national status will not be required to provide additional documentation unless DCHA receives information indicating that an individual's declaration may not be accurate.

5110.6 In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with DCHA efforts to verify their immigration status. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

5110.7 Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under § 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

5110.8 Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a non-contending family member listing, signed by the head, spouse, or co-head (regardless of citizenship status), indicating their ineligible immigration status. DCHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

5110.9 Providing housing assistance to noncitizen students is prohibited per 24 CFR § 5.522. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

5110.10 A family is eligible for assistance as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered 'mixed families". Such families will be given notice

that their assistance will be prorated, and that they may request a hearing if they contest this determination.

5110.11 DCHA may elect to aid a family before the verification of the eligibility of the individual or one family member. Otherwise, no individual or family may be assisted prior to the affirmative establishment by DCHA that the individual or at least one family member is eligible. Verification of eligibility for this purpose occurs when the individual or family members have submitted documentation to DCHA in accordance with program requirements.

5110.12 DCHA shall not provide assistance to a family before the verification of at least one family member.

5110.13 When DCHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within ten (10) business days of the determination. The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance and will advise the family of its right to request an appeal to USCIS, or to request an informal hearing with DCHA.

5110.14 The informal hearing with DCHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process.

5110.15 For new occupants joining the assisted family, DCHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

5110.16 If an individual qualifies for a time extension for the submission of required documents, DCHA must grant such an extension for no more than thirty (30) days.

5110.17 Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

5110.18 DCHA shall verify the citizenship status of applicants at the time other eligibility factors are determined.

5111 SOCIAL SECURITY NUMBERS

5111.1 The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six (6) has been added to an applicant family within six (6) months prior to

voucher issuance, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within ninety (90) days of the effective date of the initial HAP contract. These requirements do not apply to noncitizens who do not contend eligible immigration status.

5111.2 In addition, each participant who has not previously disclosed a SSN, has previously disclosed a SSN that HUD or the SSN determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age sixty-two (62) or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

5111.3 DCHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR § 5.216.

5112 FAMILY CONSENT TO RELEASE OF INFORMATION

5112.1 HUD requires each adult family member, and the head of household, spouse, or co-head, regardless of age, to sign form HUD-9886, Authorization for the Release of Information/Privacy Act Notice, the form HUD-52675 Debts Owed to Public Housing Agencies and Terminations, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

5112.2 DCHA must deny admission to the program if any member of the applicant family fails to sign and submit the consent forms for obtaining information in accordance with 24 CFR § 5, Subparts B and F.

5113 STUDENTS ENROLLED IN INSTITUTIONS OF HIGHER EDUCATION

5113.1 Section 327 of Public Law 109-115 and the implementing regulation at 24 CFR § 5.612 established new restrictions on the eligibility of certain students (both part- and full-time) who are enrolled in institutions of higher education.

5113.2 If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the student's eligibility must be examined along with the income eligibility of the student's parents. In these cases, both the student and the student's parents must be income eligible for the student to receive HCV assistance. If, however, a student in these circumstances is determined independent from their parents in accordance with DCHA Policy, the income of the student's parents will not be considered in determining the student's eligibility.

5113.3 The new law does not apply to students who reside with parents who are applying to receive HCV assistance. It is limited to students who are seeking assistance on their own, separately from their parents.

5113.4 DCHA shall consider a student "independent" from their parents and the parents' income will not be considered when determining the student's eligibility if the following four criteria are all met:

(a) The individual is of legal contract age under state law;

(b) The individual has established a household separate from their parents for at least one year prior to application for occupancy or the individual meets the U.S. Department of Education's definition of independent student;

(c) The individual was not claimed as a dependent by their parents pursuant to IRS regulations, as demonstrated on the parents' most recent tax forms; and

(d) The individual provides a certification of the amount of financial assistance that will be provided by their parents. This certification must be signed by the individual providing the support and must be submitted even if no assistance is being provided.

5113.5 If DCHA determines that an individual meets the definition of a vulnerable youth such a determination is all that is necessary to determine that the person is an independent student for the purposes of using only the student's income for determining eligibility for assistance.

5113.6 DCHA shall verify that a student meets the above criteria in this §5113.

5113.7 If a student is applying for assistance on their own, apart from their parents, DCHA shall determine whether the student is subject to the eligibility restrictions contained in 24 CFR §5.612. If the student is subject to those restrictions, DCHA shall ensure that:

(a) the student is individually eligible for the program;

(b) either the student is independent from their parents or the student's parents are income eligible for the program, and

(c) the "family" with which the student is applying is collectively eligible for the program.

5113.8 For any student who is subject to the 24 CFR § 5.612 restrictions, DCHA shall follow its usual policies in determining whether the student individually and the student's "family" collectively are eligible for the program and determine whether

the student is independent from their parents in accordance with the definition of independent student, and follow the policies below, if applicable, in determining whether the student's parents are income eligible for the program.

5113.9 If DCHA determines that the student, the student's parents (if applicable), or the student's "family" is not eligible, DCHA shall send a notice of denial in accordance with the policies in § 7600, and the applicant family will have the right to request an informal review in accordance with the policies in § 9100.

5113.10 For any student who is subject to the 24 CFR § 5.612 restrictions and who does not satisfy the definition of independent student in this section, DCHA shall determine the income eligibility of the student's parents as follows:

(a) If the student's parents are married and living together, DCHA shall obtain a joint income declaration and certification of joint income from the parents.

(b) If the student's parent is widowed or single, DCHA shall obtain an income declaration and certification of income from that parent.

(c) If the student's parents are divorced or separated, DCHA shall obtain an income declaration and certification of income from each parent.

(d) If the student has been living with one of their parents and has not had contact with or does not know where to contact their other parent, DCHA shall require the student to submit a certification under penalty of perjury describing the circumstances and stating that the student does not receive financial assistance from the other parent. DCHA shall then obtain an income declaration and certification of income from the parent with whom the student has been living or had contact.

(e) In determining the income eligibility of the student's parents, DCHA shall use the income limits for the jurisdiction in which the parents live.

5114 EIV SYSTEM SEARCHES

5114.1 Prior to admission to the program, DCHA must search for all household members using the EIV Existing Tenant Search module. DCHA must review the reports for any SSN matches involving another public housing authority or a multifamily entity and follow up on any issues identified.

5114.2 DCHA must provide the family with a copy of the Existing Tenant Search results if requested.

5114.3 At no time may any family member receive duplicative assistance.

5114.4 If the tenant is a new admission to DCHA, and a match is identified at a multifamily property, DCHA must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

5114.5 DCHA shall contact DCHA or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. DCHA shall only approve assistance contingent upon the move-out from the currently occupied assisted unit.

5114.6 All adult household members must sign the form HUD-52675 Debts Owed to Public Housing and Terminations. Prior to admission to the program, DCHA must search for each adult family member in the Debts Owed to public housing agencies (PHAs) and Terminations module.

5114.7 If a current or former tenant disputes the information in the module, the tenant should contact DCHA directly in writing to dispute the information and provide any documentation that supports the dispute.

5114.8 If DCHA determines that the disputed information is incorrect, DCHA shall 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 program.

5114.9 DCHA shall require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

5114.10 DCHA shall search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, DCHA shall determine if this information warrants a denial.

5114.11 For each new admission, DCHA is required to review the EIV Income and IVT Reports to confirm and validate family reported income within one hundred twenty (120) days of the IMS/PIC submission date of the new admission. DCHA must print and maintain copies of the EIV Income and IVT reports in the tenant file and resolve any discrepancies with the family within sixty (60) days of the EIV Income or IVT report dates.

5115 DENIAL OF ASSISTANCE

5115.1 A family that does not meet the eligibility criteria must be denied assistance.

5115.2 When considering any denial of admission, DCHA may not use arrest records as the basis for the denial.

5115.3 Denial of assistance includes any of the following:

(a) Not placing the family's name on the waiting list;

(b) Denying or withdrawing a voucher;

(c) Not approving a request for tenancy or refusing to enter into a HAP contract; and

(d) Refusing to process a request for or to provide assistance under portability procedures.

5115.4 DCHA may not deny assistance based on any of the following criteria:

(a) Age, disability, race, color, religion, sex, or national origin;

(b) Where a family lives prior to admission to the program;

(c) Where the family will live with assistance under the program. Although eligibility is not affected by where the family will live, there may be restrictions on the family's ability to move outside DCHA's jurisdiction under portability;

(d) Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;

(e) Whether the family includes children;

(f) Whether a family decides to participate in a family self-sufficiency program; or

(g) Whether or not a qualified applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking if the applicant is otherwise qualified for assistance.

5115.5 DCHA shall deny assistance in the following cases:

(a) Any member of the household has been evicted from federally assisted housing in the last three (3) years for drug-related criminal activity; provided, however, that DCHA shall admit an otherwise-eligible family who was evicted from federally assisted housing within the past five years for drug-related criminal activity if DCHA is able to verify that the

household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by DCHA, or the person who committed the crime is no longer living in the household;

(b) DCHA determines that any household member is currently engaged in the use of illegal drugs, or has used any illegal drugs during the previous three months;

(c) DCHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. In determining reasonable cause, DCHA shall consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A record or records of arrest will not be used as the sole basis of determining reasonable cause. DCHA shall also consider evidence from treatment providers or community-based organizations providing services to household members;

(d) Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing;

(e) Any household member is subject to a lifetime registration requirement under a state sex offender registration program; or

(f) If any household member is currently engaged in, or has engaged in within the past five years any of the following criminal activities, the family will be denied assistance:

(1) Drug-related criminal activity, defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug;

(2) Violent criminal activity, defined by HUD as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage;

(3) Criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the within a three-block radius of the premises; or

(4) Criminal activity that may threaten the health or safety of property owners, management staff, and persons performing contract administration functions or other responsibilities on behalf of DCHA (including DCHA employee or DCHA contractor, subcontractor, or agent).

5515.6 Evidence of such criminal activity includes, but is not limited to:

(a) Any conviction for drug-related or violent criminal activity within the past five years; or

(b) Records of arrests for drug-related or violent criminal activity within the past five years, although a record or records of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

5115.7 In making its decision to deny assistance, DCHA shall consider the factors discussed in section. Upon consideration of such factors, DCHA may, on a case-by-case basis, decide not to deny assistance.

5115.8 DCHA shall deny assistance to an applicant family if:

(a) The family does not provide information that DCHA or HUD determines is necessary in the administration of the program;

(b) The family does not provide complete and true information to DCHA;

(c) Any family member has been evicted from federally assisted housing in the last three (3) years;

(d) Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(e) The family owes rent or other amounts to any DCHA in connection with Section 8 or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list;

(f) If the family has not reimbursed any DCHA for amounts DCHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease, unless the family repays the full amount of the debt prior to being selected from the waiting list;

(g) The family has breached the terms of a repayment agreement entered into with DCHA, unless the family repays the full amount of the debt covered

in the repayment agreement prior to being selected from the waiting list; or

(h) A family member has engaged in or threatened violent or abusive behavior toward DCHA personnel. *"*Abusive or violent behavior towards DCHA personnel*"* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior. *"*Threatening" refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

5115.9 When denying admission due to family debts as shown in HUD's EIV system, DCHA shall provide the family with a copy of the EIV Debt Owed to DCHA and Termination report.

5115.10 If the family wishes to dispute the information in the report, the family must contact DCHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to DCHA to support the family's claim. DCHA shall consider the information provided by the family prior to issuing a notice of denial.

5116 SCREENING

5116.1 DCHA shall require every applicant family to submit a consent form signed by each adult household member.

5116.2 DCHA shall perform a criminal background check through local and national law enforcement for every adult household member.

5116.3 DCHA shall use the Dru Sjodin National Sex Offender database to screen applicants for admission.

5116.4 DCHA shall ask whether the applicant, or any member of the applicant's household, is subject to a lifetime registered sex offender registration requirement in any state.

5116.5 If DCHA denies assistance based on a criminal record or on lifetime sex offender registration information, DCHA shall notify the household of the reason and provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission.

5116.6 DCHA shall not conduct additional screening to determine an applicant family's suitability for tenancy.

5116.7 The owner is responsible for screening and selection of the family to occupy the owner's unit. An owner may consider a family's history with respect to factors such as: payment of rent and utilities, caring for a unit and premises, respecting the rights of other residents to the peaceful enjoyment of their housing, criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

5116.8 DCHA must inform the owner that screening and selection for tenancy is the responsibility of the owner.

5116.9 DCHA shall provide prospective owners with the family's current and prior address (as shown in DCHA records) and the name and address (if known) of the owner at the family's current and prior addresses.

5116.10 DCHA may provide owners with additional information, as long as families are notified that the information will be provided, and the same type of information is provided to all owners.

5116.11 DCHA shall not disclose to the owner any confidential information provided to DCHA by the family in response to DCHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation.

5116.12 DCHA shall inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the initial HQS inspection or before. DCHA shall not provide any additional information to the owner, such as tenancy history or criminal history, etc.

5117 CRITERIA FOR DECIDING TO DENY ASSISTANCE

5117.1 DCHA shall use the concept of the preponderance of the evidence as the standard for making all admission decisions.

5117.2 "Preponderance of the evidence" is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

5117.3 DCHA shall consider the following facts and circumstances prior to making its decision:

(a) The seriousness of the case, especially with respect to how it would affect other residents' safety or property;

(b) The effects that denial of assistance may have on other members of the family who were not involved in the action or failure to act;

(c) The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or a victim of domestic violence, dating violence, sexual assault, or stalking; or

(d) The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.

5117.4 While DCHA shall not use a record or records of arrest as the sole basis for denial, an arrest may trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity.

5117.5 As part of its investigation, DCHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. DCHA may also consider:

(a) Any statements made by witnesses or the applicant not included in the police report;

(b) Whether criminal charges were filed;

(c) Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal; or

(d) Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity.

5117.6 DCHA shall consider evidence of criminal conduct if it indicates a demonstrable risk to safety or property.

5117.7 DCHA shall require the applicant 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.

5117.8 Should DCHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, DCHA shall offer the family the opportunity to remove the ineligible family member from the household.

5117.9 If the family is unwilling to remove that individual from the household, DCHA shall deny admission to the family.

5117.10 For other criminal activity, DCHA may permit the family to exclude the culpable family members as a condition of eligibility.

5117.11 As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit, stay as a guest, or reside in the assisted unit.

5117.12 After admission to the program, the family must present evidence of the former family member's current address upon DCHA request.

5117.13 If the family includes a person with disabilities, DCHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

5117.14 If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of assistance, DCHA shall determine whether the behavior is related to the stated disability. If so, upon the family's request, DCHA shall determine whether admitting the family as a reasonable accommodation is appropriate. DCHA shall only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of assistance.

5118 NOTICE OF ELIGIBILITY OR DENIAL

5118.1 If the family is eligible for assistance, DCHA shall notify the family in writing and schedule a tenant briefing.

5118.2 If DCHA determines that a family is not eligible for the program for any reason, DCHA shall notify the family promptly. DCHA shall notify the family of a decision to deny assistance in writing within ten (10) business days of the determination.

5118.3 The notice must describe:

(a) the reasons for which assistance has been denied;

(b) the family's right to an informal review; and

(c) the process for obtaining the informal review.

5118.4 If DCHA uses a criminal record or sex offender registration information obtained under 24 CFR § 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before DCHA can move to deny the

application. In addition, a copy of the record must be provided to the subject of the record. DCHA shall give the family an opportunity to dispute the accuracy and relevance of that record, in the informal review process in accordance with program requirements.

5118.5 If based on a criminal record or sex offender registration information, an applicant family is ineligible, DCHA shall notify the family in writing of the denial and provide a copy of the record to the applicant and to the subject of the record.

5118.6 DCHA shall give the family ten (10) business days to dispute the accuracy and relevance of the information. If the family does not contact DCHA to dispute the information within that ten (10) day period, DCHA shall proceed with issuing the notice of denial of admission.

5118.7 DCHA shall give a family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter the opportunity to do so as part of the informal review process.

5118.8 Notice requirements for denial of assistance to noncitizens are contained in § 7600.

5118.9 DCHA's notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault or stalking are contained in § 5119.

5119 PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING

5119.1 The Violence against Women Act of 2013 (VAWA) and the HUD regulation at 24 CFR § 5.2005(b) prohibits DCHA from denying an applicant admission to the HCV program on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault or stalking, if the applicant otherwise qualifies for assistance or admission.

5119.2 [RESERVED]

5119.3 VAWA expanded notification requirements to include the obligation for DCHA to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD–5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

5119.4 DCHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under DCHA's policies.

5119.5 While DCHA is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform DCHA that their status as a victim is directly related to the grounds for the denial.

5119.6 DCHA shall request that the applicant provide enough information to DCHA to allow DCHA to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

5119.7 DCHA shall include in its notice of denial the VAWA information described in § 4900 as well as including a copy of the form HUD-5382.

5119.8 DCHA shall request in writing that an applicant wishing to claim protection under VAWA notify DCHA within fourteen (14) business days.

5119.9 If an applicant claims the protection against denial of assistance that VAWA provides to victims of domestic violence, dating violence, sexual assault or stalking, DCHA shall request in writing that the applicant provide documentation supporting the claim in accordance with §§ 4900 and 5100.

5119.10 If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

(a) A signed statement:

(1) Requesting that the perpetrator be removed from the application; and

(2) Certifying that the perpetrator will not be permitted to visit or to stay as a guest in the assisted unit; or

(b) Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

5120 ADDITION OF NON-CUSTODIAL CHILDREN TO THE HOUSEHOLD

5120.1 The Head of Household shall inform DCHA in writing within ten (10) days of any minor child occupying the property who does not qualify as a guest under § 5105 and of whom any member of the household intends to primarily assume the duties and obligations for which a parent is legally responsible or at least 120 days.

5120.2 The Family must inform DCHA of the Head of Household's intentions to maintain the duties and obligations for which a parent is legally responsible of the minor child and provide documentation of the current status of the parent at the time the child occupies the property.

5120.3 DCHA shall add any child to the household composition if the following documentation, whether temporary or permanent, is provided by the Family:

(a) Custodial Power of Attorney

(b) Court Ordered Guardianship

(c) Court Ordered Custody

(d) Court Ordered Conservatorship

(e) Copy of Complaint or Motion for custody which includes a declaration under penalty of perjury and date-stamped to show filing with the Court that is provided to DCHA as proof that the Head of Household or Family member with the consent of the Head of Household is in the process of securing legal custody of the minor.

The Head of Household must update DCHA and the owner/property management of any change regarding the status of any of these orders or documents.

5120.4 If the Head of Household cannot provide DCHA with any of the forms of documentation described in § 5120.3 as of the date of the notice required by § 5120.1, the child may reside in the assisted unit for a period of 120 consecutive days with the opportunity for two (2) additional 60 day extensions thereafter, provided that:

(a) The extension request to DCHA is made in writing at least 10 business days prior to the expiration of the 120 day period or the extension thereof ; and

(b) The Head of Household must update DCHA and the owner/property management of any change regarding the documentation provided in accordance with § 5120.2.

5120.5 Any minor child added to the household composition to live in the unit pursuant to §5120.3 shall be included in the Family's voucher size calculation. The Head

of Household must update DCHA and the owner/property management of any change regarding the status of the household composition after issuance of the voucher.

5120.6 Failure by the Head of Household to provide updates as required per § 5120.3 and § 5120.5 will result in DCHA determining the minor child is an unauthorized occupant and may subject all of the household to consequences of program violation for unauthorized occupants.

Chapter 52, BRIEFING OF FAMILIES AND ISSUANCE OF VOUCHERS, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 52

APPLICATIONS, WAITING LIST, AND TENANT SELECTION

5200 THE APPLICATION PROCESS

5200.1 This § 5200 describes DCHA policies for making applications available, accepting applications making preliminary determinations of eligibility, and the placement of applicants on the waiting list. Section 5200 also describes DCHA's obligation to ensure the accessibility of the application process to elderly persons, people with disabilities, and people with limited English proficiency (LEP).

5200.2 Any family that wishes to receive HCV assistance must apply for admission to the program. HUD permits DCHA to determine the format and content of HCV applications, as well how such applications will be made available to interested families and how applications will be accepted by DCHA. DCHA must include Form HUD-92006, Supplement to Application for Federally Assisted Housing, as part of DCHA's application.

5200.3 DCHA will use a two-step application process.

5200.4 Under the two-step application process, DCHA initially will require families to provide only the information needed to make an initial assessment of the family's eligibility, and to determine the family's placement on the waiting list. The family will be required to provide all of the information necessary to establish family eligibility and level of assistance when the family is selected from the waiting list.

5200.5 Families may obtain application forms from DCHA's website. Families may also request – by telephone or by mail – that an application be mailed to them via first class mail.

5200.6 Completed applications must be returned to DCHA by portal, mail, or electronically via email. Applications must be complete in order to be accepted by DCHA for processing.

5200.7 DCHA must take steps to ensure that the application process is accessible to those people who might have difficulty complying with the normal, standard DCHA application process. This could include people with disabilities, certain elderly individuals, as well as persons with limited English proficiency (LEP). DCHA must provide reasonable accommodation to the needs of individuals with disabilities. The application-taking facility and the application process must be fully accessible, or DCHA must provide an alternate approach that provides full access to the application process.

5200.8 DCHA is required to take reasonable steps to ensure equal access to their programs and activities by persons with limited English proficiency.

5200.9 DCHA must review each complete application received and make a preliminary assessment of the family's eligibility. DCHA must accept applications from families for whom the list is open unless there is good cause for not accepting the application (such as denial of assistance) for the grounds stated in the regulations. Where the family is determined to be ineligible, DCHA must notify the family in writing. Where the family is not determined to be ineligible, the family will be placed on a waiting list of applicants.

5200.10 No applicant has a right or entitlement to be listed on the waiting list, or to any position on the waiting list.

5200.11 All applicant families will be placed on the waiting list.

5200.12 DCHA's electronic system will advise the applicant that their application has been accepted.

5200.13 Placement on the waiting list does not indicate that the family is, in fact, eligible for assistance. A final determination of eligibility will be made when the family is selected from the waiting list.

5200.14 Applicants will be placed on the waiting list according the date and time their complete application is received by DCHA.

5201 PART II: MANAGING THE WAITING LIST

5201.1 DCHA must have policies regarding various aspects of organizing and managing the waiting list of applicant families. This includes opening the list to new applicants, closing the list to new applicants, notifying the public of waiting list openings and closings, updating waiting list information, purging the list of families that are no longer interested in or eligible for assistance, as well as conducting outreach to ensure enough applicants.

5201.2 In addition, HUD imposes requirements on how a DCHA may structure its waiting list and how families must be treated if they apply for assistance from a DCHA that administers more than one assisted housing program.

5201.3 DCHA's HCV waiting list must be organized in such a manner to allow DCHA to accurately identify and select families for assistance in the proper order, according to the admissions policies described in this plan.

5201.4 The waiting list must contain the following information for each applicant listed:

(a) Applicant name;

(b) Family unit size;

(c) Date and time of application;

(d) Qualification for any local preference; and

(e) Racial or ethnic designation of the head of household.

DCHA will maintain a single waiting list for the HCV program.

5201.5 HUD directs that a family that applies for assistance from the HCV program must be offered the opportunity to be placed on the waiting list for any public housing, project-based voucher or moderate rehabilitation program DCHA operates if (1) the other programs' waiting lists are open, and (2) the family is qualified for the other programs.

5201.6 HUD permits, but does not require, that DCHA's maintain a single merged waiting list for their public housing, Section 8, and other subsidized housing programs.

5201.7 A family's decision to apply for, receive, or refuse other housing assistance must not affect the family's placement on the HCV waiting list, or any preferences for which the family may qualify.

5201.8 DCHA will not merge the HCV waiting list with the waiting list for any other program DCHA operates.

5201.9 DCHA is permitted to close the waiting list if it has an adequate pool of families to use its available HCV assistance. Alternatively, DCHA may elect to continue to accept applications only from certain categories of families that meet preferences or funding criteria.

5201.10 DCHA will close the waiting list when the estimated waiting period for housing assistance for applicants on the list reaches twelve (12) months for the most

current applicants. Where DCHA has funding criteria that require a specific category of family, DCHA may elect to continue to accept applications from these applicants while closing the waiting list to others.

5201.11 If the waiting list has been closed, it cannot be reopened until DCHA publishes a notice in local newspapers of general circulation, minority media, and other suitable media outlets. The notice must comply with HUD fair housing requirements and must specify who may apply, and where and when applications will be received.

5201.12 DCHA will announce the reopening of the waiting list at least ten (10) business days prior to the date applications will first be accepted. If the list is only being reopened for certain categories of families, this information will be contained in the notice.

5201.13 DCHA will give public notice by publishing the relevant information in suitable media outlets to be determined at the time of opening.

5201.14 DCHA must conduct outreach as necessary to ensure that DCHA has enough applicants on the waiting list to use the HCV resources it has been allotted.

5201.15 Because HUD requires DCHA to admit a specified percentage of extremely low-income families to the program, DCHA may need to conduct special outreach to ensure that an adequate number of such families apply for assistance.

5201.16 DCHA outreach efforts must comply with fair housing requirements. This includes:

(a) Analyzing the housing market area and the populations currently being served to identify underserved populations;

(b) Ensuring that outreach efforts are targeted to media outlets that reach eligible populations that are underrepresented in the program; and

(c) Avoiding outreach efforts that prefer or exclude people who are members of a protected class.

5201.17 DCHA outreach efforts must be designed to inform qualified families about the availability of assistance under the program. These efforts may include, as needed, any of the following activities:

(a) Submitting press releases to local newspapers, including minority newspapers;

(b) Developing informational materials and flyers to distribute to other agencies;

(c) Providing application forms to other public and private agencies that serve the low income population; or

(d) Developing partnerships with other organizations that serve similar populations, including agencies that provide services for persons with disabilities.

5201.18 DCHA will monitor the characteristics of the population being served and the characteristics of the population in DCHA's jurisdiction. Targeted outreach efforts will be undertaken if a comparison suggests that certain populations are being underserved.

5201.19 While the family is on the waiting list, the family must immediately inform DCHA of changes in contact information, including current residence, mailing address, and phone number. The changes must be submitted via the online portal or through DCHA's designated wait list update email address.

5201.20 HUD requires DCHA to establish policies to use when removing applicant names from the waiting list.

5201.21 The decision to withdraw an applicant family that includes a person with disabilities from the waiting list is subject to reasonable accommodation. If the applicant did not respond to a DCHA request for information or updates, and DCHA determines that the family did not respond because of the family member's disability, DCHA must reinstate the applicant family to their former position on the waiting list.

5201.22 The waiting list will be updated as needed to ensure that all applicants and applicant information is current and timely.

5201.23 To update the waiting list, DCHA will send an update request via first class mail and email (if available) to each family on the waiting list to determine whether the family continues to be interested in, and to qualify for, the program. This update request will be sent to the last address(es) that DCHA has on record for the family. The update request will provide a deadline by which the family must respond and will state that failure to respond will result in the applicant's name being removed from the waiting list.

5201.24 The family's response must be in writing and may be delivered by mail or by email. Responses should be postmarked or received by DCHA not later than fifteen (15) business days from the date of DCHA letter.

5201.25 If the family fails to respond within fifteen (15) business days, the family will be removed from the waiting list without further notice.

5201.26 If the notice is returned by the post office with no forwarding address and the family does not respond via email, the applicant will be removed from the waiting list without further notice.

5201.27 If the notice is returned by the post office with a forwarding address, the notice will be re-sent to the address indicated unless the family has responded by email or through the portal. In this case, the family will have fifteen (15) business days to respond from the date the letter was re-sent.

5201.28 If a family is removed from the waiting list for failure to respond, DCHA may reinstate the family if it is determined that the lack of response was due to DCHA error, or to circumstances beyond the family's control.

5201.29 If at any time an applicant family is on the waiting list, DCHA determines that the family is not eligible for assistance, the family will be removed from the waiting list.

5201.30 If a family is removed from the waiting list because DCHA has determined the family is not eligible for assistance, a notice will be sent to the family's address of record. The notice will state the reasons the family was removed from the waiting list and will inform the family how to request an informal review regarding DCHA's decision.

5202 PART III: SELECTION FOR HCV ASSISTANCE

5202.1 As vouchers become available, families on the waiting list must be selected for assistance in accordance with the policies described in this part.

5202.2 The order in which families are selected from the waiting list depends on the selection method chosen by DCHA and is impacted in part by any selection preferences for which the family qualifies. The availability of targeted funding also may affect the order in which families are selected from the waiting list.

5202.3 DCHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to DCHA's selection policies.

5202.4 HUD may award funding for specifically named families living in specified types of units (e.g., a family that is displaced by demolition of public housing; a non-purchasing family residing in a HOPE 1 or 2 projects). In these cases, DCHA may admit such families whether or not they are on the waiting list, and, if they are on the waiting list, without considering the family's position on the waiting list. These families are considered non-waiting list selections. DCHA must maintain records showing that such families were admitted with special program funding.

5202.5 HUD may award DCHA funding for a specified category of families on the waiting list. DCHA must use this funding only to assist the families within the

specified category. In order to assist families within a targeted funding category, DCHA may skip families that do not qualify within the targeted funding category.

5202.6 DCHA administers the following types of targeted funding:

(a) VASH;

(b) Family Unification Program (FUP);

(c) Non-Elderly Disabled (NED);

(d) Foster Youth Initiative (FYI); and

(e) Mainstream Voucher.

Regular HCV funding may be used to assist any eligible family on the waiting list.

5202.7 DCHA's must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that DCHA will use.

5202.8 DCHA's are permitted to establish local preferences, and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits DCHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with DCHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources.

5202.9 DCHA will select families from the waiting list based on date and time of application.

5202.10 HUD requires that extremely low-income (ELI) families make up at least seventy-five percent (75%) of the families admitted to the HCV program during DCHA's fiscal year. ELI families are those with annual incomes at or below the federal poverty level or thirty percent (30%) of the area median income, whichever number is higher. To ensure this requirement is met, a DCHA may skip non-ELI families on the waiting list to select an ELI family.

5202.11 Low-income families admitted to the program that are "continuously assisted" under the 1937 Housing Act, as well as low-income or moderate-income families admitted to the program that are displaced because of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low-income housing, are not counted for income targeting purposes.

5202.12 DCHA will monitor progress in meeting the income targeting requirement throughout the fiscal year. Extremely low-income families will be selected ahead of other eligible families on an as-needed basis to ensure the income targeting requirement is met.

5202.13 DCHA system of preferences may select families based on local preferences according to the date and time of application or by a random selection process (lottery). If DCHA does not have enough funding to assist the family at the top of the waiting list, it is not permitted to skip down the waiting list to a family that it can afford to subsidize when there are not sufficient funds to subsidize the family at the top of the waiting list.

5202.14 Families will be selected on a first-come, first-served basis according to the date and time their complete application is received by DCHA.

5202.15 When a family has been selected from the waiting list, DCHA must notify the family.

5202.16 DCHA will notify the family by first class mail and/or email when it is selected from the waiting list. The notice will inform the family of the following:

(a) Date, time, and location of the scheduled application interview, including any procedures for rescheduling the interview;

(b) Who is required to attend the interview; and

(c) All documents that must be provided at the interview, including information about what constitutes acceptable documentation.

5202.17 If a notification letter is returned to DCHA with no forwarding address and the email rejects as an invalid address, the family will be removed from the waiting list. A notice of denial will be sent to the family's address of record.

5202.18 HUD recommends that DCHA obtain the information and documentation needed to make an eligibility determination though a face-to-face interview with a DCHA representative. Being invited to attend an interview does not constitute admission to the program.

5202.19 Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if DCHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period determined by DCHA.

5202.20 Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability.

5202.21 Families selected from the waiting list are required to participate in an eligibility interview.

5202.22 All adult members of the households must attend the eligibility interview. DCHA may waive this requirement on a case-by-case basis for purposes of reasonable accommodation. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to DCHA.

5202.23 The head of household, spouse, or co-head must provide acceptable documentation of legal identity. If the family representative does not provide the required documentation at the time of the interview, they will be required to provide it within ten (10) business days.

5202.24 Pending disclosure and documentation of social security numbers, DCHA will allow the family to retain its place on the waiting list for thirty (30) days. If not all household members have disclosed their SSNs at the next time DCHA is issuing vouchers, DCHA will issue a voucher to the next eligible applicant family on the waiting list.

5202.25 The family must provide the information necessary to establish the family's eligibility and determine the appropriate level of assistance, and must complete required forms, provide required signatures, and submit required documentation. If any materials are missing, DCHA will provide the family with a written list of items that must be submitted.

5202.26 Any required documents or information that the family is unable to provide at the interview must be provided within ten (10) business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension for an additional ten (10) business days. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial.

5202.27 An advocate, interpreter, or other assistant may assist the family with the application and the interview process.

5202.28 Interviews will be conducted in English. For limited English proficient (LEP) applicants, DCHA will provide translation services in accordance with DCHA's LEP plan.

5202.29 If the family is unable to attend a scheduled interview, the family should contact DCHA in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend a scheduled interview, DCHA will send another notification letter with a new interview appointment time. Applicants who fail to attend two scheduled interviews without DCHA approval will be denied

assistance based on the family's failure to supply information needed to determine eligibility. A notice of denial will be issued.

5202.30 DCHA must verify all information provided by the family. Based on verified information, DCHA must make a final determination of eligibility and must confirm that the family qualified for any special admission, targeted funding admission, or selection preference that affected the order in which the family was selected from the waiting list.

5202.31 At final determination of eligibility, as applicants are pulled from the waiting lists and forwarded for lease-up, DCHA extended the length of time to one hundred eighty (180) days that the verified application data is deemed valid per its MTW Status. This has reduced the amount of duplicative work required of eligibility staff in DCHA's Client Placement Division as well as reduce the time necessary to build a qualified applicant pool.

5202.32 If DCHA determines that the family is ineligible, DCHA will send written notification of the ineligibility determination within ten (10) business days of the determination. The notice will specify the reasons for ineligibility and will inform the family of its right to request an informal review.

5202.33 If a family fails to qualify for any criteria that affected the order in which it was selected from the waiting list (e.g. targeted funding, extremely low-income), the family will be returned to its original position on the waiting list. DCHA will notify the family in writing that it has been returned to the waiting list and will specify the reasons for it.

5202.34 If DCHA determines that the family is eligible to receive assistance, DCHA will invite the family to attend a briefing.

Chapter 53, RECERTIFICATIONS, HOUSING QUALITY STANDARD INSPECTIONS, AND FAMILY MOVES, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 53

BRIEFINGS AND VOUCHER ISSUANCE

5300 BRIEFINGS AND FAMILY OBLIGATIONS

5300.1 HUD regulations require the DCHA to conduct mandatory briefings for applicant families who qualify for a voucher. The briefing provides a broad description of owner and family responsibilities, explains the DCHA's procedures, and includes instructions on how to lease a unit. This part describes how oral briefings will be conducted, specifies what written information will be provided to families, and lists the family's obligations under the program.

5300.2 Prior to issuance of a voucher, the DCHA must give the family an oral briefing and provide the family with a briefing packet containing written information about the program. Families may be briefed in individual face-to-face meetings, through group briefing sessions, or via remote briefing sessions.

5300.3 Families will be notified of their eligibility for assistance at the time they are invited to a briefing. The notice will be sent electronically.

5300.4 The notice will advise the family of the type of briefing, who is required to attend the briefing, and the date and time of the briefing. The notice will also inform the family of any additional requirements as addressed in relevant policy elsewhere in this section.

5300.5 If the notice is rejected, the applicant will be denied and their name will not be placed back on the waiting list.

5300.6 At the briefing, the DCHA must ensure effective communication in accordance with Section 504 requirements (Section 504 of the Rehabilitation Act of 1973) and ensure that the briefing site is accessible to individuals with disabilities.

5300.7 Generally, briefings are conducted remotely. However, at the DCHA's discretion or at the family's written request, the DCHA may provide an in-person briefing. In-person briefings may be conducted in either one-on-one sessions or in group meetings.

5300.8 Generally, the head of the household is required to attend the briefing. If the head of household is unable to attend, the DCHA may approve another adult family member to attend the briefing.

5300.9 Families that attend group briefings and still need individual assistance will be referred to an appropriate DCHA staff person.

5300.10 Briefings will be conducted in English. For limited English proficient (LEP) applicants, the DCHA will provide interpretation services in accordance with the DCHA's LEP plan.

5300.11 Applicants who fail to attend a scheduled in-person briefing will be scheduled for another briefing automatically. The DCHA will notify the family of the date and time of the second scheduled briefing. Applicants who fail to attend two scheduled briefings, without prior DCHA approval, will be denied assistance.

5300.12 Remote briefings may be conducted over the phone, via video conferencing, or through other virtual platforms.

5300.13 The DCHA has the sole discretion to require that briefings be conducted remotely. If the DCHA schedules a remote briefing, the DCHA will conduct a face-to-face briefing upon request of the applicant as reasonable accommodation for a person with a disability if safety and health concerns can be reasonably addressed.

5300.14 In addition, the DCHA will conduct a briefing remotely upon request of the applicant as a reasonable accommodation. The DCHA will consider other reasonable requests for a remote briefing on a case-by-case basis.

5300.15 As with in-person briefings, the platform for conducting remote briefings must be accessible and the briefing conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

5300.16 If no method of conducting a remote briefing is available that appropriately accommodates an individual's disability, the DCHA may not hold against the individual their inability to participate in the remote briefing, and the DCHA should consider whether postponing the remote briefing to a later date is appropriate or whether there is a suitable alternative.

5300.17 Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances.

5300.18 Limited English Proficiency (LEP) requirements also apply to remote briefings, including the use of interpretation services and document translation.

5300.19 The DCHA must ensure that the lack of technology or inability to use technology for remote briefings does not pose a disadvantage to families that may not be apparent to the DCHA. The DCHA must ensure that the family has appropriate technological access in order to fully participate in the remote briefing.

5300.20 At least ten (10) business days prior to scheduling the remote briefing, the DCHA will provide written notification to families participating in the briefing to advise of technological requirements and to request the family notify the DCHA of any known barriers. The DCHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to

attend an in-person briefing or have a one-on-one briefing over the phone, as appropriate.

5300.21 The DCHA will conduct remote briefings via a video conferencing platform and telephone conferencing call-in, simultaneously, providing the family with both login information and conferencing call-in information. The family may then choose which platform to utilize.

5300.22 The DCHA will provide the briefing packet electronically. The DCHA will provide a paper copy of the briefing packet upon family request, and may reschedule the briefing to allow adequate time for the family to receive the physical briefing packet.

5300.23 The DCHA will ensure that all electronic information stored or transmitted as part of the briefing meets the requirements for accessibility for persons with disabilities and persons with LEP, and is secure, including ensuring personally identifiable information (PII) is protected.

5300.24 The DCHA will ensure that families who participate in remote briefings have the opportunity to ask questions as part of the briefing.

5300.25 If families lose connectivity during any remote briefing or otherwise feel they were unable to access information presented during the briefing, the family may request a one-on-one briefing over the phone or in person with the DCHA.

5300.26 Each briefing must provide information on the following subjects:

(a) How the Housing Choice Voucher program works;

(b) Family and owner responsibilities;

(c) Where the family can lease a unit, including renting a unit inside or outside the DCHA's jurisdiction;

(d) An explanation of how portability works. The DCHA may not discourage the family from choosing to live anywhere in the DCHA jurisdiction or outside the DCHA jurisdiction under portability, unless otherwise expressly authorized by statute, regulation, PIH Notice, or court order;

(e) The DCHA must inform the family of how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process which may affect the family's assistance;

(f) The advantages of areas that do not have a high concentration of low-income families; and

(g) For families receiving welfare-to-work vouchers, a description of any local obligations of a welfare-to-work family and an explanation that failure to meet the obligations is grounds for denial of admission or termination of assistance.

5300.27 In briefing a family that includes a person with disabilities, DCHA must also take steps to ensure effective communication.

5300.28 Documents and information provided in the briefing packet must include the following:

(a) The term of the voucher, voucher suspensions, and the DCHA's policies on any extensions of the term. If the DCHA allows extensions, the packet must explain how the family can request an extension;

(b) A description of the method used to calculate the housing assistance payment for a family, including how the DCHA determines the payment standard for a family, how the DCHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule;

(c) An explanation of how the DCHA determines the maximum allowable rent for an assisted unit;

(d) Where the family may lease a unit and an explanation of how portability works, including information on how portability may affect the family's assistance through screening, subsidy standards, payment standards, and any other elements of the portability process that may affect the family's assistance;

(e) The HUD-required tenancy addendum, which must be included in the lease;

(f) The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy;

(g) A statement of the DCHA policy on providing information about families to prospective owners;

(h) The DCHA subsidy standards including when and how exceptions are made;

(i) Materials (e.g., brochures) on how to select a unit and any additional information on selecting a unit that HUD provides (e.g., HUD brochure entitled, "A Good Place to Live");

(j) Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form, including information on how to complete the form and file a fair housing complaint;

(k) A list of landlords known to the DCHA who may be willing to lease a unit to the family or other resources (e.g., newspapers, organizations, online search tools) known to the DCHA that may assist the family in locating a unit. DCHAs must ensure that the list of landlords or other resources covers areas outside of poverty or minority concentration;

(l) Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the DCHA;

(m) The family obligations under the program, including any obligations of a welfare-to-work family, and any obligations of other special programs if the family is participating in one of those programs;

(n) The grounds on which the DCHA may terminate assistance for a participant family because of family action or failure to act;

(o) DCHA informal hearing procedures including when the DCHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing;

(p) An explanation of the advantages of moving to an area that does not have a high concentration of low-income families; and

(q) The HUD pamphlet on lead-based paint entitled, "Protect Your Family from Lead in Your Home."

5300.29 If the DCHA is in a metropolitan area, the following additional information must be included in the briefing packet in order to receive full points under SEMAP Indicator 7, Expanding Housing Opportunities:

(a) Maps showing areas with housing opportunities outside areas of poverty or minority concentration, both within its jurisdiction and its neighboring jurisdiction;

(b) Information about the characteristics of these areas including job opportunities, schools, transportation, and other services; and

(c) An explanation of how portability works, including a list of portability contact persons for neighboring DCHAs with names, addresses, and telephone numbers.

5300.30 In addition to items required by the regulations, DCHAs may wish to include supplemental materials to help explain the program to both participants and owners.

5300.31 The DCHA will provide the following additional materials in the briefing packet:

(a) Information on how to fill out and file a housing discrimination complaint form;

(b) The form HUD-5380 domestic violence certification form and the form HUD 5382 notice of occupancy rights, which contains information on VAWA protections for victims of domestic violence, dating violence, sexual assault, and stalking;

(c) "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse;

(d) "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2017-12;

(e) Housing Enjoyable Living Program (HELP) briefing information; and

(f) Housing Search Log.

5300.32 Obligations of the family are described in the housing choice voucher (HCV) regulations and on the voucher itself. These obligations include responsibilities the family is required to fulfill, as well as prohibited actions. The DCHA must inform families of these obligations during the oral briefing, and the same information must be included in the briefing packet. When the family's unit is approved and the HAP contract is executed, the family must meet those obligations in order to continue participating in the program.

5300.33 Unless otherwise noted below, when family obligations require the family to respond to a request or notify the DCHA of a change, notifying the DCHA of the request or change within ten (10) business days is considered prompt notice.

5300.34 When a family is required to provide notice to the DCHA, the notice must be in writing. This includes electronic notification to the DCHA.

5300.35 The family obligations of the voucher are listed as follows:

(a) The family must supply any information that the DCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status;

(b) The family must supply any information requested by the DCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition;

(c) The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information;

(d) Any information supplied by the family must be true and complete; and

(e) The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

5300.36 Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

5300.37 The family must allow the DCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.

5300.38 The family must not commit any serious or repeated violation of the lease.

5300.39 The DCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge.

5300.40 Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated lease violations by the victim.

5300.41 The family must notify the DCHA and the owner before moving out of the unit or terminating the lease.

5300.42 The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the DCHA at the same time the owner is notified.

5300.43 The family must promptly give the DCHA a copy of any owner eviction notice.

5300.44 The family must use the assisted unit for residence by the family. The unit must be the family's only residence.

5300.45 The composition of the assisted family residing in the unit must be approved by the DCHA. The family must promptly notify the DCHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request DCHA approval to add any other family member as an occupant of the unit.

5300.46 The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The DCHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

5300.47 The family must promptly notify the DCHA in writing if any family member no longer lives in the unit.

5300.48 If the DCHA has given approval, a foster child or a live-in aide may reside in the unit. The DCHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when DCHA consent may be given or denied. For policies related to the request and approval of foster children, foster adults, and live-in aides.

5300.49 The family must not sublease the unit, assign the lease, or transfer the unit.

5300.50 Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.

5300.51 The family must supply any information requested by the DCHA to verify that the family is living in the unit or information related to family absence from the unit.

5300.52 The family must promptly notify the DCHA when the family is absent from the unit.

5300.53 Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than thirty (30) calendar days. Written notice must be provided to the DCHA at the start of the extended absence.

5300.54 The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease.

5300.55 The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).

5300.56 Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program.

5300.57 Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

5300.58 Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises.

5300.59 An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state, or local housing assistance program.

5300.60 A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the DCHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

5301 SUBSIDY STANDARDS AND VOUCHER ISSUANCE

5301.1 The DCHA must establish subsidy standards that determine the number of bedrooms needed for families of different sizes and compositions. This part presents the policies that will be used to determine the family unit size (also known as the voucher size) a particular family should receive, and the policies that govern making exceptions to those standards. The DCHA must also establish policies related to the issuance of the voucher, to the voucher term, and to any extensions of the voucher term.

5301.2 For each family, the DCHA determines the appropriate number of bedrooms under the DCHA subsidy standards and enters the family unit size on the voucher that is issued to the family. The family unit size does not dictate the size of unit the family must actually lease, nor does it determine who within a household will share a bedroom/sleeping room.

5301.3 The following requirements apply when the DCHA determines family unit size:

(a) The subsidy standards must provide for the smallest number of bedrooms needed to house a family without overcrowding;

(b) The subsidy standards must be consistent with space requirements under the housing quality standards;

(c) The subsidy standards must be applied consistently for all families of like size and composition;

(d) A child who is temporarily away from the home because of placement in foster care is considered a member of the family in determining the family unit size;

(e) A family that consists of a pregnant woman (with no other persons) must be treated as a two-person family;

(f) Any live-in aide (approved by the DCHA to reside in the unit to care for a family member who is disabled or is at least fifty (50) years of age) must be counted in determining the family unit size; and

(g) Unless a live-in-aide resides with a family, the family unit size for any family consisting of a single person must be either a zero- or one-bedroom unit, as determined under the DCHA subsidy standards.

5301.4 The DCHA will assign one bedroom for each two persons within the household, except in the following circumstances:

(a) Single person families will be allocated one bedroom;

(b) A single head of household will receive their own bedroom;

(c) Other adult family members shall not be allocated a bedroom with a minor other than a single parent and their child under age five (5);

(d) Persons of opposite gender (other than spouses, and children under age five (5) will be allocated separate bedrooms;

(e) Two minors of the same gender shall be allocated one bedroom. However, no individual thirteen (13) or older will share a bedroom with a member with a five (5) year or more age difference, other than a single parent (who is not the head of household) and their child under age five; and

(f) Live-in aides will be allocated a separate bedroom. No additional bedrooms will be allocated for family members of a live-in aide.

5301.5 The DCHA will reference the following chart in determining the appropriate voucher size for a family:

Voucher Size	**Persons in Household (Minimum – Maximum)**
1 Bedroom	1-2
2 Bedrooms	2-4
3 Bedrooms	3-6

4 Bedrooms 4-8
5 Bedrooms 6-10

5301.6 In determining family unit size for a particular family, the DCHA may grant an exception to its established subsidy standards if the DCHA determines that the exception is justified by the age, sex, health, handicap, or relationship of family members or other personal circumstances. Reasons may include, but are not limited to:

(a) A need for an additional bedroom for medical equipment; or

(b) A need for a separate bedroom for reasons related to a family member's disability, medical or health condition.

5301.7 For a single person who is not elderly, disabled, or a remaining family member, an exception cannot override the regulatory limit of a zero or one bedroom.

5301.8 The DCHA will consider granting an exception for any of the reasons specified in the regulation: the age, sex, health, handicap, or relationship of family members or other personal circumstances.

5301.9 The family must request any exception to the subsidy standards in writing. The request must explain the need or justification for a larger family unit size, and must include appropriate documentation. Requests based on health-related reasons must be verified by a knowledgeable professional source (e.g., doctor or health professional), unless the disability and the disability–related request for accommodation is readily apparent or otherwise known. The family's continued need for an additional bedroom due to special medical equipment must be re-verified at biennial/triennial reexamination.

5301.10 The DCHA will notify the family of its determination within 10 business days of receiving the family's request. If a participant family's request is denied, the notice will inform the family of their right to request an informal hearing.

5301.11 When a family is selected from the waiting list (or as a special admission as described in Chapter 4), or when a participant family wants to move to another unit, the DCHA issues a Housing Choice Voucher, form HUD-52646. This chapter deals only with voucher issuance for applicants. For voucher issuance associated with moves of program participants, please refer to Chapter 10.

5301.12 The voucher is the family's authorization to search for housing. It specifies the unit size for which the family qualifies, and includes both the date of voucher issuance and date of expiration. It contains a brief description of how the program works and explains the family obligations under the program. The voucher is evidence that the DCHA has determined the family to be eligible for the program, and that the DCHA expects to have money available to subsidize the family if the

family finds an approvable unit. However, the DCHA does not have any liability to any party by the issuance of the voucher, and the voucher does not give the family any right to participate in the DCHA's housing choice voucher program.

5301.13 A voucher can be issued to an applicant family only after the DCHA has determined that the family is eligible for the program based on verification of information received within the sixty (60) days prior to issuance and after the family has attended an oral briefing.

5301.14 Vouchers will be issued to eligible applicants immediately following the mandatory briefing.

5301.15 The DCHA should have sufficient funds to house an applicant before issuing a voucher. If funds are insufficient to house the family at the top of the waiting list, the DCHA must wait until it has adequate funds before it calls another family from the list.

5301.16 Prior to issuing any vouchers, the DCHA will determine whether it has sufficient funding.

5301.17 If the DCHA determines that there is insufficient funding after a voucher has been issued, the DCHA may rescind the voucher and place the affected family back on the waiting list.

5301.18 The voucher term will be one hundred eighty (180) calendar days.

5301.19 The family must submit a Request for Tenancy Approval and proposed lease within the one hundred eighty (180) day period unless the DCHA grants an extension.

5301.20 DCHAs must approve additional search time if needed as a reasonable accommodation to make the program accessible to and usable by a person with disabilities. The extension period must be reasonable for the purpose.

5301.21 The family must be notified in writing of the DCHA's decision to approve or deny an extension. The DCHA's decision to deny a request for an extension of the voucher term is not subject to informal review.

5301.22 DCHA may consider extensions of the term. The written request must be accompanied by either a Housing Search Log or email proof of denied rental application(s).

5301.23 The DCHA may consider extensions after the term of the voucher only in the following circumstances:

(a) It is necessary as a reasonable accommodation for a person with disabilities.

(b) It is necessary due to reasons beyond the family's control, as determined by the DCHA. Following is a list of extenuating circumstances that the DCHA may consider in making its decision. The presence of these circumstances does not guarantee that an extension will be granted:

(1) Whether the family has already submitted requests for tenancy approval that were not approved by the DCHA; and

(2) Whether family size or other special circumstances make it difficult to find a suitable unit.

5301.24 All requests for extensions to the voucher term must be made in writing and submitted to the DCHA prior to the expiration date of the voucher (or extended term of the voucher).

5301.25 The DCHA will decide whether to approve or deny an extension request within ten (10) business days of the date the request and supporting documentation (including independent DCHA verification) is received, and will provide the family written notice of its decision.

5301.26 The DCHA must provide for suspension of the initial or any extended term of the voucher from the date the family submits a request for DCHA approval of the tenancy until the date the DCHA notifies the family in writing whether the request has been approved or denied.

5301.27 Once a family's housing choice voucher term (including any extensions) expires, the family is no longer eligible to search for housing under the program. If the family still wishes to receive assistance, the DCHA may require that the family reapply, or may place the family on the waiting list with a new application date but without requiring reapplication. Such a family does not become ineligible for the program on the grounds that it was unable to locate a unit before the voucher expired.

5301.28 If an applicant family's voucher term or extension expires before the DCHA has approved a tenancy, the DCHA will require the family to reapply for assistance.

5301.29 Within 10 business days after the expiration of the voucher term or any extension, the DCHA will notify the family in writing that the voucher term has expired and that the family must reapply when the waiting list is open in order to be placed on the waiting list.

Chapter 54, VERIFICATION PROCEDURES, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 54

INCOME AND SUBSIDY DETERMINATIONS

5400 ANNUAL INCOME

5400.1 "Annual income" means all amounts, monetary or not, which:

(a) Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member;

(b) Are anticipated to be received from a source outside the family during the twelve (12) month period following admission or annual reexamination effective date;

(c) Which are not specifically excluded in 24 CFR § 5.609(c); or

(d) Amounts derived (during the twelve (12) month period) from assets to which any member of the family has access.

5400.2 This § 5400 describes how each source of income is treated for the purposes of determining annual income. HUD regulations present income inclusions and exclusions separately. In this plan, however, the discussions of income inclusions and exclusions are integrated by topic.

5400.3 Income received by all family members must be counted unless specifically excluded by the regulations. It is the responsibility of the head of household to report changes in family composition. The rules on which sources of income are counted vary somewhat by family member. The chart below summarizes how family composition affects income determinations.

Summary of Income Included and Excluded by Person	
Live-in aides	Income from all sources is excluded [24 CFR 5.609(c)(5)].
Foster child or foster adult	Income from all sources is excluded [24 CFR 5.609(c)(2)].
Head, spouse, or co-head Other adult family members	All sources of income not specifically excluded by the regulations are included.
Children under 18 years of age	Employment income is excluded [24 CFR 5.609(c)(1)]. All other sources of income, except those specifically excluded by the regulations, are included. All applicable regulations apply to full-time students approved pursuant to §5120.
Full-time students 18 years of age or older (not head, spouse,	Employment income above $480/year is excluded [24 CFR 5.609(c)(11)].

or co-head)	All other sources of income, except those specifically excluded by the regulations, are included. All applicable regulations apply to full-time students approved pursuant to §5120.

5400.4 The income of family members approved to live in the unit will be counted, even if the family member is temporarily absent from the unit.

5400.5 Generally an individual who is or is expected to be absent from the assisted unit for one hundred twenty (120) consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the assisted unit for more than one hundred twenty (120) consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

5400.6 When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to DCHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

5400.7 Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

5400.8 If a child has been placed in foster care, DCHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

5400.9 An employed head, spouse, or co-head absent from the unit more than one hundred twenty (120) consecutive days due to employment will continue to be considered a family member.

5400.10 If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

5400.11 DCHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

5400.12 When an individual who has been counted as a family member is determined permanently absent, the family is eligible for the medical expense deduction only

if the remaining head, spouse, or co-head qualifies as an elderly person or a person with disabilities.

5400.13 Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or participant family fifty percent (50%) or more of the time.

5400.14 When more than one applicant or participant family is claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, DCHA will make the determination based on available documents such as court orders, school records, or an IRS return showing which family has claimed the child for income tax purposes.

5400.15 The approval of a caretaker is at the owner and DCHA's discretion and subject to the owner and DCHA's screening criteria. If neither a parent nor a designated guardian remains in a household receiving HCV assistance, DCHA will take the following actions:

(a) If a responsible agency has determined that another adult is to be brought into the assisted unit to care for a child for an indefinite period, the designated caretaker will not be considered a family member until a determination of custody or legal guardianship is made;

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

(c) At any time that custody or guardianship legally has been awarded to a caretaker, the housing choice voucher will be transferred to the caretaker; and

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

5400.16 DCHA is required to count all income "anticipated to be received from a source outside the family during the twelve (12) month period following admission or annual reexamination effective date."

5400.17 DCHA generally will use current circumstances to determine anticipated income for the coming twelve (12) month period. HUD authorizes DCHA to use other than current circumstances to anticipate income when:

(a) An imminent change in circumstances is expected;

(b) It is not feasible to anticipate a level of income over a twelve (12) month period (e.g., seasonal or cyclic income); and

(c) DCHA believes that past income is the best available indicator of expected future income.

5400.18 DCHA is required to use HUD's Enterprise Income Verification (EIV) system in its entirety as a third-party source to verify employment and income information, and to reduce administrative subsidy payment errors in accordance with HUD administrative guidance.

5400.19 HUD allows DCHA to use tenant-provided documents (pay stubs) to project income once EIV data has been received in such cases where the family does not dispute the EIV employer data and where DCHA does not determine it is necessary to obtain additional third-party data.

5400.20 When EIV is obtained and the family does not dispute the EIV employer data, DCHA will use current tenant-provided documents to project annual income. When the tenant-provided documents are pay stubs, DCHA will make every effort to obtain current and consecutive pay stubs dated within the last sixty (60) days.

5400.21 DCHA will obtain written and/or oral third-party verification in accordance with the verification requirements in the following cases:

(a) If EIV or other UIV data is not available;

(b) If the family disputes the accuracy of the EIV employer data; or

(c) If DCHA determines additional information is needed.

5400.22 In such cases, DCHA will review and analyze current data to anticipate annual income. In all cases, the family file will be documented with a clear record of the reason for the decision, and a clear audit trail will be left as to how DCHA annualized projected income.

5400.23 When DCHA cannot readily anticipate income based upon current circumstances (e.g., in the case of seasonal employment, unstable working hours, or suspected fraud), DCHA will review and analyze historical data for patterns of employment, paid benefits, and receipt of other income and use the results of this analysis to establish annual income.

5400.24 Any time current circumstances are not used to project annual income, a clear rationale for the decision will be documented in the file. In all such cases the family may present information and documentation to DCHA to show why the historic pattern does not represent the family's anticipated income.

5400.25 If DCHA verifies an upcoming increase or decrease in income, annual income will be calculated by applying each income amount to the appropriate part of the twelve (12) month period.

Example: An employer reports that a full-time employee who has been receiving $8/hour will begin to receive $8.25/hour in the eighth week after the effective date of the reexamination. In such a case DCHA would calculate annual income as follows: ($8/hour × 40 hours × 7 weeks) + ($8.25 × 40 hours × 45 weeks).

5400.26 The family may present information that demonstrates that implementing a change before its effective date would create a hardship for the family. In such cases DCHA will calculate annual income using current circumstances and then require an interim reexamination when the change actually occurs. This requirement will be imposed even if DCHA's policy on reexaminations does not require interim reexaminations for other types of changes.

5400.27 When tenant-provided third-party documents are used to anticipate annual income, they will be dated within the last sixty (60) days of the reexamination interview date.

5400.28 In HUD's EIV webcast of January 2008, HUD made clear that PHAs are not to use EIV quarterly wages to project annual income.

5400.29 The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips and bonuses, and other compensation for personal services is included in annual income.

5400.30 For persons who regularly receive bonuses or commissions, DCHA will verify and then average amounts received for the one-year preceding admission or reexamination. If only a one-year history is available, DCHA will use the prior year amounts. In either case the family may provide, and DCHA will consider, a credible justification for not using this history to anticipate future bonuses or commissions. If a new employee has not yet received any bonuses or commissions, DCHA will count only the amount estimated by the employer. The file will be documented appropriately.

5400.31 All regular pay, special pay, and allowances of a member of the Armed Forces are counted except for the special pay to a family member serving in the Armed Forces who is exposed to hostile fire.

5400.32 This type of income (including gifts) is not included in annual income. Sporadic income includes temporary payments from the U.S. Census Bureau for employment lasting no longer than one hundred eighty (180) days.

5400.33 Sporadic income is income that is not received periodically and cannot be reliably predicted. For example, the income of an individual who works occasionally as a handyman would be considered sporadic if future work could not be anticipated and no historic, stable pattern of income existed.

5400.34 Employment income earned by children (including foster children) under the age of eighteen (18) years is not included in annual income.

5400.35 Earnings in excess of Four Hundred Eighty Dollars ($480) for each full-time student eighteen (18) years old or older (except for the head, spouse, or co-head) are not counted. To be considered "full-time," a student must be considered "full-time" by an educational institution with a degree or certificate program.

5400.36 Income earned by a live-in aide is not included in annual income.

5400.37 Income from some federal programs is specifically excluded from consideration as income, including:

(a) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. § 5044(g), 5058);

(b) Awards under the federal work-study program (20 U.S.C. § 1087 uu);

(c) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. §3056(f));

(d) Allowances, earnings, and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. § 12637(d)); and

(e) Allowances, earnings, and payments to participants in programs funded under the Workforce Investment Act of 1998 (29 U.S.C. 2931).

5400.38 Amounts received under a resident service stipend are not included in annual income. A resident service stipend is a modest amount (not to exceed Two Hundred Dollars ($200) per individual per month) received by a resident for performing a service for DCHA or owner, on a part-time basis, that enhances the quality of life in the development. Such services may include, but are not limited to, fire patrol, hall monitoring, lawn maintenance, resident initiatives coordination, and serving as a member of DCHA's governing board. No resident may receive more than one such stipend during the same period of time.

5400.39 Incremental earnings and benefits to any family member resulting from participation in qualifying state or local employment training programs (including training programs not affiliated with a local government) and training of a family member as resident management staff are excluded from annual income. Amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the family member participates in the training program.

5400.40 DCHA defines "training program" as "a learning process with goals and objectives, generally having a variety of components, and taking place in a series of sessions over a period of time. It is designed to lead to a higher level of proficiency, and it enhances the individual's ability to obtain employment. It may have performance standards to measure proficiency. Training may include, but is not limited to:

(a) classroom training in a specific occupational skill;

(b) on-the-job training with wages subsidized by the program; or

(c) basic education.

5400.41 DCHA defines "incremental earnings and benefits" as the difference between:

(a) the total amount of welfare assistance and earnings of a family member prior to enrollment in a training program; and

(b) the total amount of welfare assistance and earnings of the family member after enrollment in the program.

5400.42 In calculating the incremental difference, DCHA will use as the pre-enrollment income the total annualized amount of the family member's welfare assistance and earnings reported on the family's most recently completed HUD-50058.

5400.43 End of participation in a training program must be reported in accordance with DCHA's interim reporting requirements.

5400.44 Amounts received under training programs funded in whole or in part by HUD are excluded from annual income. Eligible sources of funding for the training include operating subsidy, Section 8 administrative fees, and modernization, Community Development Block Grant (CDBG), HOME program, and other grant funds received from HUD.

5400.45 To qualify as a training program, the program must meet the definition of "training program" provided above for state and local employment training programs.

5400.46 Earned income tax credit (EITC) refund payments received on or after January 1, 1991, are excluded from annual income. Although many families receive the EITC annually when they file taxes, an EITC can also be received throughout the year. The prorated share of the annual EITC is included in the employee's payroll check.

5400.47 [RESERVED]

5400.48 The earned income disallowance (EID) encourages people with disabilities to enter the work force by not including the full value of increases in earned income for a period of time. Eligibility criteria and limitations on the disallowance are summarized below.

5400.49 This disallowance applies only to individuals in families already participating in the HCV program (not at initial examination). To qualify, the family must experience an increase in annual income that is the result of one of the following events:

(a) Employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment. "Previously unemployed" includes a person who annually has earned not more than the minimum wage applicable to the community multiplied by five hundred (500) hours. The applicable minimum wage is the federal minimum wage unless there is a higher state or local minimum wage;

(b) Increased earnings by a family member who is a person with disabilities and whose earnings increase during participation in an economic self-sufficiency or job-training program. A self-sufficiency program includes a program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work to such families; or

(c) New employment or increased earnings by a family member who is a person with disabilities and who has received benefits or services under Temporary Assistance for Needy Families (TANF) or any other state program funded under Part A of Title IV of the Social Security Act within the past six months. If the benefits are received in the form of monthly maintenance, there is no minimum amount. If the benefits or services are received in a form other than monthly maintenance, such as one-time payments, wage subsidies, or transportation assistance, the total amount received over the six (6)-month period must be at least Five Hundred Dollars ($500).

5400.50 Calculation of the earned income disallowance for an eligible member of a qualified family begins with a comparison of the member's current income with

their "baseline income." The family member's baseline income is their income immediately prior to qualifying for the EID. The family member's baseline income remains constant throughout the period that they are participating in the EID.

5400.51 During the initial exclusion period of twelve (12) consecutive months, the full amount (100%) of any increase in income attributable to new employment or increased earnings is excluded.

5400.52 The initial EID exclusion period will begin on the first of the month following the date an eligible member of a qualified family is first employed or first experiences an increase in earnings.

5400.53 During the second exclusion period of twelve (12) consecutive months, DCHA must exclude at least fifty percent (50%) of any increase in income attributable to employment or increased earnings.

5400.54 During the second twelve (12) month exclusion period, DCHA will exclude one hundred percent (100%) of any increase in income attributable to new employment or increased earnings.

5400.55 The EID has a two-year (24-month) lifetime maximum. The two-year eligibility period begins at the same time that the initial exclusion period begins and ends twenty-four (24) months later. During the twenty-four (24) month period, an individual remains eligible for EID even if they begin to receive assistance from a different housing agency, move between public housing and Section 8 assistance, or have breaks in assistance.

5400.56 Annual income includes "the net income from the operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family."

5400.57 Net income is "gross income less business expense."

5400.58 To determine business expenses that may be deducted from gross income, DCHA will use current applicable Internal Revenue Service (IRS) rules for determining allowable business expenses, unless a topic is addressed by HUD regulations or guidance as described below.

5400.59 HUD regulations do not permit DCHA to deduct from gross income expenses for business expansion.

5400.60 "Business expansion" is defined as any capital expenditures made to add new business activities, to expand current facilities, or to operate the business in additional locations. For example, purchase of a street sweeper by a construction business for the purpose of adding street cleaning to the services offered by the business would be considered a business expansion. Similarly, the purchase of a property by a hair care business to open at a second location would be considered a business expansion.

5400.61 HUD regulations do not permit DCHA to deduct from gross income the amortization of capital indebtedness.

5400.62 "Capital indebtedness*"* is defined as the principal portion of the payment on a capital asset such as land, buildings, and machinery. This means DCHA will allow as a business expense interest, but not principal, paid on capital indebtedness.

5400.63 If the net income from a business is negative, no business income will be included in annual income; a negative amount will not be used to offset other family income.

5400.64 HUD regulations require DCHA to include in annual income the withdrawal of cash or assets from the operation of a business or profession unless the withdrawal reimburses a family member for cash or assets invested in the business by the family.

5400.65 Acceptable investments in a business include cash loans and contributions of assets or equipment. For example, if a member of an assisted family provided an up-front loan of Two Thousand Dollars $2,000 to help a business get started, DCHA will not count as income any withdrawals from the business up to the amount of this loan until the loan has been repaid. Investments do not include the value of labor contributed to the business without compensation.

5400.66 If a business is co-owned with someone outside the family, the family must document the share of the business it owns. If the family's share of the income is lower than its share of ownership, the family must document the reasons for the difference.

5400.67 There is no asset limitation for participation in the HCV program. However, HUD requires that DCHA include in annual income the anticipated "interest, dividends, and other net income of any kind from real or personal property." This section discusses how the income from various types of assets is determined. For most types of assets, DCHA must determine the value of the asset in order to compute income from the asset. Therefore, for each asset type, this section discusses:

(a) How the value of the asset will be determined; and

(b) How income from the asset will be calculated.

5400.68 DCHA generally will use current circumstances to determine both the value of an asset and the anticipated income from the asset. As is true for all sources of income, HUD authorizes DCHA to use other than current circumstances to anticipate income when:

(a) an imminent change in circumstances is expected;

(b) it is not feasible to anticipate a level of income over twelve (12) months; or

(c) DCHA believes that past income is the best indicator of anticipated income. For example, if a family member owns real property that typically receives rental income but the property is currently vacant, DCHA can take into consideration past rental income along with the prospects of obtaining a new tenant.

5400.69 Under the authority granted to DCHA under its Moving to Work (MTW) status, DCHA will require families to declare assets only if the total value of all assets is Fifteen Thousand Dollars ($15,000) or more. If the total value of all assets is less than Fifteen Thousand ($15,000), DCHA will accept the family's certification of the value of assets. DCHA will not include income from assets in its income calculation unless the total value of all assets is Fifteen Thousand Dollars ($15,000) or more.

5400.70 Anytime current circumstances are not used to determine asset income, a clear rationale for the decision will be documented in the file. In such cases the family may present information and documentation to DCHA to show why the asset income determination does not represent the family's anticipated asset income.

5400.71 The calculation of asset income sometimes requires DCHA to make a distinction between an asset's market value and its cash value:

(a) The market value of an asset is its worth in the market (e.g., the amount a buyer would pay for real estate or the total value of an investment account).

(b) The cash value of an asset is its market value less all reasonable amounts that would be incurred when converting the asset to cash.

5400.72 Reasonable costs that would be incurred when disposing of an asset include, but are not limited to, penalties for premature withdrawal, broker and legal fees, and settlement costs incurred in real estate transactions.

5400.73 Payments that are received in a single lump sum, such as inheritances, capital gains, lottery winnings, insurance settlements, and proceeds from the sale of property, are generally considered assets, not income. However, such lump-sum receipts are counted as assets only if they are retained by a family in a form recognizable as an asset (e.g., deposited in a savings or checking account).

5400.74 When net family assets are Five Thousand Dollars ($5,000) or less, DCHA will include in annual income the actual income anticipated to be derived from the assets. When the family has net family assets in excess of Five Thousand Dollars ($5,000), DCHA will include in annual income the greater of:

(a) the actual income derived from the assets; or

(b) the imputed income.

Imputed income from assets is calculated by multiplying the total cash value of all family assets by an average passbook savings rate as determined by DCHA.

5400.75 DCHA must review its passbook rate annually to ensure that it remains within seventy-five hundredths of a percent (0.75%) of the national average.

5400.76 DCHA initially set the imputed asset passbook rate at the national rate established by the Federal Deposit Insurance Corporation (FDIC).

5400.77 DCHA will review the passbook rate annually. The rate will not be adjusted unless the current PHA rate is no longer within seventy-five hundredths of a percent (0.75%) of the national rate. If it is no longer within seventy-five hundredths of a percent (0.75%) of the national rate, the passbook rate will be set at the current national rate.

5400.78 The effective date of changes to the passbook rate will be determined at the time of the review.

5400.79 It may or may not be necessary for DCHA to use the value of an asset to compute the actual anticipated income from the asset. When the value is required to compute the anticipated income from an asset, the market value of the asset is used. For example, if the asset is a property for which a family receives rental income, the anticipated income is determined by annualizing the actual monthly rental amount received for the property; it is not based on the property's market value. However, if the asset is a savings account, the anticipated income is determined by multiplying the market value of the account by the interest rate on the account.

5400.80 Any withdrawal of cash or assets from an investment will be included in income except to the extent that the withdrawal reimburses amounts invested by the family. For example, when a family member retires, the amount received by the family from a retirement investment plan is not counted as income until the family has received payments equal to the amount the family member deposited into the retirement investment plan.

5400.81 [RESERVED]

5400.82 If an asset is owned by more than one person and any family member has unrestricted access to the asset, DCHA will count the full value of the asset. A family member has unrestricted access to an asset when they can legally dispose of the asset without the consent of any of the other owners.

5400.83 If an asset is owned by more than one person, including a family member, but the family member does not have unrestricted access to the asset, DCHA will prorate the asset according to the percentage of ownership. If no percentage is specified or provided for by state or local law, DCHA will prorate the asset evenly among all owners.

5400.84 HUD regulations require DCHA to count as a current asset any business or family asset that was disposed of for less than fair market value during the two years prior to the effective date of the examination/reexamination, except as noted below.

5400.85 DCHA is permitted to set a threshold below which assets disposed of for less than fair market value will not be counted.

5400.86 DCHA will not include the value of assets disposed of for less than fair market value unless the cumulative fair market value of all assets disposed of during the past two years exceeds the gross amount received for the assets by more than One Thousand Dollars ($1,000).

5400.87 When the two-year period expires, the income assigned to the disposed asset(s) also expires. If the two-year period ends between annual recertifications, the family may request an interim recertification to eliminate consideration of the asset(s).

5400.88 Assets placed by the family in nonrevocable trusts are considered assets disposed of for less than fair market value except when the assets placed in trust were received through settlements or judgments.

5400.89 The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce

settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

5400.90 All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

5400.91 Assets are not considered disposed of for less than fair market value when the disposition is the result of a foreclosure or bankruptcy sale.

5400.92 Families must sign a declaration form at initial certification and each annual recertification identifying all assets that have been disposed of for less than fair market value or declaring that no assets have been disposed of for less than fair market value. DCHA may verify the value of the assets disposed of if other information available to DCHA does not appear to agree with the information reported by the family.

5400.93 For regular checking accounts and savings accounts, "cash value" has the same meaning as "market value." If a checking account does not bear interest, the anticipated income from the account is zero.

5400.94 In determining the value of checking account and savings accounts, DCHA will use the current balance.

5400.95 In determining the anticipated income from an interest-bearing checking or savings account, DCHA will multiply the value of the account by the current rate of interest paid on the account.

5400.96 Interest or dividends earned by investment accounts are counted as actual income from assets even when the earnings are reinvested. The cash value of such an asset is determined by deducting from the market value any broker fees, penalties for early withdrawal, or other costs of converting the asset to cash.

5400.97 In determining the market value of an investment account, DCHA will use the value of the account on the most recent investment report.

5400.98 How anticipated income from an investment account will be calculated depends on whether the rate of return is known.

5400.99 For assets that are held in an investment account with a known rate of return (e.g., savings certificates), asset income will be calculated based on that known rate (market value multiplied by rate of earnings).

5400.100 When the anticipated rate of return is not known (e.g., stocks), DCHA will calculate asset income based on the earnings for the most recent reporting period.

5400.101 Equity (cash value) in a property or other capital asset is the estimated current market value of the asset less the unpaid balance on all loans secured by the asset and reasonable costs (such as broker fees) that would be incurred in selling the asset.

5400.102 In determining the equity, DCHA will determine market value by examining recent sales of at least three properties in the surrounding or similar neighborhood that possess comparable factors that affect market value.

5400.103 DCHA will first use the payoff amount for the loan (mortgage) as the unpaid balance to calculate equity. If the payoff amount is not available, DCHA will use the basic loan balance information to deduct from the market value in the equity calculation.

5400.104 Equity in real property and other capital investments is considered in the calculation of asset income except for the following types of assets:

(a) Equity accounts in HUD homeownership programs;

(b) The value of a home currently being purchased with assistance under the HCV program Homeownership Option for the first ten (10) years after the purchase date of the home;

(c) Equity in owner-occupied cooperatives and manufactured homes in which the family lives;

(d) Equity in real property when a family member's main occupation is real estate. This real estate is considered a business asset, and income related to this asset will be calculated as described in this § 5400;

(e) Interests in Indian Trust lands; and

(f) Real property and capital assets that are part of an active business or farming operation.

5400.105 DCHA must also deduct from the equity the reasonable costs for converting the asset to cash. Using the formula for calculating equity specified above, the net cash value of real property is the market value minus the balance of the loan (mortgage) minus the expenses to convert to cash.

5400.106 For the purposes of calculating expenses to convert to cash for real property, DCHA will use ten percent of the market value of the home.

5400.107 A family may have real property as an asset in two ways:

(a) owning the property itself; and

(b) holding a mortgage or deed of trust on the property.

5400.108 In the case of a property owned by a family member, the anticipated asset income generally will be in the form of rent or other payment for the use of the property. If the property generates no income, actual anticipated income from the asset will be zero.

5400.109 In the case of a mortgage or deed of trust held by a family member, the outstanding balance (unpaid principal) is the cash value of the asset. The interest portion only of payments made to the family in accordance with the terms of the mortgage or deed of trust is counted as anticipated asset income.

5400.110 In the case of capital investments owned jointly with others not living in a family's unit, a prorated share of the property's cash value will be counted as an asset unless DCHA determines that the family receives no income from the property and is unable to sell or otherwise convert the asset to cash.

5400.111 A "trust" is a legal arrangement generally regulated by state law in which one party (the creator or grantor) transfers property to a second party (the trustee) who holds the property for the benefit of one or more third parties (the beneficiaries).

5400.112 If any member of a family has the right to withdraw the funds in a trust, the value of the trust is considered an asset. Any income earned because of investment of trust funds is counted as actual asset income, whether the income is paid to the family or deposited in the trust.

5400.113 In cases where a trust is not revocable by, or under the control of, any member of a family, the value of the trust fund is not considered an asset. However, any income distributed to the family from such a trust is counted as a periodic payment or a lump-sum receipt, as appropriate.

5400.114 In order to correctly include or exclude as an asset any amount held in a company retirement or pension account by an employed person, DCHA must know whether the money is accessible before retirement.

5400.115 While a family member is employed, only the amount the family member can withdraw without retiring or terminating employment is counted as an asset.

5400.116 After a family member retires or terminates employment, any amount distributed to the family member is counted as a periodic payment or a lump-sum receipt, as appropriate, except to the extent that it represents funds invested in the account by

the family member. The balance in the account is counted as an asset only if it remains accessible to the family member.

5400.117 IRA, Keogh, and similar retirement savings accounts are counted as assets even though early withdrawal would result in a penalty.

5400.118 Personal property held as an investment, such as gems, jewelry, coin collections, antique cars, etc., is considered an asset.

5400.119 In determining the value of personal property held as an investment, DCHA will use the family's estimate of the value. DCHA may obtain an appraisal to confirm the value of the asset if there is reason to believe that the family's estimated value is off by Fifty Dollars ($50) or more. The family must cooperate with the appraiser, but cannot be charged any costs related to the appraisal.

5400.120 Generally, personal property held as an investment generates no income until it is disposed of. If regular income is generated (e.g., income from renting the personal property), the amount that is expected to be earned in the coming year is counted as actual income from the asset.

5400.121 Necessary items of personal property are not considered assets.

5400.122 Necessary personal property consists of only those items not held as an investment, and may include clothing, furniture, household furnishings, jewelry, and vehicles, including those specially equipped for persons with disabilities.

5400.123 The cash value of a life insurance policy available to a family member before death, such as a whole life or universal life policy, is included in the calculation of the value of the family's assets. The cash value is the surrender value. If such a policy earns dividends or interest that the family could elect to receive, the anticipated amount of dividends or interest is counted as income from the asset whether or not the family actually receives it.

5400.124 Periodic payments are forms of income received on a regular basis. The following are periodic payments that are included in annual income:

(a) Periodic payments from sources such as social security, unemployment and welfare assistance, annuities, insurance policies, retirement funds, and pensions; however, periodic payments from retirement accounts, annuities, and similar forms of investments are counted only after they exceed the amount contributed by the family; and

(b) Disability or death benefits and lottery receipts paid periodically, rather than in a single lump sum.

5400.125 Most lump-sums received because of delays in processing periodic payments, such as unemployment or welfare assistance, are counted as income. However, lump-sum receipts for the delayed start of periodic Social Security or Supplemental Security Income (SSI) payments are not counted as income. Additionally, any deferred disability benefits that are received in a lump-sum or in prospective monthly amounts from the Department of Veterans Affairs are to be excluded from annual income.

5400.126 When a delayed-start payment is received and reported during the period in which DCHA is processing an annual reexamination, DCHA will adjust the family share and PHA subsidy retroactively for the period the payment was intended to cover. The family may pay in full any amount due or request to enter into a repayment agreement with DCHA.

5400.127 DCHA must make a special calculation of annual income when the Social Security Administration (SSA) overpays an individual, resulting in a withholding or deduction from their benefit amount until the overpayment is paid in full. The amount and duration of the withholding will vary depending on the amount of the overpayment and the percent of the benefit rate withheld. Regardless of the amount withheld or the length of the withholding period, DCHA must use the reduced benefit amount after deducting only the amount of the overpayment withholding from the gross benefit amount.

(a) Effective the day after SSA has announced the COLA, DCHA is required to factor in the COLA when determining Social Security and SSI annual income for all annual reexaminations and interim reexaminations of family income that have not yet been completed and will be effective January 1st or later of the upcoming year.

(b) Payments received for the care of foster children or foster adults (usually persons with disabilities, unrelated to the assisted family, who are unable to live alone). Kinship guardianship assistance payments (Kin-GAP) and other similar guardianship payments are treated the same as foster care payments and are likewise excluded from annual income.

5400.128 DCHA will exclude payments for the care of foster children and foster adults only if the care is provided through an official arrangement with a local welfare agency.

(a) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home.

(b) Amounts received under the Low-Income Home Energy Assistance Program (42 U.S.C. § 1626(c)).

(c) Amounts received under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. § 9858q).

(d) Earned Income Tax Credit (EITC) refund payments (26 U.S.C. § 32(j)). *Note:* EITC may be paid periodically if the family elects to receive the amount due as part of payroll payments from an employer.

(e) Lump-sums received because of delays in processing Social Security and SSI payments.

(f) Lump-sums or prospective monthly amounts received as deferred disability benefits from the Department of Veterans Affairs (VA).

5400.129 Payments in lieu of earnings, such as unemployment and disability compensation, worker's compensation, and severance pay, are counted as income if they are received either in the form of periodic payments or in the form of a lump-sum amount or prospective monthly amounts for the delayed start of a periodic payment. If they are received in a one-time lump sum (as a settlement, for instance), they are treated as lump-sum receipts.

5400.130 Welfare assistance is counted in annual income. Welfare assistance includes Temporary Assistance for Needy Families (TANF) and any payments to individuals or families based on need that are made under programs funded separately or jointly by federal, state, or local governments.

5400.131 DCHA must make a special calculation of annual income when the welfare agency imposes certain sanctions on certain families. The requirements are summarized below. This rule applies only if a family was receiving HCV assistance at the time the sanction was imposed.

5400.132 The families "who receive welfare assistance or other public assistance benefits ('welfare benefits') from a State or other public agency ('welfare agency') under a program for which Federal, State, or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for such assistance."

5400.133 When a welfare agency imposes a sanction that reduces a family's welfare income because the family commits fraud or fails to comply with the agency's economic self-sufficiency program or work activities requirement, DCHA must include in annual income "imputed" welfare income. DCHA must request that the welfare agency provide the reason for the reduction of benefits and the amount of the reduction of benefits. The imputed welfare income is the amount that the benefits were reduced because of the sanction.

5400.134 This requirement does not apply to reductions in welfare benefits:

(a) At the expiration of the lifetime or other time limit on the payment of welfare benefits;

(b) If a family member is unable to find employment even though the family member has complied with the welfare agency economic self-sufficiency or work activities requirements; or

(c) Because a family member has not complied with other welfare agency requirements.

5400.135 The amount of the imputed welfare income is offset by the amount of additional income the family begins to receive after the sanction is imposed. When the additional income equals or exceeds the imputed welfare income, the imputed income is reduced to zero.

5400.136 Annual income includes periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from organizations or from persons not residing with an assisted family.

5400.137 DCHA must count alimony or child support amounts awarded as part of a divorce.

5400.138 DCHA shall count court-awarded amounts for alimony and child support unless DCHA verifies that the payments have not been made in the last six (6) months.

5400.139 If the amounts received for child support or alimony are not received on a regular basis, DCHA shall anticipate income by performing an average of the last twelve (12) complete months. The average shall include months in which no payments were received and months in which lump sum amounts were received to catch up for prior missed payments.

5400.140 DCHA will count court-awarded amounts for alimony and child support unless DCHA verifies that:

(a) the payments are not being made; and

(b) the family has made reasonable efforts to collect amounts due, including filing with courts or agencies responsible for enforcing payments.

5400.141 Families who do not have court-awarded alimony and child support awards are not required to seek a court award and are not required to take independent legal action to obtain collection.

5400.142 DCHA must count as income regular monetary and nonmonetary contributions or gifts from persons not residing with an assisted family. Temporary, nonrecurring, or sporadic income and gifts are not counted.

5400.143 Examples of regular contributions include:

(a) regular payment of a family's bills (e.g., utilities, telephone, rent, credit cards, and car payments);

(b) cash or other liquid assets provided to any family member on a regular basis; and

(c) "in-kind" contributions such as groceries and clothing provided to a family on a regular basis.

5400.144 Nonmonetary contributions will be valued at the cost of purchasing the items, as determined by DCHA. For contributions that may vary from month to month (e.g., utility payments), DCHA will include an average amount based upon past history.

5400.145 In 2005, Congress passed a law (for Section 8 programs only) requiring that certain student financial assistance be included in annual income. Prior to that, the full amount of student financial assistance was excluded. For some students, the full exclusion still applies.

5400.146 The regulation requiring the inclusion of certain student financial assistance applies only to students who satisfy all the following conditions:

(a) They are enrolled in an institution of higher education, as defined under the Higher Education Act (HEA) of 1965;

(b) They are seeking or receiving Section 8 assistance on their own—that is, apart from their parents—through the HCV program, the project-based voucher program, or the moderate rehabilitation program; and

(c) They are under twenty-four (24) years of age or they have no dependent children.

5400.147 For students who satisfy these three (3) conditions, any financial assistance in excess of tuition and any other required fees and charges received:

(a) under the 1965 HEA;

(b) from a private source; or

(c) from an institution of higher education, as defined under the 1965 HEA, must be included in annual income.

5400.148 To determine annual income in accordance with the above requirements, DCHA will use the definitions of "dependent child," "institution of higher education," and "parents" in Chapter 102 of this Title, along with the following definitions:

(a) "Assistance under the Higher Education Act of 1965" includes Pell Grants, Federal Supplement Educational Opportunity Grants, Academic Achievement Incentive Scholarships, State Assistance under the Leveraging Educational Assistance Partnership Program, the Robert G. Byrd Honors Scholarship Program, and Federal Work Study programs.

(b) "Assistance from private sources" means assistance from non-governmental sources, including parents, guardians, and other persons not residing with the student in an HCV assisted unit.

(c) "Tuition and fees" are defined in the same manner in which the Department of Education defines "tuition and fees":

(1) This is the amount of tuition and required fees covering a full academic year most frequently charged to students;

(2) The amount represents what a typical student would be charged and may not be the same for all students at an institution;

(3) If tuition is charged on a per-credit-hour basis, the average full-time credit hour load for an academic year is used to estimate average tuition;

(4) Required fees include all fixed-sum charges that are required of a large proportion of all students. Examples include, but are not limited to, writing and science lab fees and fees specific to the student's major or program (i.e., nursing program); and

(5) Expenses related to attending an institution of higher education must not be included as tuition. Examples include, but are not limited to, room and board, books, supplies, meal plans, transportation and parking, student health insurance plans, and other non-fixed-sum charges.

5400.149 Any student financial assistance not subject to inclusion under 24 CFR§ 5.609(b)(9) is fully excluded from annual income under 24 CFR § 5.609(c)(6), whether it is paid directly to the student or to the educational institution the student is attending. This includes any financial assistance received by:

(a) Students residing with parents who are seeking or receiving Section 8 assistance;

(b) Students who are enrolled in an educational institution that does not meet the 1965 HEA definition of "institution of higher education";

(c) Students who are over twenty-three (23) and have at least one (1) dependent child; and

(d) Students who are receiving financial assistance through a governmental program not authorized under the 1965 HEA.

5400.150 Other exclusions contained in 24 CFR §5.609(c) that have not been discussed earlier in this chapter include the following:

(a) Reimbursement of medical expenses;

(b) Amounts received by participants in other publicly assisted programs which are specifically for or in reimbursement of out-of-pocket expenses incurred and which are made solely to allow participation in a specific program;

(c) Amounts received by a person with a disability that are disregarded for a limited time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan to Attain Self-Sufficiency (PASS);

(d) Reparation payments paid by a foreign government pursuant to claims filed under the laws of that government by persons who were persecuted during the Nazi era;

(e) Adoption assistance payments in excess of $480 per adopted child;

(f) Refunds or rebates on property taxes paid on the dwelling unit;

(g) Amounts paid by a state agency to a family with a member who has a developmental disability and is living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home; and

(h) Amounts specifically excluded by any other federal statute. HUD publishes an updated list of these exclusions periodically. It includes:

(1) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. § 2017 (b));

(2) Benefits under Section 1780 of the School Lunch Act and Child Nutrition Act of 1966, including WIC;

(3) Payments to volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. §§ 5044(g), 5058);

(4) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. § 1626(c));

(5) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. § 459e);

(6) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. § 8624(f));

(7) Payments received under programs funded in whole or in part under the Workforce Investment Act of 1998 (29 U.S.C. § 2931);

(8) Deferred disability benefits from the Department of Veterans Affairs, whether received as a lump sum or in monthly prospective amounts;

(9) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, 90 Stat. 2503-04);

(10) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. § 1774f(b));

(11) A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the United States District Court case entitled *Elouise Cobell et al.* v. *Ken Salazar et al.,* for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010;

(12) The first $2,000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U. S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first $2,000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. §§ 1407-1408);

(13) Benefits under the Indian Veterans Housing Opportunity Act of 2010 (only applies to Native American housing programs);

(14) Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. § 3056(f));

(15) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in *In Re Agent Orange* product liability litigation, M.D.L. No. 381 (E.D.N.Y.);

(16) Payments received under 38 U.S.C. § 1833(c) to children of Vietnam veterans born with spinal bifida, children of women Vietnam veterans born with certain birth defects, and children of certain Korean service veterans born with spinal bifida;

(17) Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. § 1721);

(18) The value of any childcare provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. § 9858q);

(19) Earned income tax credit (EITC) refund payments received on or after January 1, 1991 (26 U.S.C. § 32(j));

(20) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

(21) Amounts of scholarships funded under Title IV of the Higher Education Act of 1965j, including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For Section 8 programs, the exception found in § 237 of Public Law 109–249 applies and requires that the amount of financial assistance in excess of tuition and mandatory fees shall be considered income in accordance with the provisions codified at 24 CFR § 5.609(b)(9), except for those persons with disabilities as defined by 42 U.S.C. § 1437a(b)(3)(E) (Pub. L. 109–249);

(22) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. § 12637(d));

(23) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined

under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. § 10602);

(24) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002;

(25) Payments made from the proceeds of Indian tribal trust cases as described in Notice PIH 2013–30, "Exclusion from Income of Payments under Recent Tribal Trust Settlements" (25 U.S.C. § 117b(a));

(26) Major disaster and emergency assistance received under the Robert T. Stafford Disaster;

(27) Relief and Emergency Assistance Act and comparable disaster assistance provided by states, local governments, and disaster assistance organizations; and

(28) Distributions from an ABLE account, and actual or imputed interest on the ABLE account balance.

5401 ADJUSTED INCOME

5401.1 DCHA shall deduct from annual income any of the following mandatory deductions for which a family qualifies with the resulting amount is being the family's adjusted income:

(a) Four Hundred Eighty Dollars ($480) for each dependent;

(b) Four Hundred Dollars ($400) for any elderly family or disabled family;

(c) The sum of the following, to the extent the sum exceeds three percent (3%) of annual income:

(1) Unreimbursed medical expenses of any elderly family or disabled family;

(2) Unreimbursed reasonable attendant care and auxiliary apparatus expenses for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are eighteen (18) years of age or older and who are able to work because of such attendant care or auxiliary apparatus; and

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

5401.2 Generally, DCHA will use current circumstances to anticipate expenses. When possible, for costs that are expected to fluctuate during the year (e.g.,childcare during school and non-school periods and cyclical medical expenses), DCHA will estimate costs based on historic data and known future costs.

5401.3 If a family has an accumulated debt for medical or disability assistance expenses, DCHA will include as an eligible expense the portion of the debt that the family expects to pay during the period for which the income determination is being made. However, amounts previously deducted will not be allowed even if the amounts were not paid as expected in a preceding period. DCHA may require the family to provide documentation of payments made in the preceding year.

5401.4 "Dependent" is defined as any family member other than the head, spouse, or co-head who is under the age of eighteen (18) or who is eighteen (18) or older and is a person with disabilities or a full-time student. Foster children, foster adults, and live-in aides are never considered dependents.

5401.5 An "elderly family" is a family whose head, spouse, co-head, or sole member is sixty-two (62) years of age or older, and a "disabled family" is a family whose head, spouse, co-head, or sole member is a person with disabilities.

5401.6 Unreimbursed medical expenses may be deducted to the extent that, in combination with any disability assistance expenses, they exceed three percent (3%) of annual income.

5401.7 The medical expense deduction is permitted only for families in which the head, spouse, or co-head is at least sixty-two (62) or is a person with disabilities. If a family is eligible for a medical expense deduction, the medical expenses of all family members are counted.

5401.8 "Medical expenses," including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance.

5401.9 The most current IRS Publication 502, "Medical and Dental Expenses", will be used as a reference to determine the costs that qualify as medical expenses.

5401.10 When expenses anticipated by a family could be defined as either medical or disability assistance expenses, DCHA will consider them medical expenses unless the expenses are incurred exclusively to enable a person with disabilities to work.

5401.11 Reasonable expenses for attendant care and auxiliary apparatus for a disabled family member may be deducted if they:

(a) Are necessary to enable a family member eighteen (18) years or older to work;

(b) Are not paid to a family member or reimbursed by an outside source;

(c) In combination with any medical expenses, exceed three percent (3%) of annual income; and

(d) Do not exceed the earned income received by the family member who is enabled to work.

5401.12 A family can qualify for the disability assistance expense deduction only if at least one family member (who may be the person with disabilities) is enabled to work.

5401.13 The disability expense deduction is capped by the amount of "earned income received by family members who are eighteen (18) years of age or older and who are able to work" because of the expense. The earned income used for this purpose is the amount verified before any earned income disallowances or income exclusions are applied.

5401.14 The family must identify the family members enabled to work as a result of the disability assistance expenses. In evaluating the family's request, DCHA will consider factors such as how the work schedule of the relevant family members relates to the hours of care provided, the time required for transportation, the relationship of the family members to the person with disabilities, and any special needs of the person with disabilities that might determine which family members are enabled to work.

5401.15 When DCHA determines that the disability assistance expenses enable more than one family member to work, the expenses will be capped by the sum of the family members' incomes.

5401.16 "Auxiliary apparatus" are items such as wheelchairs, ramps, adaptations to vehicles, or special equipment to enable a blind person to read or type, but only if these items are directly related to permitting the disabled person or other family member to work."

5401.17 Expenses incurred for maintaining or repairing an auxiliary apparatus are eligible. In the case of an apparatus that is specially adapted to accommodate a person with disabilities (e.g., a vehicle or computer), the cost to maintain the special adaptations (but not maintenance of the apparatus itself) is an eligible expense. The cost-of-service animals trained to give assistance to persons with disabilities,

including the cost of acquiring the animal, veterinary care, food, grooming, and other continuing costs of care, will be included.

5401.18 The family determines the type of attendant care that is appropriate for the person with disabilities.

5401.19 Attendant care includes, but is not limited to, reasonable costs for home medical care, nursing services, in-home or center-based care services, interpreters for persons with hearing impairments, and readers for persons with visual disabilities.

5401.20 Attendant care expenses will be included for the period that the person enabled to work is employed plus reasonable transportation time. The cost of general housekeeping and personal services is not an eligible attendant care expense. However, if the person enabled to work is the person with disabilities, personal services necessary to enable the person with disabilities to work are eligible.

5401.21 If the care attendant also provides other services to the family, DCHA will prorate the cost and allow only that portion of the expenses attributable to attendant care that enables a family member to work. For example, if the care provider also cares for a child who is not a person with disabilities, the cost of care must be prorated. Unless otherwise specified by the care provider, the calculation will be based upon the number of hours spent in each activity and/or the number of persons under care.

5401.22 No disability assistance expenses may be deducted for payments to a member of an assisted family. However, expenses paid to a relative who is not a member of the assisted family may be deducted if they are not reimbursed by an outside source.

5401.23 The family determines the type of care or auxiliary apparatus to be provided and must describe how the expenses enable a family member to work. The family must certify that the disability assistance expenses are necessary and are not paid or reimbursed by any other source.

5401.24 DCHA determines the reasonableness of the expenses based on typical costs of care or apparatus in the locality. To establish typical costs, DCHA will collect information from organizations that provide services and support to persons with disabilities. A family may present, and DCHA will consider, the family's justification for costs that exceed typical costs in the area.

5401.25 This policy applies only to families in which the head or spouse is sixty-two (62) or older or is a person with disabilities.

5401.26 When expenses anticipated by a family could be defined as either medical or disability assistance expenses, DCHA will consider them medical expenses unless the expenses are incurred exclusively to enable a person with disabilities to work.

5401.27 "Childcare expenses" are amounts anticipated to be paid by the family for the care of children under thirteen (13) years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

5401.28 Childcare expenses do not include child support payments made to another on behalf of a minor who is not living in an assisted family's household. However, childcare expenses for foster children that are living in the assisted family's household are included when determining the family's childcare expenses.

5401.29 The family must identify the family member(s) enabled to pursue an eligible activity. The term "eligible activity" in this section means any of the activities that may make the family eligible for a childcare deduction (seeking work, pursuing an education, or being gainfully employed).

5401.30 In evaluating the family's request, DCHA will consider factors such as how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

5401.31 If the childcare expense being claimed is to enable a family member to seek employment, the family must provide evidence of the family member's efforts to obtain employment at each reexamination. The deduction may be reduced or denied if the family member's job search efforts are not commensurate with the childcare expense being allowed by DCHA.

5401.32 If the childcare expense being claimed is to enable a family member to further their education, the member must be enrolled in school (academic or vocational) or participating in a formal training program. The family member is not required to be a full-time student, but the time spent in educational activities must be commensurate with the childcare claimed.

5401.33 If the childcare expense being claimed is to enable a family member to be gainfully employed, the family must provide evidence of the family member's employment during the time that childcare is being provided. Gainful employment is any legal work activity (full- or part-time) for which a family member is compensated.

5401.34 When a family member looks for work or furthers their education, there is no cap on the amount that may be deducted for childcare – although the care must still be

necessary and reasonable. However, when childcare enables a family member to work, the deduction is capped by "the amount of employment income that is included in annual income.

5401.35 The earned income used for this purpose is the amount of earned income verified after any earned income disallowances or income exclusions are applied.

5401.36 When the person who is enabled to work is a person with disabilities who receives the earned income disallowance (EID) or a full-time student whose earned income above Four Hundred Eighty Dollars ($480) is excluded, childcare costs related to enabling a family member to work may not exceed the portion of the person's earned income that is included in annual income. For example, if a family member who qualifies for the EID makes $15,000 but because of the EID only Five Thousand Dollars ($5,000) is included in annual income, childcare expenses are limited to Five Thousand Dollars ($5,000).

5401.37 DCHA must not limit the deduction to the least expensive type of childcare. If the care allows the family to pursue more than one eligible activity, including work, the cap is calculated in proportion to the amount of time spent working.

5401.38 When the childcare expense being claimed is to enable a family member to work, only one family member's income will be considered for a given period of time. When more than one family member works during a given period, DCHA generally will limit allowable childcare expenses to the earned income of the lowest-paid member. The family may provide information that supports a request to designate another family member as the person enabled to work.

5401.39 The type of care to be provided is determined by the assisted family. DCHA may not refuse to give a family the childcare expense deduction because there is an adult family member in the household that may be available to provide childcare.

5401.40 For school-age children, costs attributable to public or private school activities during standard school hours are not considered. Expenses incurred for supervised activities after school or during school holidays (e.g., summer day camp, after-school sports league) are allowable forms of childcare.

5401.41 The costs of general housekeeping and personal services are not eligible. Likewise, childcare expenses paid to a family member who lives in the family's unit are not eligible; however, payments for childcare to relatives who do not live in the unit are eligible.

5401.42 If a childcare provider also renders other services to a family or childcare is used to enable a family member to conduct activities that are not eligible for consideration, DCHA will prorate the costs and allow only that portion of the expenses that is attributable to childcare for eligible activities. For example, if the care provider also cares for a child with disabilities who is thirteen (13) or older,

the cost of care will be prorated. Unless otherwise specified by the childcare provider, the calculation will be based upon the number of hours spent in each activity or the number of persons under care.

5401.43 Childcare expenses will be considered necessary if:

(a) a family adequately explains how the care enables a family member to work, actively seek employment, or further their education; and

(b) the family certifies, and the childcare provider verifies, that the expenses are not paid or reimbursed by any other source.

5401.44 Childcare expenses will be considered for the time required for the eligible activity plus reasonable transportation time. For childcare that enables a family member to go to school, the time allowed may include not more than one study hour for each hour spent in class.

5401.45 To establish the reasonableness of childcare costs, DCHA will use the schedule of childcare costs from a qualified local entity that either subsidizes childcare costs or licenses childcare providers. Families may present, and DCHA will consider, justification for costs that exceed typical costs in the area.

5402 CALCULATING FAMILY SHARE AND PHA SUBSIDY

5402.1 Total tenant payment (TTP) is the highest of the following amounts, rounded to the nearest dollar:

(a) Thirty percent (30%) of the family's monthly adjusted income (adjusted income is defined in § 5401);

(b) Ten percent (10%) percent of the family's monthly gross income (annual income divided by twelve (12));

(c) The welfare rent (in as-paid states only); or

(d) A minimum rent between Zero Dollars ($0) and Fifty Dollars ($50) that is established by DCHA.

5402.2 DCHA has authority to suspend and exempt families from minimum rent when a financial hardship exists, as defined in this Chapter.

5402.3 The amount that a family pays for rent and utilities (the family share) will never be less than the family's TTP but may be greater than the TTP depending on the rent charged for the unit the family selects.

5402.4 Welfare rent does not apply in this locality.

5402.5 The minimum rent for this locality is Zero ($0).

5402.6 If a family chooses a unit with a gross rent (rent to owner plus an allowance for tenant-paid utilities) that exceeds DCHA's applicable payment standard: (a) the family will pay more than the TTP, and (b) at initial occupancy DCHA may not approve the tenancy if it would require the family share to exceed forty percent (40%) percent of the family's monthly adjusted income. The income used for this determination must have been verified no earlier than sixty (60) days before the family's voucher was issued.

5402.7 DCHA will pay a monthly housing assistance payment (HAP) for a family that is equal to the lower of (a) the applicable payment standard for the family minus the family's TTP, or (b) the gross rent for the family's unit minus the TTP.

5402.8 When DCHA subsidy for a family exceeds the rent to owner, the family is due a utility reimbursement. HUD permits DCHA to pay the reimbursement to the family or directly to the utility provider.

5402.9 DCHA will make utility reimbursements to the family.

5402.10 DCHA may make all utility reimbursement payments to qualifying families monthly or may make quarterly payments when the monthly reimbursement amount is Fifteen Dollars ($15.00) or less. Reimbursements must be made once per calendar-year quarter and must be prorated if the family leaves the program in advance of its next quarterly reimbursement. DCHA must also adopt hardship policies for families for whom receiving quarterly reimbursement would create a financial hardship.

5402.11 DCHA will issue all utility reimbursements monthly.

5402.12 The financial hardship rules described below do not apply in this jurisdiction because DCHA has established a minimum rent of Twenty-Five Dollars ($25).

5402.13 If DCHA establishes a minimum rent greater than Zero Dollars ($0), DCHA must grant an exemption from the minimum rent if a family is unable to pay the minimum rent because of financial hardship.

5402.14 The financial hardship exemption applies only to families required to pay the minimum rent. If a family's TTP is higher than the minimum rent, the family is not eligible for a hardship exemption. If DCHA determines that a hardship exists, the family share is the highest of the remaining components of the family's calculated TTP.

5402.15 Financial hardship includes the following situations:

(a) The family has lost eligibility for or is awaiting an eligibility determination for a federal, state, or local assistance program. This includes a family member who is a noncitizen lawfully admitted for permanent residence under the Immigration and Nationality Act who would be entitled to public benefits but for Title IV of the Personal Responsibility and Work Opportunity Act of 1996;

(b) The family would be evicted because it is unable to pay the minimum rent;

(c) Family income has decreased because of changed family circumstances, including the loss of employment;

(d) A death has occurred in the family; or

(e) The family has experienced other circumstances determined by DCHA.

5402.16 When a family requests a financial hardship exemption, DCHA must suspend the minimum rent requirement beginning the first of the month following the family's request.

5402.17 DCHA then determines whether the financial hardship exists and whether the hardship is temporary or long-term.

5402.18 When the minimum rent is suspended, the family share reverts to the highest of the remaining components of the calculated TTP. The example below demonstrates the effect of the minimum rent exemption.

Example: Impact of Minimum Rent Exemption Assume DCHA has established a minimum rent of $50.	
Family Share – No Hardship	**Family Share – With Hardship**
$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent	$0 30% of monthly adjusted income $15 10% of monthly gross income N/A Welfare rent $50 Minimum rent
Minimum rent applies. TTP = $50	Hardship exemption granted. TTP = $15

5402.19 If DCHA determines there is no financial hardship, DCHA will reinstate the minimum rent and require the family to repay the amounts suspended.

5402.20 If DCHA determines that a qualifying financial hardship is temporary, DCHA must suspend the minimum rent for the ninety (90) day period beginning the first of the month following the date of the family's request for a hardship exemption.

5402.21 At the end of the ninety (90) day suspension period, the family must resume payment of the minimum rent and must repay DCHA the amounts suspended. HUD requires DCHA to offer a reasonable repayment agreement, on terms and conditions established by DCHA. DCHA also may determine that circumstances have changed and the hardship is now a long-term hardship.

5402.22 If DCHA determines that the financial hardship is long-term, DCHA must exempt the family from the minimum rent requirement for so long as the hardship continues. The exemption will apply from the first of the month following the family's request until the end of the qualifying hardship. When the financial hardship has been determined to be long-term, the family is not required to repay the minimum rent.

5402.23 DCHA's schedule of payment standards is used to calculate housing assistance payments for HCV families. This section covers the application of DCHA's payment standards.

5402.24 "Payment standard" is defined as "the maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family)".

5402.25 The payment standard for a family is the lower of (a) the payment standard for the family unit size, which is defined as the appropriate number of bedrooms for the family under DCHA's subsidy standards, or (b) the payment standard for the size of the dwelling unit rented by the family.

5402.26 If DCHA has established an exception payment standard for a designated part of a zip code area or FMR area and a family's unit is in the exception area, DCHA must use the appropriate payment standard for the exception area.

5402.27 DCHA is required to pay a monthly housing assistance payment (HAP) for a family that is the lower of (a) the payment standard for the family minus the family's TTP, or (b) the gross rent for the family's unit minus the TTP.

5402.28 If during the term of the HAP contract for a family's unit, the owner lowers the rent, DCHA will recalculate the HAP using the lower of the initial payment standard or the gross rent for the unit.

5402.29 When DCHA revises its payment standards during the term of the HAP contract for a family's unit, it will apply the new payment standards in accordance with HUD regulations.

5402.30 If DCHA changes its payment standard schedule, resulting in a lower payment standard amount, during the term of a HAP contract, DCHA is not required to reduce the payment standard used to calculate subsidy for families under HAP contract if the HAP contract remains in effect.

5402.31 However, if DCHA does choose to reduce the payment standard for families currently under HAP contract, the initial reduction to the payment standard may not be applied any earlier than the effective date of the family's second regular reexamination following the effective date of the decrease in the payment standard amount. At that point, DCHA may either reduce the payment standard to the current amount in effect on DCHA's payment standard schedule, or may reduce the payment standard to another amount that is higher than the normally applicable amount on the schedule. DCHA may also establish different policies for designated areas within their jurisdiction (e.g., different zip code areas).

5402.32 In any case, DCHA must provide the family with at least twelve (12) months' notice that the payment standard is being reduced before the effective date of the change. DCHA's policy on decreases in the payment standard during the term of the HAP contract apply to all families under HAP contract at the time of the effective date of the decrease in the payment standard within the designated area.

5402.33 If DCHA changes its payment standard schedule resulting in a lower payment standard amount, during the term of a HAP contract, DCHA will decide as to when the new, lower payment standard will be applied at the time the change is made.

5402.34 DCHA will not establish different policies for decreases in the payment standard for designated areas within their jurisdiction.

5402.35 If the payment standard is increased during the term of the HAP contract, the increased payment standard will be used to calculate the monthly housing assistance payment for the family beginning on the effective date of the family's first regular reexamination on or after the effective date of the increase in the payment standard.

5402.36 Families requiring or requesting interim reexaminations will not have their HAP payments calculated using the higher payment standard until their next annual reexamination.

5402.37 Irrespective of any increase or decrease in the payment standard, if the family unit size increases or decreases during the HAP contract term, the new family unit size must be used to determine the payment standard for the family beginning at the family's first regular reexamination following the change in family unit size.

5402.38 If a family requires a higher payment standard as a reasonable accommodation for a family member who is a person with disabilities, DCHA is allowed to establish a higher payment standard for the family of not more than one hundred twenty percent (120%) of the published FMR.

5402.39 A PHA-established utility allowance schedule is used in determining family share and PHA subsidy. A family's utility allowance is determined by the size of dwelling unit leased by a family or the voucher unit size for which the family qualifies using PHA subsidy standards, whichever is the lowest of the two.

5402.40 [RESERVED]

5402.41 On request from a family that includes a person with disabilities, DCHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability.

5402.42 Further, DCHA may grant requests for individual relief from charges in excess of the utility allowance on reasonable grounds, such as special factors not within control of the resident, as DCHA deems appropriate. The family must request the higher allowance and provide DCHA with an explanation of the need for individual relief and an explanation about the amount of additional allowance required.

5402.43 DCHA should develop criteria for granting individual relief, notify residents about the availability of individual relief, and notify participants about the availability of individual relief programs (sometimes referred to as “Medical Baseline discounts”) offered by the local utility company.

5402.44 The family must request the higher allowance and provide DCHA with information about the amount of additional allowance required.

5402.45 DCHA will consider the following criteria as valid reasons for granting individual relief:

(a) The family’s consumption was mistakenly portrayed as excessive due to defects in the meter or errors in the meter reading.

(b) The excessive consumption is caused by a characteristic of the unit or owner-supplied equipment that is beyond the family’s control, such as a particularly inefficient refrigerator or inadequate insulation. The allowance should be adjusted to reflect the higher consumption needs associated with the unit until the situation is remedied. The resident should be granted individual relief until the allowance is adjusted.

(c) The excessive consumption is due to special needs of the family that are beyond their control, such as the need for specialized equipment in the case of a family member who is ill, elderly, or who has a disability.

5402.46 In determining the amount of reasonable accommodation or individual relief, DCHA will allow a reasonable measure of additional usage as necessary. To arrive at the amount of additional utility cost of specific equipment, the family may provide information from the manufacturer of the equipment, or the family or PHA may conduct an internet search for an estimate of usage or additional monthly cost.

5402.47 Information on reasonable accommodation and individual relief for charges more than the utility allowance will be provided to all families at admission as part of the information on payment standards and utility allowances in the briefing packet. DCHA will also provide information on utility relief programs or medical discounts (sometimes referred to as "Medical Baseline discounts") that may be available through local utility providers.

5402.48 At its discretion, DCHA may reevaluate the need for the increased utility allowance at any regular reexamination.

5402.49 If the excessive consumption is caused by a characteristic of the unit or PHA-supplied equipment that is beyond the family's control, such as a particularly inefficient refrigerator or inadequate insulation, the individual relief to the resident will cease when the situation is remedied.

5402.50 At reexamination, DCHA must use the current utility allowance schedule.

5402.51 Revised utility allowances will be applied to a family's rent and subsidy calculations at the first annual reexamination that is effective after the allowance is adopted.

5402.52 HUD regulations prohibit assistance to ineligible family members. A "mixed family" is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members. DCHA must prorate the assistance provided to a mixed family. DCHA will first determine assistance as if all family members were eligible and then prorate the assistance based upon the percentage of family members that are eligible. For example, if DCHA subsidy for a family is calculated at Five Hundred Dollars ($500) and two of four family members are ineligible, DCHA subsidy would be reduced to Two Hundred Fifty Dollars ($250).

Chapter 55, PORTABILITY, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 55

VERIFICATION

5500 GENERAL VERIFICATION REQUIREMENTS

5500.1 The family must supply any information that DCHA or HUD determines is necessary to the administration of the program and must consent to DCHA verification of that information.

5500.2 It is required that all adult applicants and participants sign form HUD-9886, Authorization for Release of Information. The purpose of form HUD-9886 is to facilitate automated data collection and computer matching from specific sources and provides the family's consent only for the specific purposes listed on the form. HUD and DCHA may collect information from State Wage Information Collection Agencies (SWICAs) and current and former employers of adult family members. Only HUD is authorized to collect information directly from the Internal Revenue Service (IRS) and the Social Security Administration (SSA). Adult family members must sign other consent forms as needed to collect information relevant to the family's eligibility and level of assistance.

5500.3 If any family member who is required to sign a consent form fails to do so, DCHA will deny admission to applicants and terminate assistance of participants. The family may request an informal review (applicants) or informal hearing (participants) in accordance with DCHA procedures.

5500.4 HUD mandates the use of the EIV system and offers administrative guidance on the use of other methods to verify family information and specifies the circumstances in which each method will be used. In general HUD requires DCHA to use the most reliable form of verification that is available and to document the reasons when DCHA uses a lesser form of verification.

5500.5 In order of priority, the forms of verification that DCHA will use are:

(a) Up-front Income Verification (UIV) using HUD's Enterprise Income Verification (EIV) system;

(b) Up-front Income Verification (UIV) using a non-HUD system;

(c) Written Third-Party Verification (may be provided by applicant or participant);

(d) Written Third-party Verification Form;

(e) Oral Third-party Verification; and

(f) Self-Certification.

5500.6 Each of the verification methods is discussed in subsequent sections below.

5500.7 Any documents used for verification must be dated within sixty (60) days of DCHA request. The documents must not be damaged, altered or in any way illegible.

5500.8 Any family self-certifications must be made in a format acceptable to DCHA and must be signed by the family member whose information or status is being verified.

5500.9 DCHA must document in the file how the figures used in income and rent calculations were determined. All verification attempts, information obtained, and decisions reached during the verification process will be recorded in the family's file in sufficient detail to demonstrate that DCHA has followed all of the verification policies set forth in this plan. The record should be sufficient to enable a staff member or HUD reviewer to understand the process followed and conclusions reached.

5500.10 DCHA will document, in the family file, the following:

(a) Reported family annual income;

(b) Value of assets;

(c) Expenses related to deductions from annual income; and

(d) Other factors influencing adjusted income.

5500.11 When DCHA is unable to obtain third-party verification, DCHA will document in the family file the reason that third-party verification was not available.

5500.12 Up-front income verification (UIV) refers to DCHA's use of the verification tools available from independent sources that maintain computerized information about earnings and benefits. UIV will be used to the extent that these systems are available to DCHA.

5500.13 There may be legitimate differences between the information provided by the family and UIV-generated information. If the family disputes the accuracy of UIV data, no adverse action can be taken until DCHA has independently verified the UIV information and the family has been granted an opportunity to contest any adverse findings through the informal review/hearing process of DCHA.

5500.14 [RESERVED]

5500.15 DCHA's must use HUD's EIV system in its entirety as a third-party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income in accordance with 24 CFR §5.236 and administrative guidance issued by HUD. The EIV system contains data showing earned income, unemployment benefits, social security benefits, and SSI benefits for participant families. The following policies apply to the use of HUD's EIV system.

5500.16 The data shown on income and income validation tool (IVT) reports is updated quarterly. Data may be between three (3) and six (6) months old at the time reports are generated.

5500.17 DCHA will obtain income and IVT reports for biennial/triennial reexaminations on a regular basis.

5500.18 Income and IVT reports will be compared to family-provided information as part of the biennial/triennial reexamination process. Income reports may be used in the calculation of annual income. Income reports may also be used to meet the regulatory requirement for third party verification, as described above. Policies for resolving discrepancies between income reports and family-provided information will be resolved as described in this §5500.

5500.19 Income and IVT reports will be used in interim reexaminations to identify any discrepancies between reported income and income shown in the EIV system, and as necessary to verify earned income, and to verify and calculate unemployment benefits, Social Security and/or SSI benefits. EIV will also be used to verify that families claiming zero income are not receiving income from any of these sources.

5500.20 Income and IVT reports will be retained in participant files with the applicable annual or interim reexamination documents.

5500.21 When DCHA determines through EIV reports and third-party verification that a family has concealed or under-reported income, corrective action will be taken.

5500.22 The EIV system verifies tenant identities against SSA records. These records are compared to PIC data for a match on social security number, name, and date of birth.

5500.23 DCHA's are required to use EIV's Identity Verification Report monthly to improve the availability of income information in EIV.

5500.24 When identity verification for a participant fails, a message will be displayed within the EIV system, and no income information will be displayed.

5500.25 DCHA will identify participants whose identity verification has failed by reviewing EIV's Identity Verification Report monthly.

5500.26 DCHA will attempt to resolve PIC/SSA discrepancies by obtaining appropriate documentation from the participant. When DCHA determines that discrepancies exist due to DCHA errors such as spelling errors or incorrect birth dates, the errors will be corrected promptly.

5500.27 In addition to mandatory use of the EIV system, HUD encourages DCHA's to utilize other upfront verification sources.

5500.28 DCHA will inform all applicants and participants of its use of the following UIV resources during the admission and reexamination process:

(a) HUD's EIV system;

(b) Work Number, when utilized; and

(c) Other resources as available.

5500.29 HUD's current verification hierarchy defines two types of written third-party verification. The preferable form, "written third-party verification," consists of an original document generated by a third-party source, which may be received directly from a third-party source or provided to DCHA by the family. If written third-party verification is not available, DCHA must attempt to obtain a "written third-party verification form." This is a standardized form used to collect information from a third party.

5500.30 Written third-party verification documents must be original and authentic and may be supplied by the family or received from a third-party source.

5500.31 Examples of acceptable tenant-provided documents include, but are not limited to: pay stubs, payroll summary reports, employer notice or letters of hire and termination, SSA benefit verification letters, bank statements, child support payment stubs, welfare benefit letters and/or printouts, and unemployment monetary benefit notices.

5500.32 DCHA is required to obtain, at minimum, two current and consecutive pay stubs for determining annual income from wages.

5500.33 DCHA may reject documentation provided by the family if the document is not an original, if the document appears to be forged, or if the document is altered, mutilated, or illegible.

5500.34 Third-party documents provided by the family must be dated within sixty (60) days of DCHA request date.

5500.35 If DCHA determines that third-party documents provided by the family are not acceptable, DCHA will explain the reason to the family and request additional documentation.

5500.36 As verification of earned income, DCHA will require the family to provide up to six of the most current, consecutive pay stubs. At DCHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), DCHA may request additional paystubs or a payroll record.

5500.37 When upfront verification is not available and the family is unable to provide written third-party documents, DCHA must request a written third-party verification form. HUD's position is that this traditional third-party verification method presents administrative burdens and risks which may be reduced through the use of family-provided third-party documents.

5500.38 DCHA's may mail, fax, or email third-party written verification form requests to third-party sources.

5500.39 DCHA will send third-party verification forms directly to the third party.

5500.40 Third-party verification forms will be sent when third-party verification documents are unavailable or are rejected by DCHA.

5500.41 For third-party oral verification, DCHA's contact sources, identified by UIV techniques or by the family, by telephone or in person.

5500.42 Oral third-party verification is mandatory if neither form of written third-party verification is available.

5500.43 Third-party oral verification may be used when requests for written third-party verification forms have not been returned within a reasonable time - e.g., ten (10) business days.

5500.44 DCHA's should document in the file the date and time of the telephone call or visit, the name of the person contacted, the telephone number, as well as the information confirmed.

5500.45 In collecting third-party oral verification, DCHA staff will record in the family's file the name and title of the person contacted, the date and time of the conversation (or attempt), the telephone number used, and the facts provided.

5500.46 When any source responds verbally to the initial written request for verification DCHA will accept the verbal response as oral verification but will also request that the source complete and return any verification forms that were provided.

5500.47 Third-party verification may not be available in all situations. HUD has acknowledged that it may not be cost-effective or reasonable to obtain third-party verification of income, assets, or expenses when these items would have a minimal impact on the family's total tenant payment.

5500.48 If the family cannot provide original documents, DCHA will pay the service charge required to obtain third-party verification, unless it is not cost effective in which case a self-certification will be acceptable as the only means of verification. The cost of verification will not be passed on to the family.

5500.49 The cost of postage and envelopes to obtain third-party verification of income, assets, and expenses is not an unreasonable cost.

5500.50 Third-party verification is not required when legal documents are the primary source, such as a birth certificate or other legal documentation of birth.

5500.51 HUD permits DCHA's to accept a self-certification from a family as verification of assets disposed of for less than fair market value.

5500.52 DCHA will accept a self-certification from a family as verification of assets disposed of for less than fair market value.

5500.53 For families with net assets totaling Five Thousand Dollars ($5,000) or less, DCHA may accept the family's declaration of asset value and anticipated asset income. However, DCHA is required to obtain third-party verification of all assets regardless of the amount during the intake process and at least every three years thereafter.

5500.54 Under the authority granted to DCHA under its Moving to Work (MTW) status, DCHA will require families to declare assets only if the total value of all assets is Fifteen Thousand Dollars ($15,000) or more. If the total value of all assets is less than Fifteen Thousand Dollars ($15,000), DCHA will accept the family's certification of the value of assets. DCHA will not include income from assets in its income calculation unless the total value of all assets is Fifteen Thousand Dollars ($15,000) or more.

5500.55 All family members eighteen (18) years of age and older must sign the family's declaration.

5500.56 DCHA will use third-party documentation for assets if the total value of all assets is Fifteen Thousand Dollars ($15,000) or more, or if DCHA receives information

indicating the family's certification of total asset value being less than Fifteen Thousand Dollars ($15,000) is incorrect.

5500.57 When HUD requires third-party verification, self-certification or "tenant declaration," is used as a last resort when DCHA is unable to obtain third-party verification.

5500.58 Self-certification, however, is an acceptable form of verification when:

(a) A source of income is fully excluded;

(b) Net family assets total Five Thousand Dollars ($5,000) or less and DCHA has adopted a policy to accept self-certification at annual recertification, when applicable; and

(c) DCHA has adopted a policy to implement streamlined annual recertifications for fixed sources of income.

5500.59 When DCHA was required to obtain third-party verification but instead relies on a tenant declaration for verification of income, assets, or expenses, the family's file must be documented to explain why third-party verification was not available.

5500.60 When information cannot be verified by a third party or by review of documents, family members will be required to submit self-certifications attesting to the accuracy of the information they have provided to DCHA.

5500.61 DCHA may require a family to certify that a family member does not receive a particular type of income or benefit.

5500.62 The self-certification must be made in a format acceptable to DCHA and must be signed by the family member whose information or status is being verified.

5501 PART II: VERIFYING FAMILY INFORMATION

5501.1 DCHA will require families to furnish verification of legal identity for each household member.

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

Current government employer identification card with picture	

5501.2 If a document submitted by a family is illegible for any reason or otherwise questionable, more than one of these documents may be required.

5501.3 If none of these documents can be provided and at DCHA's discretion, a third party who knows the person may attest to the person's identity. The certification must be provided in a format acceptable to DCHA and must be signed by the family member whose information or status is being verified.

5501.4 Legal identity will be verified for all applicants at the time of eligibility determination and in cases where DCHA has reason to doubt the identity of a person representing themselves to be a participant.

5501.5 The family must provide documentation of a valid social security number (SSN) for each member of the household, except for individuals who do not contend eligible immigration status. Exemptions also include existing program participants who were at least sixty-two (62) years of age as of January 31, 2010, and had not previously disclosed an SSN.

5501.6 Note that an individual who previously declared to have eligible immigration status may not change their declaration for the purpose of avoiding compliance with the SSN disclosure and documentation requirements or penalties associated with noncompliance with these requirements. Nor may the head of household opt to remove a household member from the family composition for this purpose.

5501.7 DCHA must accept the following documentation as acceptable evidence of the social security number:

(a) An original SSN card issued by the Social Security Administration (SSA);

(b) An original SSA-issued document, which contains the name and SSN of the individual; or

(c) An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual.

5501.8 DCHA may only reject documentation of an SSN provided by an applicant or participant if the document is not an original document or if the original document has been altered, mutilated, is illegible, or appears to be forged.

5501.9 DCHA will explain to the applicant or participant the reasons the document is not acceptable and request that the individual obtain and submit acceptable documentation of the SSN to DCHA within 30 days.

5501.10 In the case of Moderate Rehabilitation Single Room Occupancy (SRO) individuals, the required documentation must be provided within ninety (90) calendar days from the date of admission into the program. DCHA must grant one additional ninety (90) day extension if it determines that the applicant's failure to comply was due to circumstances that were beyond the applicant's control and could not have been reasonably foreseen.

5501.11 DCHA will grant one additional ninety (90) day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency. If the individual fails to comply with SSN disclosure and documentation requirements upon expiration of the provided time period, DCHA will terminate the individual's assistance.

5501.12 If an applicant family includes a child under six (6) years of age who joined the household within the six (6) months prior to the date of voucher issuance, an otherwise eligible family may be admitted to the program and the family must provide documentation of the child's SSN within ninety (90) days of the effective date of the initial HAP contract. A ninety (90) day extension will be granted if DCHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control.

5501.13 DCHA will grant one additional ninety (90) day extension if needed for reasons beyond the applicant's control, such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

5501.14 When a participant requests to add a new household member who is at least six (6) years of age, or who is under the age of six (6) and has an SSN, the participant must provide the complete and accurate SSN assigned to each new member at the time of reexamination or recertification, in addition to the documentation required to verify it. DCHA may not add the new household member until such documentation is provided.

5501.15 When a participant requests to add a new household member who is under the age of six (6) and has not been assigned an SSN, the participant must provide the SSN assigned to each new child and the required documentation within ninety (90) calendar days of the child being added to the household. A ninety (90) day extension will be granted if DCHA determines that the participant's failure to comply was due to unforeseen circumstances and was outside of the participant's control. During the period DCHA is awaiting documentation of the SSN, the child will be counted as part of the assisted household.

5501.16 DCHA will grant one additional ninety (90) day extension if needed for reasons beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency.

5501.17 Social security numbers must be verified only once during continuously assisted occupancy.

5501.18 DCHA will verify each disclosed SSN by:

(a) Obtaining documentation from applicants and participants that is acceptable as evidence of social security numbers; and

(b) Making a copy of the documentation submitted, returning it to the individual, and retaining a copy in the file folder.

5501.19 Once the individual's verification status is classified as "verified," DCHA may, at its discretion, remove and destroy copies of documentation accepted as evidence of social security numbers. The retention of the EIV Summary Report or Income Report is adequate documentation of an individual's SSN.

5501.20 Once an individual's status is classified as "verified" in HUD's EIV system, DCHA will not remove and destroy copies of documentation accepted as evidence of social security numbers.

5501.21 A birth certificate or other official record of birth is the preferred form of age verification for all family members. For elderly family members an original document that provides evidence of the receipt of social security retirement benefits is acceptable.

5501.22 If an official record of birth or evidence of social security retirement benefits cannot be provided, DCHA will require the family to submit other documents that support the reported age of the family member (e.g., school records, driver's license if birth year is recorded) and to provide a self-certification.

5501.23 Age must be verified only once during continuously assisted occupancy.

5501.24 Applicants and program participants are required to identify the relationship of each household member to the head of household. Definitions of the primary household relationships are provided in the Eligibility chapter.

5501.25 Family relationships are verified only to the extent necessary to determine a family's eligibility and level of assistance. Certification by the head of household normally is sufficient verification of family relationships.

5501.26 Certification by the head of household is normally sufficient verification. If DCHA has reasonable doubts about a marital relationship, DCHA will require the family to document the marriage.

5501.27 A marriage certificate generally is required to verify that a couple is married.

5501.28 In the case of a common law marriage, the couple must demonstrate that they hold themselves to be married (e.g., by telling the community they are married, calling each other husband and wife, using the same last name, filing joint income tax returns).

5501.29 Certification by the head of household is normally sufficient verification. If DCHA has reasonable doubts about a separation or divorce, DCHA will require the family to provide documentation of the divorce or separation.

5501.30 A certified copy of a divorce decree, signed by a court officer, is required to document that a couple is divorced.

5501.31 A copy of a court-ordered maintenance or other court record is required to document a separation.

5501.32 If an adult member who was formerly a member of the household is reported to be permanently absent, the family must provide evidence to support that the person is no longer a member of the family (e.g., documentation of another address at which the person resides such as a lease or utility bill), if DCHA so requests.

5501.33 Third-party verification from the state or local government agency responsible for the placement of the individual with the family is required.

5501.34 DCHA requires families to provide information about the student status of all students who are eighteen (18) years of age or older. This information will be verified only if:

(a) The family reports full-time student status for an adult other than the head, spouse, or co-head.

(b) The family reports childcare expenses to enable a family member to further their education.

(c) The family includes a student enrolled in an "institution of higher education."

5501.35 This section applies only to students who are seeking assistance on their own, separately from their parents. It does not apply to students residing with parents who are seeking or receiving HCV assistance.

5501.36 DCHA will determine whether the student is exempt from the restrictions in 24 CFR § 5.612 by verifying any one of the following exemption criteria:

(a) The student is enrolled at an educational institution that does not meet the definition of *institution of higher education* in the Higher Education Act of 1965;

(b) The student is at least twenty-four (24) years old;

(c) The student is a veteran;

(d) The student is married;

(e) The student has at least one dependent child; or

(f) The student is a person with disabilities and was receiving assistance prior to November 30, 2005.

5501.37 If DCHA cannot verify at least one of these exemption criteria, DCHA will conclude that the student is subject to the restrictions on assistance at 24 CFR §5.612. In addition to verifying the student's income eligibility, DCHA will then proceed to verify either the student's parents' income eligibility or the student's independence from their parents (see below).

5501.38 DCHA will verify a student's independence from their parents to determine that the student's parents' income is not relevant for determining the student's eligibility by doing all of the following:

(a) Either reviewing and verifying previous address information to determine whether the student has established a household separate from their parents for at least one year, or reviewing and verifying documentation relevant to determining whether the student meets the U.S. Department of Education's definition of "independent student";

(b) Reviewing the student's prior year income tax returns to verify the student is independent or verifying the student meets the U.S. Department of Education's definition of independent student; and

(c) Requesting and obtaining written certification directly from the student's parents identifying the amount of support they will be providing to the student, even if the amount of support is Zero Dollars ($0), except in cases in which DCHA determines that the student is a "vulnerable youth."

5501.39 DCHA must verify the existence of a disability in order to allow certain income disallowances and deductions from income. DCHA is not permitted to inquire about the nature or extent of a person's disability. DCHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DCHA receives a verification document that provides such information, DCHA will not place this information in the tenant file. Under no circumstances will

DCHA request a participant's medical record(s). For more information on health care privacy laws, see the Department of Health and Human Services' website at http://www.hhs.gov/ocr/privacy/.

5501.40 The above cited regulation does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they are persons with disabilities:

(a) Inquiry into an applicant's ability to meet the requirements of ownership or tenancy;

(b) Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability;

(c) Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability;

(d) Inquiring whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance; or

(e) Inquiring whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

5501.41 Verification of the receipt of disability benefits from the Social Security Administration (SSA) is sufficient verification of disability for the purpose of qualifying for waiting list preferences (if applicable) or certain income disallowances and deductions.

5501.42 For family members claiming disability who receive disability benefits from the SSA, DCHA will attempt to obtain information about disability benefits through the HUD Enterprise Income Verification (EIV) system. If documentation from HUD's EIV System is not available, DCHA will request a current (dated within the last sixty (60) days) SSA benefit verification letter from each family member claiming disability status. If the family is unable to provide the document(s), DCHA will ask the family to request a benefit verification letter by either calling SSA at 1-800-772-1213, or by requesting it from www.ssa.gov. Once the applicant or participant receives the benefit verification letter they will be required to provide it to DCHA.

5501.43 Receipt of veteran's disability benefits, worker's compensation, or other non-SSA benefits based on the individual's claimed disability are not sufficient verification that the individual meets HUD's definition of disability.

5501.44 For family members claiming disability who do not receive disability benefits from the SSA, a knowledgeable professional must provide third-party verification that the family member meets the HUD definition of disability. The knowledgeable professional will verify whether the family member does or does not meet the HUD definition.

5501.45 Housing assistance is not available to persons who are not citizens, nationals, or eligible immigrants. Prorated assistance is provided for "mixed families" containing both eligible and ineligible persons. A detailed discussion of eligibility requirements is in the Eligibility chapter. This verifications chapter discusses HUD and DCHA verification requirements related to citizenship status.

5501.46 The family must provide a certification that identifies each family member as a U.S. citizen, a U.S. national, an eligible noncitizen or an ineligible noncitizen and submit the documents discussed below for each family member. Once eligibility to receive assistance has been verified for an individual it need not be collected or verified again during continuously assisted occupancy.

5501.47 HUD requires a declaration for each family member who claims to be a U.S. citizen or national. The declaration must be signed personally by any family member eighteen (18) or older and by a guardian for minors.

5501.48 DCHA may request verification of the declaration by requiring presentation of a birth certificate, United States passport or other appropriate documentation.

5501.49 Family members who claim U.S. citizenship or national status will not be required to provide additional documentation unless DCHA receives information indicating that an individual’s declaration may not be accurate.

5501.50 All family members claiming eligible immigration status must declare their status in the same manner as U.S. citizens and nationals.

5501.51 The documentation required for eligible noncitizens varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, age, and the date on which the family began receiving HUD-funded assistance.

5501.52 For family members age sixty-two (62) or older who claim to be eligible immigrants, proof of age is required. No further verification of eligible immigration status is required.

5501.53 For family members under the age of sixty-two (62) who claim to be eligible immigrants, DCHA must verify immigration status with the United States Citizenship and Immigration Services (USCIS).

5501.54 DCHA will follow all USCIS protocols for verification of eligible immigration status.

5501.55 DCHA must verify any preferences claimed by an applicant that determined placement on the waiting list.

5501.56 DCHA selects from the waiting list based on date and time of application; DCHA has no preferences except for certain site-specific preferences for the project-based voucher program and special admissions programs.

5501.57 (a) DCHA will offer a limited special admissions preference only to applicants referred by the Family Rehousing Stabilization Program (FRSP) of the District of Columbia's Department of Human Services (DHS) in accordance with a Memorandum of Understanding (MOU) to be established between DHS and DCHA. All referrals must be made directly by DHS to DCHA and DCHA will not accept applications through any other methods. FRSP participants are not applicants under this limited special preference unless such FRSP participant is referred by DHS to DCHA.

(b) The preference in §5501.57(a) is only available for applicants referred directly by DHS and whose participation in the FRSP is ending between May 1, 2024, and July 31, 2024, due to time limits for assistance and/or program expiration.

(c) DHS shall assist FRSP participants with applications for the housing choice voucher program and shall refer qualified applicants to DCHA in accordance with §5501.57 (a) and (b) above.

(d) The preference in §5501.57(a) will terminate upon the earliest to occur of the following:

(1) DCHA reaches its voucher capacity, as determined by DCHA; or

(2) One thousand and three hundred (1,300) tenant-based vouchers are issued to applicants who qualify for this preference; or

(3) DCHA processes all applicants referred by DHS; or

(4) June 30, 2025.

(e) DCHA will accept applications under the limited local preference in §5501.57(a) continuously until reaching the established limit identified in §5501.57 (d), regardless of whether the waiting list is closed to other applicants.

5502 VERIFYING INCOME AND ASSETS

5502.1 Any assets and income reported by the family must be verified. This § 5502 provides DCHA policies that supplement the general verification procedures specified in § 5500.

5502.2 Unless tip income is included in a family member's W-2 by the employer, persons who work in industries where tips are standard will be required to sign a certified estimate of tips received for the prior year and tips anticipated to be received in the coming year.

5502.3 As verification of earned income, DCHA will require the family to provide up to six (6) of the most current, consecutive pay stubs. At DCHA's discretion, if additional paystubs are needed due to the family's circumstances (e.g., sporadic income, fluctuating schedule, etc.), DCHA may request additional paystubs or a payroll record.

5502.4 Business owners and self-employed persons will be required to provide:

(a) If conducted, the audited financial statement for the previous fiscal year. If an audit was not conducted, a profit and loss statement must be submitted and the business owner or self-employed person must certify to its accuracy.

(b) DCHA reserves the right to request all schedules completed for filing federal and local taxes in the preceding year.

(c) If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of straight-line depreciation.

(d) DCHA will provide a format for any person who is unable to provide such a statement to record income and expenses for the coming year. The business owner/self-employed person will be required to submit the information requested and to certify to its accuracy at all future reexaminations. At any reexamination DCHA may request documents that support submitted financial statements such as manifests, appointment books, cash books, or bank statements.

(e) If a family member has been self-employed less than three (3) months, DCHA will accept the family member's certified estimate of income and schedule an interim reexamination in three (3) months. If the family member has been self-employed for three (3) to twelve (12) months DCHA will require the family to provide documentation of income and expenses for this period and use that information to project income.

5502.5 [RESERVED]

5502.6 Verification requirements for Social Security (SS) and Supplemental Security Income (SSI) benefits differ for applicants and participants.

5502.7 For applicants, since EIV does not contain SS or SSI benefit information, DCHA must ask applicants to provide a copy of their current SS and/or SSI benefit letter (dated within the last sixty (60) calendar days) for each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, DCHA should help the applicant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. DCHA must obtain the original benefit letter from the applicant, make a photocopy of the document for the file, and return the original to the family.

5502.8 For participants, DCHA must obtain information through the HUD EIV system and confirm with the participants that the current listed benefit amount is correct.

5502.9 If the participant agrees with the amount reported in EIV, DCHA must use the EIV-reported gross benefit amount to calculate annual income from Social Security. PHAs are required to use the EIV-reported SS and SSI benefit amounts when calculating income unless the tenant disputes the EIV-reported amount. For example, an SSA benefit letter may list the monthly benefit amount as Four Hundred Fifty Dollars ($450.00) and EIV displays the amount as Four Hundred Fifty Dollars ($450.00) DCHA must use the EIV-reported amount unless the participant disputes the amount.

5502.10 If the participant disputes the EIV-reported benefit amount, or if benefit information is not available in EIV, DCHA must request a current SSA benefit verification letter (dated within the last sixty (60) calendar days) from each family member that receives SS and/or SSI benefits. If the family is unable to provide the document or documents, DCHA should help the participant request a benefit verification letter from SSA's website at www.ssa.gov or ask the family to request one by calling SSA at 1-800-772-1213. DCHA must obtain the original benefit letter from the participant, make a photocopy of the document for the file, and return the original to the family.

5502.11 Photocopies of social security checks or bank statements are not acceptable forms of verification for SS/SSI benefits.

5502.12 The methods DCHA will use to verify alimony and child support payments differ depending on whether the family declares that it receives regular payments.

5502.13 If the family declares that it receives regular payments, verification will be obtained in the following order of priority:

(a) Copies of the receipts and/or payment stubs for the one year prior to DCHA request;

(b) Third-party verification form from the state or local child support enforcement agency;

(c) Third-party verification form from the person paying the support; and

(d) Family's self-certification of amount received.

5502.14 If the family declares that it receives irregular or no payments, in addition to the verification process listed above, the family must provide a self-certification that it has taken all reasonable efforts to collect amounts due.

5502.15 Note: Families are not required to undertake independent enforcement action.

5502.16 Assets Disposed of for Less than Fair Market Value.

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

5502.17 DCHA will verify the value of assets disposed of only if:

(a) DCHA does not already have a reasonable estimation of its value from previously collected information, or

(b) The amount reported by the family in the certification appears obviously in error.

Example 1: An elderly participant reported a $10,000 certificate of deposit at the last annual reexamination and DCHA verified this amount. Now the person reports that she has given this $10,000 to her son. DCHA has a reasonable estimate of the value of the asset; therefore, reverification of the value of the asset is not necessary.
Example 2: A family member has disposed of its 1/4 share of real property located in a desirable area and has valued her share at approximately $5,000. Based upon market conditions, this declaration does not seem realistic. Therefore, DCHA will verify the value of this asset.

5502.18 The family must provide:

(a) A current executed lease for the property that shows the rental amount or certification from the current tenant; and

(b) A self-certification from the family members engaged in the rental of property providing an estimate of expenses for the coming year and the most recent IRS Form 1040 with Schedule E (Rental Income).

5502.19 DCHA may request additional documentation to verify net rental income.

5502.20 If schedule E was not prepared, DCHA will require the family members involved in the rental of property to provide a self-certification of income and expenses for the previous year and may request documentation to support the statement including tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.

5502.21 DCHA will accept written third-party documents supplied by the family as evidence of the status of retirement accounts.

5502.22 The type of original document that will be accepted depends upon the family member's retirement status.

5502.23 Before retirement, DCHA will accept an original document from the entity holding the account with a date that shows it is the most recently scheduled statement for the account but in no case earlier than 6 months from the effective date of the examination.

5502.24 Upon retirement, DCHA will accept an original document from the entity holding the account that reflects any distributions of the account balance, any lump sums taken and any regular payments.

5502.25 After retirement, DCHA will accept an original document from the entity holding the account dated no earlier than twelve (12) months before that reflects any distributions of the account balance, any lump sums taken and any regular payments.

5502.26 [RESERVED]

5502.27 HUD guidance on verification of excluded income draws a distinction between income which is fully excluded and income which is only partially excluded.

5502.28 For fully excluded income, DCHA is not required to follow the verification hierarchy, document why third-party verification is not available, or report the income on the 50058. Fully excluded income is defined as income that is entirely excluded from the annual income determination (for example, food stamps, earned income of a minor, or foster care funds).

5502.29 DCHA's may accept a family's signed application or reexamination form as self-certification of fully excluded income. They do not have to require additional

documentation. However, if there is any doubt that a source of income qualifies for full exclusion, DCHA's have the option of requiring additional verification.

5502.30 For partially excluded income, DCHA is required to follow the verification hierarchy and all applicable regulations, and to report the income on the 50058. Partially excluded income is defined as income where only a certain portion of what is reported by the family qualifies to be excluded and the remainder is included in annual income (for example, the income of an adult full-time student, or income excluded under the earned income disallowance).

5502.31 DCHA will accept the family's self-certification as verification of fully excluded income. DCHA may request additional documentation if necessary to document the income source.

5502.32 DCHA will verify the source and amount of partially excluded income.

5502.33 DCHA will check UIV sources and/or request information from third-party sources to verify that certain forms of income such as unemployment benefits, TANF, SS, SSI, and earnings are not being received by families claiming to have zero annual income.

5502.34 Any financial assistance, in excess of amounts received for tuition, fees, and other required charges that a person attending an institution of higher education receives under the Higher Education Act of 1965, from private sources, or from an institution of higher education must be considered income unless the student is over the age of twenty-three (23) with dependent children or is residing with parents who are seeking or receiving HCV assistance.

5502.35 For students over the age of twenty-three (23) with dependent children or students residing with parents who are seeking or receiving HCV assistance, the full amount of student financial assistance is excluded from annual income. The full amount of student financial assistance is also excluded for students attending schools that do not qualify as institutions of higher education. Excluded amounts are verified only if, without verification, DCHA would not be able to determine whether or to what extent the income is to be excluded.

5502.36 For a student subject to having a portion of their student financial assistance included in annual income in accordance with 24 CFR § 5.609(b)(9), DCHA will request written third-party verification of both the source and the amount. Family-provided documents from the educational institution attended by the student will be requested, as well as documents generated by any other person or entity providing such assistance, as reported by the student.

5502.37 In addition, DCHA will request written verification of the student's tuition, fees, and other required charges.

5502.38 If DCHA is unable to obtain third-party written verification of the requested information, DCHA will pursue other forms of verification.

5502.39 If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, does not have a dependent child, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the income of the student's parents must be considered when determining income eligibility, unless the student is determined independent from their parents or a vulnerable youth in accordance with DCHA policy.

5502.40 This provision does not apply to students residing with parents who are seeking or receiving HCV assistance. It is limited to students who are seeking or receiving assistance on their own, separately from their parents.

5502.41 If DCHA is required to determine the income eligibility of a student's parents, DCHA will request an income declaration and certification of income from the appropriate parent(s). DCHA will send the request directly to the parents, who will be required to certify to their income under penalty of perjury. The parents will be required to submit the information directly to DCHA. The required information must be submitted (postmarked) within ten (10) business days of the date of DCHA's request or within any extended timeframe approved by DCHA.

5502.42 DCHA reserves the right to request and review supporting documentation at any time if it questions the declaration or certification. Supporting documentation may include, but is not limited to, Internal Revenue Service (IRS) tax returns, consecutive and original pay stubs, bank statements, pension benefit statements, benefit award letters, and other official and authentic documents from a federal, state, or local agency.

5503 VERIFYING MANDATORY DEDUCTIONS

5503.1 The dependent and elderly/disabled family deductions require only that DCHA verify that the family members identified as dependents or elderly/disabled persons meet the statutory definitions. No further verifications are required.

5503.2 DCHA must verify that:

(a) Any person under the age of eighteen (18) for whom the dependent deduction is claimed is not the head, spouse, or co-head of the family and is not a foster child; and

(b) Any person age eighteen (18) or older for whom the dependent deduction is claimed is not a foster adult or live-in aide, and is a person with a disability or a full time student.

5503.3 DCHA must verify that the head, spouse, or co-head is sixty-two (62) years of age or older or a person with disabilities.

5503.4 The amount of the deduction will be verified following the standard verification.

5503.5 Medical expenses will be verified through:

(a) Written third-party documents provided by the family, such as Pharmacy printouts or receipts.

(b) DCHA will make a best effort to determine what expenses from the past are likely to continue to occur in the future. DCHA will also accept evidence of monthly payments or total payments that will be due for medical expenses during the upcoming twelve (12) months.

5503.6 Written third-party verification forms if the family is unable to provide acceptable documentation.

5503.7 If third-party or document review is not possible, written family certification as to costs anticipated to be incurred during the upcoming twelve (12) months.

5503.8 In addition, DCHA must verify that:

(a) The household is eligible for the deduction;

(b) The costs to be deducted are qualified medical expenses;

(c) The expenses are not paid for or reimbursed by any other source; and

(d) Costs incurred in past years are counted only once.

5503.9 The medical expense deduction is permitted only for households in which the head, spouse, or cohead is at least sixty-two (62), or a person with disabilities. DCHA must verify that the family meets the definition of an elderly or disabled.

5503.10 To be eligible for the medical expenses deduction, the costs must qualify as medical expenses.

5503.11 To be eligible for the medical expenses deduction, the costs must not be reimbursed by another source.

5503.12 The family will be required to certify that the medical expenses are not paid or reimbursed to the family from any source. If expenses are verified through a third party, the third party must certify that the expenses are not paid or reimbursed from any other source.

5503.13 When anticipated costs are related to on-going payment of medical bills incurred in past years, DCHA will verify:

(a) The anticipated repayment schedule;

(b) The amounts paid in the past, and

(c) Whether the amounts to be repaid have been deducted from the family's annual income in past years.

5503.14 The amount of the deduction will be verified following the standard verification.

5503.15 Expenses for attendant care will be verified through:

(a) Written third-party documents provided by the family, such as receipts or cancelled checks;

(b) Third-party verification form signed by the provider, if family-provided documents are not available; and

(c) If third-party verification is not possible, written family certification as to costs anticipated to be incurred for the upcoming twelve (12) months.

5503.16 Expenses for auxiliary apparatus will be verified through:

(a) Written third-party documents provided by the family, such as billing statements for purchase of auxiliary apparatus, or other evidence of monthly payments or total payments that will be due for the apparatus during the upcoming twelve (12) months;

(b) Third-party verification form signed by the provider if family-provided documents are not available; and

(c) If third-party verification is not possible, written family certification of estimated apparatus costs for the upcoming twelve (12) months.

5503.17 In addition, DCHA must verify that:

(a) The family member for whom the expense is incurred is a person with disabilities (as described above);

(b) The expense permits a family member, or members, to work; and

(c) The expense is not reimbursed from another source.

5503.18 To be eligible for the disability assistance expense deduction, the costs must be incurred for attendant care or auxiliary apparatus expense associated with a person with disabilities. DCHA will verify that the expense is incurred for a person with disabilities.

5503.19 [RESERVED]

5503.20 DCHA must verify that the expenses claimed actually enable a family member, or members, (including the person with disabilities) to work.

5503.21 DCHA will request third-party verification from a rehabilitation agency or knowledgeable medical professional indicating that the person with disabilities requires attendant care or an auxiliary apparatus to be employed, or that the attendant care or auxiliary apparatus enables another family member, or members, to work. This documentation may be provided by the family.

5503.22 If third-party verification has been attempted and is either unavailable or proves unsuccessful, the family must certify that the disability assistance expense frees a family member, or members (possibly including the family member receiving the assistance), to work.

5503.23 To be eligible for the disability expenses deduction, the costs must not be reimbursed by another source.

5503.24 The family will be required to certify that attendant care or auxiliary apparatus expenses are not paid by or reimbursed to the family from any source.

5503.25 The amount of the childcare expenses deduction will be verified following the standard verification procedures. In addition, DCHA must verify that:

(a) The child is eligible for care (twelve (12) years old or younger);

(b) The costs claimed are not reimbursed;

(c) The costs enable a family member to work, actively seek work, or further their education;

(d) The costs are for an allowable type of childcare; and

(e) The costs are reasonable.

5503.26 To be eligible for the childcare deduction, the costs must be incurred for the care of a child under the age of thirteen (13). DCHA will verify that the child being cared for (including foster children) is under the age of thirteen (13).

5503.27 To be eligible for the childcare deduction, the costs must not be reimbursed by another source.

5503.28 The family (and the care provider) will be required to certify that the childcare expenses are not paid or reimbursed to the family from any source.

5503.29 DCHA must verify that the family member(s) that the family has identified as being enabled to seek work, pursue education, or be gainfully employed, are pursuing those activities.

5503.30 DCHA will verify information about how the schedule for the claimed activity relates to the hours of care provided, the time required for transportation, the time required for study (for students), the relationship of the family member(s) to the child, and any special needs of the child that might help determine which family member is enabled to pursue an eligible activity.

5503.31 Whenever possible DCHA will use documentation from a state or local agency that monitors work-related requirements (e.g., welfare or unemployment). In such cases DCHA will request family-provided verification from the agency of the member's job seeking efforts to date and require the family to submit to DCHA any reports provided to the other agency.

5503.32 In the event third-party verification is not available, DCHA will provide the family with a form on which the family member must record job search efforts. DCHA will review this information at each subsequent reexamination for which this deduction is claimed.

5503.33 DCHA will request third-party documentation to verify that the person permitted to further their education by the childcare is enrolled and provide information about the timing of classes for which the person is registered. The documentation may be provided by the family.

5503.34 DCHA will seek third-party verification of the work schedule of the person who is permitted to work by the childcare. In cases in which two or more family members could be permitted to work, the work schedules for all relevant family members may be verified. The documentation may be provided by the family.

5503.35 The type of care to be provided is determined by the family but must fall within certain guidelines.

5503.36 DCHA will verify that the type of childcare selected by the family is allowable.

5503.37 DCHA will verify that the fees paid to the childcare provider cover only childcare costs (e.g., no housekeeping services or personal services) and are paid only for the care of an eligible child (e.g., prorate costs if some of the care is provided for ineligible family members).

5503.38 DCHA will verify that the childcare provider is not an assisted family member. Verification will be made through the head of household's declaration of family members who are expected to reside in the unit.

5503.39 Only reasonable childcare costs can be deducted.

5503.40 The actual costs the family incurs will be compared with DCHA's established standards of reasonableness for the type of care in the locality to ensure that the costs are reasonable.

5503.41 If the family presents a justification for costs that exceed typical costs in the area, DCHA will request additional documentation, as required, to support a determination that the higher cost is appropriate.

Chapter 56, DEBTS AND REPAYMENT AGREEMENTS, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 56

HOUSING QUALITY STANDARDS AND RENT REASONABLENESS DETERMINATIONS

5600 PHYSICAL STANDARDS

5600.1 The performance and acceptability standards for HCV-assisted housing cover the following areas:

(a) Sanitary facilities;

(b) Food preparation and refuse disposal;

(c) Space and Security;

(d) Thermal Environment;

(e) Illumination and electricity;

(f) Structure and materials;

(g) Interior Air Quality;

(h) Water Supply;

(i) Lead-based paint;

(j) Access;

(k) Site and neighborhood;

(l) Sanitary condition; and

(m) Smoke Detectors.

5600.2 DCHA is required to enforce minimum Housing Quality Standards (HQS) but also recognizes that certain judgments about the acceptability of the unit are left to the family. For example, DCHA must ensure that the unit contains the required sanitary facilities, but the family decides whether the cosmetic appearance of the facilities is acceptable.

5600.3 Under the Fair Housing Act of 1988 an owner must not refuse the request of a family that contains a person with a disability to make necessary and reasonable modifications to the unit. Such modifications are at the family's expense. The owner may require restoration of the unit to its original condition if the modification would interfere with the owner or next occupant's full enjoyment of the premises. The owner may not increase a customarily required security deposit. However, the landlord may negotiate a restoration agreement that requires the family to restore the unit and, if necessary to ensure the likelihood of restoration, may require the tenant to pay a reasonable amount into an interest bearing escrow account over a reasonable period of time. The interest in any such account accrues to the benefit of the tenant. The owner may also require reasonable assurances that the quality of the work will be acceptable and that any required building permits will be obtained.

5600.4 Modifications to units to provide access for a person with a disability must meet all applicable HQS requirements and conform to the design, construction, or alteration of facilities contained in the UFAS and the ADA Accessibility Guidelines (ADAAG).

5600.5 Any owner that intends to negotiate a restoration agreement or require an escrow account must submit the agreement(s) to DCHA for review.

5600.6 DCHA may impose variations to the HQS as long as the additional criteria are not likely to adversely affect the health or safety of participant families or severely restrict housing choices for families. HUD approval is required for variations to the HQS. HUD approval is not required if the variations are clarifications of HUD's acceptability criteria or performance standards.

5600.7 DCHA must define a “healthy living environment” for the local climate. This may be done by establishing a temperature that the heating system must be capable of maintaining, that is appropriate for the local climate.

5600.8 The heating system must be capable of maintaining an interior temperature of 68 degrees Fahrenheit between October 15 and May 15.

5600.9 DCHA has adopted the following specific requirements that elaborate on HUD standards:

(a) In areas where plaster or drywall is sagging, severely cracked, or otherwise damaged, it must be repaired or replaced;

(b) Window sashes must be in good condition, solid and intact, and properly fitted to the window frame. Damaged or deteriorated sashes must be replaced;

(c) Windows must be weather-stripped as needed to ensure a weather-tight seal;

(d) Window screens must be in good condition (applies only if screens are present);

(e) All exterior doors must be weather-tight to avoid any air or water infiltration, be lockable, have no holes, have all trim intact, and have a threshold;

(f) All interior doors must have no holes, have all trim intact, and be openable without the use of a key;

(g) All wood floors must be sanded to a smooth surface and sealed. Any loose or warped boards must be resecured and made level. If they cannot be leveled, they must be replaced;

(h) All floors must be in a finished state. Raw wood or unsealed concrete is not permitted;

(i) All floors should have some type of base shoe, trim, or sealing for a "finished look." Vinyl base shoe is permitted;

(j) All sinks and commode water lines must have shut off valves, unless faucets are wall mounted;

(k) All sinks must have functioning stoppers;

(l) All worn or cracked toilet seats and tank lids must be replaced and toilet tank lid must fit properly; and

(m) If window security bars or security screens are present on emergency exit windows, they must be equipped with a quick release system. The owner

is responsible for ensuring that the family is instructed on the use of the quick release system.

5600.10 HUD requires DCHA to define life-threatening conditions and to notify the owner or the family (whichever is responsible) of the corrections required. The responsible party must correct life-threatening conditions within twenty-four (24) hours of DCHA notification.

5600.11 The following are considered life-threatening conditions:

(a) Any condition that jeopardizes the security of the unit;

(b) Major plumbing leaks or flooding, waterlogged ceiling, or floor in imminent danger of falling;

(1) Natural or LP gas or fuel oil leaks. (i.e., a fuel storage vessel, fluid line, valve, or connection that supplies fuel to a HVAC unit is leaking or a strong odor is detected with potential for explosion or fire or that results in a health risk if inhaled);

(c) Any electrical problem or condition that could result in shock or fire. The following are examples of an electrical problem or condition:

(1) A light fixture is readily accessible, is not securely mounted to the ceiling or wall, and electrical connections or wires are exposed;

(2) A light fixture is hanging by its wires;

(3) A light fixture has a missing or broken bulb, and the open socket is readily accessible to the tenant during the day-to-day use of the unit;

(4) A receptacle (outlet) or switch is missing or broken and electrical connections or wires are exposed;

(5) An open circuit breaker position is not appropriately blanked off in a panel board, main panel board, or other electrical box that contains circuit breakers or fuses;

(6) A cover is missing from any electrical device box, panel box, switch gear box, control panel, etc., and there are exposed electrical connections;

(7) Any nicks, abrasions, or fraying of the insulation that exposes conducting wire;

(8) Exposed bare wires or electrical connections;

(9) Any condition that results in openings in electrical panels or electrical control device enclosures;

(10) Water leaking or ponding near any electrical device; or

(11) Any condition that poses a serious risk of electrocution or fire and poses an immediate life-threatening condition;

(d) Absence of a working heating system when outside temperature is below 50 degrees Fahrenheit;

(e) Utilities not in service, including no running hot water;

(f) Conditions that present the imminent possibility of injury;

(g) Obstacles that prevent safe entrance or exit from the unit, i.e.,

(1) Any components that affect the function of the fire escape are missing or damaged;

(2) Stored items or other barriers restrict or prevent the use of the fire escape in the event of an emergency; or

(3) The building's emergency exit is blocked or impeded, thus limiting the ability of occupants to exit in a fire or other emergency;

(h) Absence of a functioning toilet in the unit;

(i) Inoperable or missing smoke detectors;

(j) Missing or inoperable carbon monoxide detector;

(k) Missing, damaged, discharged, overcharged, or expired fire extinguisher (where required); or

(l) Gas/oil-fired water heater or heating, ventilation, or cooling system with missing, damaged, improper, or misaligned chimney venting, i.e.,

(1) The chimney or venting system on a fuel-fired water heater is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting or gases;

(2) A gas dryer vent is missing, damaged, or is visually determined to be inoperable, or the dryer exhaust is not vented to the outside;

(3) A fuel-fired space heater is not properly vented or lacks available combustion air;

(4) A non-vented space heater is present;

(5) Safety devices on a fuel-fired space heater are missing or damaged;

(6) The chimney or venting system on a fuel-fired heating, ventilation, or cooling system is misaligned, negatively pitched, or damaged, which may cause improper or dangerous venting of gas; or

(7) Deteriorating paint as defined at 24 CFR § 35.110 in a unit built before 1978 that is to be occupied by a family with a child under six (6) years of age if it would prevent the family from moving into the unit.

5600.12 If an owner fails to correct life-threatening conditions as required by DCHA, DCHA will enforce the HQS in accordance with HUD requirements.

5600.13 If a family fails to correct a family-caused life-threatening condition as required by DCHA, DCHA will enforce the family obligations.

5600.14 The owner will be required to repair an inoperable smoke detector unless DCHA determines that the family has intentionally disconnected it (by removing batteries or other means). In this case, the family will be required to repair the smoke detector within twenty-four (24) hours.

5600.15 The family is responsible for correcting the following HQS deficiencies:

(a) Tenant-paid utilities not in service.

(b) Failure to provide or maintain appliances owned by the family.

(c) Damage to the unit or premises caused by a household member or guest beyond normal wear and tear that results in a breach of the HQS. "Normal wear and tear" is defined as items which could not be charged against the tenant's security deposit under state law or court practice.

5600.16 The owner is responsible for all HQS violations not listed as a family responsibility above, even if the violation is caused by the family's living habits (i.e., vermin infestation). However, if the family's actions constitute a serious or repeated lease violation the owner may take legal action to evict the family.

5600.17 If DCHA is notified by a public health department or other medical health care provider, or verifies information from a source other than a public health

department or medical health care provider, that a child of less than six (6) years of age, living in an HCV-assisted unit has been identified as having an elevated blood lead level, DCHA must complete an environmental investigation of the dwelling unit within fifteen (15) calendar days after being notified by a public health department or other medical health care provider. The environmental investigation must be completed in accordance with program requirements, and the result of the environmental investigation must be immediately provided to the owner of the dwelling unit. In cases where the public health department has already completed an evaluation of the unit, this information must be provided to the owner.

5600.18 Within thirty (30) days after receiving the environmental investigation report from DCHA, or the evaluation from the public health department, the owner is required to complete the reduction of identified lead-based paint hazards in accordance with the lead-based paint regulations. If the owner does not complete the "hazard reduction" as required, the dwelling unit is in violation of HQS and DCHA will take action.

5600.19 [RESERVED]

5600.20 A dwelling unit must:

(a) Provide adequate space and security for the family; and

(b) Have at least one (1) bedroom or living/sleeping room for each two (2) persons.

5600.21 A unit that does not meet these HQS space standards is defined as "overcrowded."

5600.22 A living room may be used as sleeping (bedroom) space, but no more than two (2) persons may occupy the space. A bedroom or living/sleeping room must have at least:

(a) One window; and

(b) Two (2) electrical outlets in proper operating condition (permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets).

5600.23 If DCHA determines that a unit is overcrowded because of an increase in family size or a change in family composition, DCHA must issue the family a new voucher, and the family and DCHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, DCHA must terminate the HAP contract in accordance with its terms.

5601 THE INSPECTION PROCESS

5601.1 DCHA conducts the following types of inspections as needed. Each type of inspection is discussed in the paragraphs that follow.

(a) Initial Inspections. DCHA conducts initial inspections in response to a request from the family to approve a unit for participation in the HCV program.

(b) Annual/Biennial Inspections. HUD requires DCHA to inspect each unit under lease at least annually or biennially, depending on DCHA policy, to confirm that the unit still meets HQS. The inspection may be conducted in conjunction with the family's annual reexamination but also may be conducted separately.

(c) Special Inspections. A special inspection may be requested by the owner, the family, or a third party as a result of problems identified with a unit between annual inspections.

(d) Quality Control Inspections. HUD requires that a sample of units be inspected by a supervisor or other qualified individual to evaluate the work of the inspector(s) and to ensure that inspections are performed in compliance with the HQS.

5601.2 DCHA must obtain the services of an independent entity to perform all HQS inspections in cases where an HCV family is receiving assistance in a DCHA-owned unit. A DCHA-owned unit is defined as a unit that is owned by DCHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by DCHA). The independent agency must communicate the results of each inspection to the family and DCHA. The independent agency must be approved by HUD and may be the unit of general local government for DCHA jurisdiction (unless DCHA is itself the unit of general local government or an agency of such government).

5601.3 Under the authority granted to DCHA under its Moving-to-Work (MTW) status, DCHA may conduct its own inspections of some DCHA-owned units.

5601.4 DCHA may not charge the family for unit inspections or reinspections. In the case of inspections of DCHA-owned units, DCHA may compensate the independent agency from ongoing administrative fee for inspections performed. DCHA and the independent agency may not charge the family any fee or charge for the inspection.

5601.5 DCHA may not charge the owner for the inspection of the unit prior to the initial term of the lease or for a first inspection during assisted occupancy of the unit. However, DCHA may charge a reasonable fee to owners for reinspections in two

situations: when the owner notifies DCHA that a repair has been made but the deficiency has not been corrected, and when the time for repairs has elapsed and the deficiency has not been corrected. Fees may not be imposed for tenant-caused damages, for cases in which the inspector could not gain access to the unit, or for new deficiencies discovered during a reinspection.

5601.6 The owner may not pass the cost of a reinspection fee to the family. Reinspection fees must be added to DCHA's administrative fee reserves and may only be used for activities related to the provision of tenant-based assistance.

5601.7 DCHA will charge the owner a One Hundred Dollars ($100) fee only if the owner requests a second reinspection of a unit under contract, and requests this third inspection at least ten (10) business days prior to any scheduled effective date of HAP Contract termination.

5601.8 As an alternative to some or all on-site inspections, DCHA may, but is not required to, perform HQS inspections from a remote location using video streaming technology and a proxy at the inspection site.

5601.9 At DCHA's discretion, DCHA may use remote video inspections (RVIs) for all inspection types as an alternative to an onsite inspection. DCHA will not, however, conduct RVIs in pre-1978 units where a child or children under six (6) will reside. For these units, DCHA will conduct an onsite inspection unless the participant requests an RVI as a reasonable accommodation.

5601.10 Before conducting an RVI, both DCHA and impacted party with legal possession of the unit must agree to its use. Prior to conducting any RVI, DCHA will agree with the relevant parties to use an RVI rather than an onsite inspection. For unoccupied units, this agreement will be between DCHA and the owner. For occupied units, the agreement will be between DCHA and the tenant or other adult household member. In either case, if an agreement cannot be reached, DCHA will conduct an onsite inspection.

5601.11 When selecting a proxy, DCHA may rely on the owner, property representative, tenant, or any adult associated with tenancy. The proxy will be selected through a mutual decision between DCHA, owner, and family.

5601.12 When selecting the proxy, DCHA will:

(a) Verify that, for properties built before 1978 where a child under six (6) resides or will reside, the proxy has completed the *HUD Lead-Based Paint Visual Assessment Training Course*;

(b) Ensure the proxy can determine whether there is a smell of natural gas, methane, or other noxious gas; and

(c) Ensure that on the day of the inspection the proxy has a:

(1) Tape measure;

(2) Working flashlight;

(3) Circuit analyzer to test the low-voltage operation of electrical lines;

(4) Means to test smoke and carbon monoxide detectors;

(5) Temperature gun; and

(6) Smartphone or tablet reliable internet connection either through 4G or 5G connectivity and sufficient data or reliable Wi-Fi available onsite. The device must have a high camera resolution (megapixels, sensors, and pixel size).

5601.13 If DCHA cannot identify a proxy that is able to meet the above criteria, DCHA will conduct an in-person inspection.

5601.14 The proxy must follow the directions of the inspector. The proxy will live stream the inspection using DCHA's designated streaming web-based platform. The RVI may not be recorded.

5601.15 During the RVI, the HQS inspector will:

(a) Verify the address and street name outside the unit match that of the unit to be inspected;

(b) Inspect the unit's exterior and adjoining properties in accordance with HQS through the proxy;

(c) Inspect all interior spaces in accordance with HQS through the proxy; and

(d) For pre-1978 properties, follow all national and state lead-based paint requirements.

5601.16 During the RVI, the proxy will:

(a) Examine all sides of a structure, including fences and outbuildings, visually examining paint conditions of all siding, trim, windows, porches, steps, columns, and any other painted areas on the unit's exterior;

(b) Review each room separately and visually examine the paint conditions of walls, ceilings, steps, floors, doors, door frames, and windows, including window troughs; and

(c) Document the amount of deterioration, indicating whether the scale is greater or less than the HUD de minimis amounts for deteriorated paint (including cracked, chipped, or otherwise damaged paint).

5601.17 If at any time it becomes clear that the connection is unreliable, the lighting in the unit is insufficient, the necessary tools are unavailable, the noise level in or outside the unit is unacceptable, or any other circumstances as determined by the inspector, the inspector will record the unit as failed and schedule an in-person inspection.

5601.18 The family must allow DCHA to inspect the unit at reasonable times with reasonable notice.

5601.19 Both the family and the owner will be given reasonable notice of all inspections. Except in the case of a life-threatening emergency, reasonable notice is considered to be not less than forty-eighty (48) hours. Inspections may be scheduled between 8:00 a.m. and 7:00 p.m. Generally, inspections will be conducted on business days only. In the case of a life-threatening emergency, DCHA will give as much notice as possible, given the nature of the emergency.

5601.20 [RESERVED]

5601.21 When a family occupies the unit at the time of inspection an authorized adult must be present for the inspection. The presence of the owner or the owner's representative is encouraged but is not required.

5601.22 At initial inspection of a vacant unit, DCHA will inspect the unit in the presence of the owner or owner’s representative. The presence of a family representative is permitted but is not required.

5601.23 DCHA may, but is not required to, approve assisted tenancy and start HAP if the unit fails HQS inspection, but only if the deficiencies identified are non-life-threatening. Further, DCHA may, but is not required to, authorize occupancy if a unit passed an alternative inspection in the last twenty-four (24) months.

5601.24 The unit must pass the HQS inspection on or before the effective date of the HAP contract.

5601.25 DCHA will not rely on alternative inspections and will conduct an HQS inspection for each unit prior to executing an HAP contract with the owner.

5601.26 HUD requires PHAs with fewer than one thousand two hundred fifty (1,250) budgeted units to complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within fifteen (15) days of submission of the Request for Tenancy Approval (RTA). For PHAs with one thousand two hundred fifty (1,250) or more budgeted units, to the extent practicable such inspection and determination must be completed within fifteen (15) days. The fifteen (15) day period is suspended for any period during which the unit is not available for inspection.

5601.27 To the extent practicable, DCHA will complete the initial inspection, determine whether the unit satisfies HQS, and notify the owner and the family of the determination within fifteen (15) days of submission of the Request for Tenancy Approval (RTA).

5601.28 If any HQS violations are identified, the owner will be notified of the deficiencies and be given a fourteen (14) days time frame to correct them. A reinspection will be scheduled to take place on the deadline.

5601.29 If requested by the owner, the time frame for correcting the deficiencies may be extended by DCHA for good cause.

5601.30 If the owner notifies DCHA prior to the deadline that the deficiencies have been corrected, DCHA will reinspect the unit as soon as practically possibly after that notification.

5601.31 If the unit fails HQS at the time of the reinspection, DCHA will notify the owner and the family that the unit has been rejected and that the family must search for another unit. DCHA may agree to conduct a second reinspection, for good cause, at the request of the family and owner. DCHA will not conduct a third reinspection for the same unit.

5601.32 Following a failed reinspection, the family may submit a new Request for Tenancy Approval for the same unit after the owner has made repairs, if they are unable to locate another suitable unit. However, the unit must pass the initial inspection.

5601.33 Generally, at initial lease-up the owner is responsible for demonstrating that all utilities are in working order including those utilities that the family will be responsible for paying.

5601.34 Utilities must be in service at the time of the HQS inspection.

5601.35 Working appliances must be in place at the time of the HQS inspection.

5601.36 Each unit under HAP contract must be inspected biennially within twenty-four (24) months of the last full HQS inspection. DCHA reserves the right to require annual inspections of any unit or owner at any time.

5601.37 DCHA will not rely on alternative inspection standards.

5601.38 If an adult cannot be present on the scheduled date, the family should request that DCHA reschedule the inspection. DCHA and family will agree on a new inspection date that generally should take place within five business days of the originally scheduled date. DCHA may schedule an inspection more than five business days after the original date for good cause.

5601.39 If the family misses the first scheduled appointment without requesting a new inspection date, DCHA will automatically schedule a second inspection. If the family misses two scheduled inspections without DCHA approval, DCHA will consider the family to have violated its obligation to make the unit available for inspection.

5601.40 If a participant or government official reports a life-threatening condition which the owner would be required to repair within twenty-four (24) hours, DCHA must inspect the unit within twenty-four (24) hours of notification. If the reported condition is not life-threatening, DCHA must inspect the unit within fifteen (15) days of notification.

5601.41 During a special inspection, DCHA generally will inspect only those deficiencies that were reported. However, the inspector will record any additional HQS deficiencies that are observed and will require the responsible party to make the necessary repairs.

5601.42 If the biennial inspection has been scheduled or is due within ninety (90) days of the date the special inspection is scheduled DCHA may elect to conduct a full biennial inspection.

5601.43 HUD requires a PHA supervisor or other qualified person to conduct quality control inspections of a sample of units to ensure that each inspector is conducting accurate and complete inspections and that there is consistency in the application of the HQS.

5601.44 The unit sample must include only units that have been inspected within the preceding three months. The selected sample should be drawn to represent a cross section of neighborhoods and the work of a cross section of inspectors.

5601.45 The owner and the family will be notified in writing of the results of all inspections. When an inspection identifies HQS failures, DCHA will determine:

(a) Whether or not the failure is a life-threatening condition; and

(b) Whether the family or owner is responsible.

5601.46 When life-threatening conditions are identified, DCHA will immediately notify both parties by telephone or email. The notice will specify who is responsible for correcting the violation. The corrective actions must be taken within twenty-four (24) hours of DCHA's notice.

5601.47 When failures that are not life-threatening are identified, DCHA will send the owner and the family a written notification of the inspection results within five business days of the inspection. The written notice will specify who is responsible for correcting the violation, and the time frame within which the failure must be corrected. Generally, not more than 30 days will be allowed for the correction.

5601.48 The notice of inspection results will inform the owner that if life-threatening conditions are not corrected within twenty-four (24) hours, and non-life threatening conditions are not corrected within the specified time frame (or any DCHA-approved extension), the owner's HAP will be abated.

5601.49 Likewise, in the case of family caused deficiencies, the notice will inform the family that if corrections are not made within the specified time frame (or any DCHA-approved extension, if applicable) the family's assistance will be terminated in accordance with DCHA policy.

5601.50 For conditions that are life-threatening, DCHA cannot grant an extension to the twenty-four (24) hour corrective action period. For conditions that are not life-threatening, DCHA may grant an exception to the required time frames for correcting the violation, if DCHA determines that an extension is appropriate.

5601.51 Extensions will be granted in cases where DCHA has determined that the owner has made a good faith effort to correct the deficiencies and is unable to for reasons beyond the owner's control. Reasons may include, but are not limited to:

(a) A repair cannot be completed because required parts or services are not available;

(b) A repair cannot be completed because of weather conditions; or

(c) A reasonable accommodation is needed because the family includes a person with disabilities.

5601.52 The length of the extension will be determined on a case by case basis, but will not exceed sixty (60) days, except in the case of delays caused by weather conditions. In the case of weather conditions, extensions may be continued until the weather has improved sufficiently to make repairs possible. The necessary

repairs must be made within fifteen (15) calendar days, once the weather conditions have subsided.

5601.53 DCHA will conduct a reinspection immediately following the end of the corrective period, or any DCHA approved extension.

5601.54 The family and owner will be given reasonable notice of the reinspection appointment. If the deficiencies have not been corrected by the time of the reinspection, DCHA will send a notice of abatement to the owner, or in the case of family caused violations, a notice of termination to the family, in accordance with DCHA policies. If DCHA is unable to gain entry to the unit in order to conduct the scheduled reinspection, DCHA will consider the family to have violated its obligation to make the unit available for inspection.

5601.55 If the owner fails to maintain the dwelling unit in accordance with HQS, DCHA must take prompt and vigorous action to enforce the owner obligations.

5601.56 If an owner fails to correct HQS deficiencies by the time specified by DCHA, HUD requires DCHA to abate housing assistance payments no later than the first of the month following the specified correction period (including any approved extension). No retroactive payments will be made to the owner for the period of time the rent was abated. Owner rents are not abated as a result of HQS failures that are the family's responsibility.

5601.57 DCHA will make all HAP abatements effective the first of the month following the expiration of DCHA specified correction period (including any extension).

5601.58 To the extent practicable, DCHA will inspect abated units within five business days of the owner's notification that the work has been completed. Payment will resume effective on the day the unit passes inspection.

5601.59 In the case where the owner agreed to pay a One Hundred Dollar ($100) reinspection fee (payment will not resume until the owner has paid the One Hundred Dollar ($100) fee to DCHA).

5601.60 During any abatement period the family continues to be responsible for its share of the rent. The owner must not seek payment from the family for abated amounts and may not use the abatement as cause for eviction.

5601.61 DCHA must decide how long any abatement period will continue before the HAP contract will be terminated. DCHA should not terminate the contract until the family finds another unit, provided the family does so in a reasonable time and must give the owner reasonable notice of the termination. DCHA will issue a voucher to permit the family to move to another unit.

5601.62 The maximum length of time that HAP may be abated is ninety (90) days. However, if the owner completes corrections and notifies DCHA before the termination date of the HAP contract, DCHA may rescind the termination notice if:

(a) the family still resides in the unit and wishes to remain in the unit; and

(b) the unit passes inspection.

5601.63 Reasonable notice of HAP contract termination by DCHA is thirty (30) days.

5601.64 Families are responsible for correcting any HQS violations. If the family fails to correct a violation within the period allowed by DCHA (and any extensions), DCHA will terminate the family's assistance, according to its policies.

5601.65 If the owner carries out a repair for which the family is responsible under the lease, the owner may bill the family for the cost of the repair.

5602 RENT REASONABLENESS

5602.1 Except in the case of certain LIHTC- and HOME-assisted units, no HAP contract can be approved until DCHA has determined that the rent for the unit is reasonable. The purpose of the rent reasonableness test is to ensure that a fair rent is paid for each unit rented under the HCV program.

5602.2 HUD regulations define a reasonable rent as one that does not exceed the rent charged for comparable, unassisted units in the same market area. HUD also requires that owners not charge more for assisted units than for comparable units on the premises. This part explains the method used to determine whether a unit's rent is reasonable.

5602.3 In cases where an HCV family is receiving assistance in a DCHA-owned unit, DCHA must obtain the services of an independent entity to determine rent reasonableness in accordance with program requirements, and to assist the family in negotiating the contract rent when the family requests assistance. A DCHA-owned unit is defined as a unit that is owned by DCHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by DCHA). The independent agency must communicate the results of the rent reasonableness determination to the family and DCHA. The independent agency must be approved by HUD and may be the unit of general local government for DCHA jurisdiction (unless DCHA is itself the unit of general local government or an agency of such government).

5602.4 DCHA must make a rent reasonableness determination at initial occupancy and whenever the owner requests a rent adjustment.

5602.5 The owner and family first negotiate the rent for a unit. DCHA (or independent agency in the case of DCHA-owned units) will assist the family with the negotiations upon request. At initial occupancy DCHA must determine whether the proposed rent is reasonable before a HAP Contract is signed. The owner must not change the rent during the initial lease term. Subsequent requests for rent adjustments must be consistent with the lease between the owner and the family. Rent increases will not be approved unless any failed items identified by the most recent HQS inspection have been corrected.

5602.6 After the initial occupancy period, the owner may request a rent adjustment in accordance with the owner's lease. For rent increase requests after initial lease-up, DCHA may request owners to provide information about the rents charged for other units on the premises, if the premises include more than four (4) units. In evaluating the proposed rents in comparison to other units on the premises DCHA will consider unit size and length of tenancy in the other units.

5602.7 DCHA will determine whether the requested increase is reasonable within fourteen (14) business days of receiving the request from the owner. The owner will be notified of the determination in writing.

5602.8 All rents adjustments will be effective the first of the month following sixty (60) days after DCHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

5602.9 HUD requires DCHA to decide of rent reasonableness (even if the owner has not requested a change) if there is a ten percent (10%) decrease in the fair market rent that goes into effect at least sixty (60) days before the contract anniversary date. HUD also may direct DCHA to decide at any other time. DCHA may decide that a new determination of rent reasonableness is needed at any time.

5602.10 In addition to the instances described above, DCHA will decide of rent reasonableness at any time after the initial occupancy period if:

(a) DCHA determines that the initial rent reasonableness determination was in error; or

(b) DCHA determines that the information provided by the owner about the unit or other units on the same premises was incorrect.

5602.11 For units receiving low-income housing tax credits (LIHTCs) or units assisted under HUD's HOME Investment Partnerships (HOME) Program, a rent comparison with unassisted units is not required if the voucher rent does not exceed the rent for other LIHTC- or HOME-assisted units in the project that are not occupied by families with tenant-based assistance.

5602.12 For LIHTCs, if the rent requested by the owner does exceed the LIHTC rents for non-voucher families, DCHA must perform a rent comparability study in accordance with program regulations. In such cases, the rent shall not exceed the lesser of:

(a) the reasonable rent as determined from the rent comparability study; or

(b) the payment standard established by DCHA for the unit size involved.

5602.13 HUD requires DCHA to take into consideration the factors listed below when determining rent comparability. DCHA may use these factors to make upward or downward adjustments to the rents of comparison units when the units are not identical to the HCV-assisted unit.

(a) Location and age;

(b) Unit size including the number of rooms and square footage of rooms;

(c) The type of unit including construction type (e.g., single family, duplex, garden, low-rise, high-rise);

(d) The quality of the units including the quality of the original construction, maintenance and improvements made; and

(e) Amenities, services, and utilities included in the rent.

5602.14 Comparable units must represent unrestricted market rents. Therefore, units that receive some form of federal, state, or local assistance that imposes rent restrictions cannot be considered comparable units. These include units assisted by HUD through any of the following programs: Section 8 project-based assistance, Section 236 and Section 221(d)(3) Below Market Interest Rate (BMIR) projects, HOME or Community Development Block Grant (CDBG) program-assisted units in which the rents are subsidized; units subsidized through federal, state, or local tax credits; units subsidized by the Department of Agriculture rural housing programs, and units that are rent-controlled by local ordinance.

5602.15 [RESERVED]

5602.16 The Request for Tenancy Approval (HUD-52517) requires owners to provide information, on the form itself, about the rent charged for other unassisted comparable units on the premises if the premises include more than four (4) units.

5602.17 By accepting DCHA payment each month the owner certifies that the rent is not more than the rent charged for comparable unassisted units on the premises. If

asked to do so, the owner must give DCHA information regarding rents charged for other units on the premises.

5602.18 DCHA will collect and maintain data on market rents in DCHA's jurisdiction. Information sources include newspapers, realtors, market surveys, inquiries of owners and other available sources. The data will be maintained by bedroom size and market areas. Market areas may be defined by zip codes, census tract, neighborhood, and identifiable natural or man-made boundaries. The data will be updated on an ongoing basis and rent information that is more than twelve (12) months old will be eliminated from the database.

5602.19 The rent for a unit proposed for HCV assistance will be compared to the rent charged for comparable units in the same market area, and, where appropriate, to information provided by owners on the Request for Tenancy Approval for rents charged for other unassisted comparable units on the premises (if the premises include more than four (4) units.

5602.20 Typically, units may be similar, but not exactly like the unit proposed for HCV assistance. Therefore, DCHA may make upward and downward dollar adjustments for differences between the proposed HCV unit and the comparables to determine the reasonable rent for the HCV unit.

5602.21 The adjustment must reflect the local market. Not all differences in units require adjustments (e.g., the presence or absence of a garbage disposal may not affect the rent in some market areas).

5602.22 Adjustments may vary by unit type (e.g., a second bathroom may be more valuable in a three-bedroom unit than in a two-bedroom).

5602.23 The adjustment must reflect the rental value of the difference - not its construction costs (e.g., it might cost Twenty Thousand Dollars ($20,000) to put on a new roof, but the new roof might not make any difference in what a tenant would be willing to pay because rental units are presumed to have functioning roofs).

5602.24 When a comparable project offers rent concessions (e.g., first month rent-free, or reduced rent) reported monthly rents will be adjusted accordingly. For example, if a comparable project reports rents of Five Hundred Dollars ($500) per month but new tenants receive the first month's rent free, the actual rent for the unit would be calculated as follows: $500 x 11 months = 5500/12 months = actual monthly rent of $488.

5602.25 DCHA will notify the owner of the rent DCHA can approve based upon its analysis of rents for comparable units. The owner may submit information about other comparable units in the market area. DCHA will confirm the accuracy of the information provided and consider this additional information when making rent determinations. The owner must submit any additional information within five

business days of DCHA's request for information or the owner's request to submit information.

Chapter 57, RENTAL ASSISTANCE DEMONSTRATION ADMINISTRATIVE PLAN, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 57

GENERAL LEASING POLICIES

5700 GENERAL LEASING POLICIES

5700.1 DCHA has no liability or responsibility to the owner or other persons for the family's behavior or suitability for tenancy.

5700.2 DCHA may elect to screen applicants for family behavior or suitability for tenancy. See Chapter 3 for a discussion of DCHA's policies with regard to screening applicant families for program eligibility.

5700.3 The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before DCHA approval of the tenancy, DCHA must inform the owner that screening and selection for tenancy is the responsibility of the owner. DCHA must also inform the owner or manager or their rights and obligations under the Violence against Women Act of 2013 (VAWA).

5700.4 DCHA must provide the owner with the family's current and prior address (as shown in DCHA records) and the name and address (if known to DCHA) of the landlord at the family's current and prior address.

5700.5 DCHA is permitted, but not required, to offer the owner other information in DCHA's possession about the tenancy history or drug trafficking of family members.

5700.6 DCHA's policy on providing information to the owner must be included in the family's briefing packet.

5700.7 DCHA may not disclose to the owner any confidential information provided by the family in response to a DCHA request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation.

(a) DCHA will not screen applicants for family behavior or suitability for tenancy.

(b) DCHA will not provide additional screening information to the owner.

5700.8 After the family is issued a voucher, the family must locate an eligible unit, with an owner or landlord willing to participate in the voucher program. Once a family finds a suitable unit and the owner is willing to lease the unit under the program, the owner and the family must request DCHA to approve the assisted tenancy in the selected unit.

5700.9 The owner and the family must submit two documents to DCHA:

(a) Completed Request for Tenancy Approval (RTA) – Form HUD-52517; and

(b) Copy of the proposed lease, including the HUD-prescribed Tenancy Addendum – Form HUD-52641-A.

5700.10 The RTA contains important information about the rental unit selected by the family, including the unit address, number of bedrooms, structure type, year constructed, utilities included in the rent, and the requested beginning date of the lease, necessary for DCHA to determine whether to approve the assisted tenancy in this unit.

5700.11 Owners must certify to the most recent amount of rent charged for the unit and provide an explanation for any difference between the prior rent and the proposed rent.

5700.12 Owners must certify that they are not the parent, child, grandparent, grandchild, sister or brother of any member of the family, unless DCHA has granted a request for reasonable accommodation for a person with disabilities who is a member of the tenant household.

5700.13 For units constructed prior to 1978, owners must either:

(a) certify that the unit, common areas, and exterior have been found to be free of lead-based paint by a certified inspector; or

(b) attach a lead-based paint disclosure statement.

5700.14 Both the RTA and the proposed lease must be submitted no later than the expiration date stated on the voucher.

(a) The RTA must be signed by both the family and the owner;

(b) The owner may submit the RTA on behalf of the family;

(c) Completed RTA (including the proposed dwelling lease) must be submitted electronically through DCHA's portal, except for purposes of reasonable accommodation;

(d) The family may not submit, and DCHA will not process, more than one (1) RTA at a time;

(e) When the family submits the RTA DCHA will review the RTA for completeness;

(f) If the RTA is incomplete (including lack of signature by family, owner, or both), or if the dwelling lease is not submitted with the RTA, DCHA will notify the family and the owner of the deficiencies;

(g) Any missing or incomplete documents must be (re)submitted electronically through DCHA's portal;

(h) When the family submits the RTA and proposed lease, DCHA will also review the terms of the RTA for consistency with the terms of the proposed lease;

(i) If the terms of the RTA are not consistent with the terms of the proposed lease, DCHA will notify the family and the owner of the discrepancies;

(j) Any corrected documents must be resubmitted electronically through DCHA's portal; and

(k) Because of the time sensitive nature of the tenancy approval process, DCHA will communicate with the owner and family electronically on the status of the RTA.

5700.15 DCHA does not formally approve an owner to participate in the HCV program. However, there are several criteria where DCHA may deny approval of an assisted tenancy based on past owner behavior, conflict of interest, or other owner-related issues. There are also criteria for which DCHA must disapprove an owner. No owner has a right to participate in the HCV program.

5700.16 [RESERVED]

5700.17 There are several criteria that a dwelling unit must meet in order to be eligible for assistance under the voucher program. Generally, a voucher-holder family may choose any available rental dwelling unit on the market in DCHA's jurisdiction. This includes the dwelling unit they are currently occupying.

5700.18 DCHA may <u>not</u> assist a unit under the voucher program if the unit is a public housing or Indian housing unit; a unit receiving project-based assistance under

Section 8 of the 1937 Act (42 U.S.C. 1437f); nursing homes, board and care homes, or facilities providing continual psychiatric, medical, or nursing services; college or other school dormitories; units on the grounds of penal, reformatory, medical, mental, and similar public or private institutions; a unit occupied by its owner or by a person with any interest in the unit.

5700.19 Otherwise eligible units that are owned or substantially controlled by DCHA issuing the voucher may also be leased in the voucher program. In order for a DCHA-owned unit to be leased under the voucher program, the unit must not be ineligible housing and DCHA must inform the family, both orally and in writing, that the family has the right to select any eligible unit available for lease and that the family is free to select a DCHA-owned unit without any pressure or steering by DCHA.

5700.20 DCHA does have eligible DCHA-owned units available for leasing under the voucher program.

5700.21 HUD regulations permit, but do not generally require, DCHA to permit families to use voucher assistance in several special housing types in accordance with the specific requirements applicable to those programs. These special housing types include single room occupancy (SRO) housing, congregate housing, group home, shared housing, manufactured home space (where the family owns the manufactured home and leases only the space), cooperative housing and homeownership option.

5700.22 The regulations do require DCHA to permit use of any special housing type if needed as reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

5700.23 A family may not receive the benefit of HCV tenant-based assistance while receiving the benefit of any of the following forms of other housing subsidy, for the same unit or for a different unit:

(a) Public or Indian housing assistance;

(b) Other Section 8 assistance (including other tenant-based assistance);

(c) Assistance under former Section 23 of the United States Housing Act of 1937 (before amendment by the Housing and Community Development Act of 1974);

(d) Section 101 rent supplements;

(e) Section 236 rental assistance payments;

(f) Tenant-based assistance under the HOME Program;

(g) Rental assistance payments under Section 521 of the Housing Act of 1949 (a program of the Rural Development Administration);

(h) Any local or State rent subsidy;

(i) Section 202 supportive housing for the elderly;

(j) Section 811 supportive housing for persons with disabilities;

(k) Section 202 projects for non-elderly persons with disabilities (Section 162 assistance); or

(l) Any other duplicative federal, State, or local housing subsidy, as determined by HUD. For this purpose, 'housing subsidy' does not include the housing component of a welfare payment, a social security payment received by the family, or a rent reduction because of a tax credit.

5700.24 In order to be eligible, the dwelling unit must be in decent, safe, and sanitary condition. This determination is made using HUD's HQS.

5700.25 In order to be eligible, the dwelling unit must be appropriate for the number of persons in the household. A family must be allowed to lease an otherwise acceptable dwelling unit with fewer bedrooms than the number of bedrooms stated on the voucher issued to the family, provided the unit meets the applicable HQS space requirements. The family must be allowed to lease an otherwise acceptable dwelling unit with more bedrooms than the number of bedrooms stated on the voucher issued to the family.

5700.26 In order to be eligible, the dwelling unit must have a reasonable rent. The rent must be reasonable in relation to comparable unassisted units in the area and must not be more than rents charged by the owner for comparable, unassisted units on the premises.

5700.27 Where a family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the family share cannot exceed forty percent (40%) of the family's adjusted monthly income. The term "family share" refers to the amount the family pays toward rent and utilities. The gross rent for the unit minus the total housing assistance payment (HAP) for the unit equals the family share.

5700.28 The family and the owner must execute a written dwelling lease agreement for the assisted unit. This written lease is a contract between the tenant family and the owner; DCHA is not a party to this contract.

5700.29 The tenant must have legal capacity to enter a lease under District law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

5700.30 If the owner uses a standard lease form for rental to unassisted tenants in the locality or the premises, the lease must be in such standard form. If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease. The HAP contract prescribed by HUD contains the owner's certification that if the owner uses a standard lease form for rental to unassisted tenants, the lease for the assisted tenants is in such standard form.

5700.31 All provisions in the HUD-required Tenancy Addendum must be added word-for-word to the owner's standard lease form. The Tenancy Addendum includes the HUD requirements for the tenancy. Because it is a part of the lease, the tenant shall have the right to enforce the Tenancy Addendum against the owner. If there is a conflict between the owner's lease and the Tenancy Addendum, the terms of the Tenancy Addendum shall prevail over any other provisions of the lease.

5700.32 DCHA does not provide a model or standard dwelling lease for owners to use in the HCV program.

5700.33 The assisted dwelling lease must contain all of the required information as listed below:

(a) The names of the owner and the tenant;

(b) The unit rented (address, apartment number, and any other information needed to identify the contract unit);

(c) The term of the lease (initial term and any provisions for renewal);

(d) The amount of the monthly rent to owner; and

(e) A specification of what utilities and appliances are to be supplied by the owner, and what utilities and appliances are to be supplied by the family.

5700.34 The initial term of the assisted dwelling lease must be for at least one (1) year. The initial lease term is also stated in the HAP contract.

5700.35 The HUD program regulations permit DCHA to approve a shorter initial lease term if certain conditions are met.

5700.36 DCHA will not approve an initial lease term of less than one (1) year.

5700.37 During the initial term of the lease, the owner may not raise the rent to owner.

5700.38 Any provisions for renewal of the dwelling lease will be stated in the dwelling lease. There are no HUD requirements regarding any renewal extension terms, except that they must be stated in the dwelling lease if they exist.

5700.39 DCHA may execute the HAP contract even if there is less than one (1) year remaining from the beginning of the initial lease term to the end of the last expiring funding increment under the consolidated ACC.

5700.40 The owner may collect a security deposit from the tenant. DCHA may prohibit security deposits more than private market practice, or in excess of amounts charged by the owner to unassisted tenants. However, if DCHA chooses to do so, language to this effect must be added to Part A of the HAP contract.

5700.41 DCHA will restrict the security deposit amount to no more than one month's contract rent.

5700.42 Owners may not demand or accept any rent payment from the family in excess of the rent to the owner as approved by DCHA minus DCHA's housing assistance payments to the owner.

5700.43 The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

(a) DCHA permits owners and families to execute separate, non-lease agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease.

(b) Any items, appliances, or other services that are customarily provided to unassisted families as part of the dwelling lease with those families, or are permanently installed in the dwelling unit must be included in the dwelling lease for the assisted family. These items, appliances or services cannot be placed under a separate non-lease agreement between the owner and family. Side payments for additional rent, or for items, appliances or services customarily provided to unassisted families as part of the dwelling lease for those families, are prohibited.

(c) Any items, appliances, or other services that are not customarily provided to unassisted families as part of the dwelling lease with those families, are not permanently installed in the dwelling unit and where the family has the sole option of not utilizing the item, appliance or service, may be included in a separate non-lease agreement between the owner and the family.

(d) The family is not liable and cannot be held responsible under the terms of the assisted dwelling lease for any charges pursuant to a separate non-lease agreement between the owner and the family. Non-payment of any

charges pursuant to a separate non-lease agreement between the owner and the family cannot be a cause for eviction or termination of tenancy under the terms of the assisted dwelling lease.

(e) Separate non-lease agreements that involve additional items, appliances or other services may be considered amenities offered by the owner and may be taken into consideration when determining the reasonableness of the rent for the property.

5700.44 DCHA will review the dwelling lease for compliance with all applicable requirements.

5700.45 If the dwelling lease is incomplete or incorrect, DCHA will notify the owner of the deficiencies. Any missing or incomplete documents must be resubmitted electronically through DCHA's portal. Corrected documents must be submitted electronically via the online portal. DCHA will not accept missing and corrected information over the phone.

5700.46 DCHA is permitted, but is not required, to review the lease to determine if the lease complies with State and local law and is permitted to decline to approve the tenancy if DCHA determines that the lease does not comply with State or local law.

5700.47 DCHA will not review the owner's lease for compliance with state/local law.

5700.48 After receiving the family's Request for Tenancy Approval, with proposed dwelling lease, DCHA must promptly notify the family and owner whether the assisted tenancy is approved.

5700.49 Prior to approving the assisted tenancy and execution of a HAP contract, DCHA must ensure that all required actions and determinations, discussed in this § 5700 have been completed.

5700.50 These actions include ensuring that the unit is eligible; the unit has been inspected by DCHA and meets the HQS; the lease offered by the owner is approvable and includes the required Tenancy Addendum; the rent to be charged by the owner for the unit must is reasonable; where the family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the family, the share of rent to be paid by the family does not exceed forty percent (40%) of the family's monthly adjusted income; the owner is an eligible owner, not disapproved by DCHA, with no conflicts of interest; the family and the owner have executed the lease, including the Tenancy Addendum, and the lead-based paint disclosure information.

5700.51 DCHA will complete its determination within ten (10) business days of receiving all required information.

(a) If the terms of the RTA/proposed lease are changed for any reason, including but not limited to negotiation with DCHA, DCHA will obtain corrected copies of the RTA and proposed lease, signed by the family and the owner.

(b) Corrections to the RTA/proposed lease will only be accepted through DCHA's electronic portal. DCHA will not accept corrections over the phone.

(c) If DCHA determines that the tenancy cannot be approved for any reason, the owner and the family will be notified in writing and given the opportunity to address any reasons for disapproval. DCHA will instruct the owner and family of the steps that are necessary to obtain approval of the tenancy.

(1) Where the tenancy is not approvable because the unit is not approvable, the family must continue to search for eligible housing within the timeframe of the issued voucher.

(2) If the tenancy is not approvable due to rent affordability or rent reasonableness, DCHA will attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy will be approved. If the owner is not willing to negotiate an approvable rent, the family must continue to search for eligible housing within the timeframe of the issued voucher.

5700.52 The HAP contract is a written agreement between DCHA and the owner of the dwelling unit. Under the HAP contract, DCHA agrees to make housing assistance payments to the owner on behalf of the family, and the owner agrees to comply with all program requirements as stated in the HAP contract.

5700.53 The HAP contract form is prescribed by HUD.

5700.54 If DCHA has given approval for the family of the assisted tenancy, the owner and DCHA must execute the HAP contract.

5700.55 The term of the HAP contract must be the same as the term of the lease.

5700.56 DCHA is permitted to execute a HAP contract even if the funding currently available does not extend for the full term of the HAP contract.

5700.57 DCHA must make its best effort to ensure that the HAP contract is executed before the beginning of the lease term. Regardless, the HAP contract must be executed no later than sixty (60) calendar days from the beginning of the lease term.

5700.58 DCHA may not pay any housing assistance payment to the owner until the HAP contract has been executed. If the HAP contract is executed during the period of 60 calendar days from the beginning of the lease term, DCHA will pay housing assistance payments after execution of the HAP contract (in accordance with the terms of the HAP contract), to cover the portion of the lease term before execution of the HAP contract (a maximum of sixty (60) days).

5700.59 Any HAP contract executed after the sixty (60) day period is void, and DCHA may not pay any housing assistance payment to the owner.

5700.60 Owners who have not previously participated in the HCV program must attend a virtual meeting with DCHA in which the terms of the Tenancy Addendum and the HAP contract will be explained. DCHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCV program.

5700.61 The owner and the assisted family will execute the dwelling lease and the owner must provide a copy to DCHA.

5700.62 The owner and DCHA will execute the HAP contract. DCHA will not execute the HAP contract until the owner has submitted IRS form W-9. DCHA will ensure that the owner receives a copy of the executed HAP contract.

5700.63 As required under VAWA 2013, once the initial HAP contract and lease have been executed and the family has been admitted to the program, DCHA will notify families of their rights under VAWA by providing all families with a copy of the domestic violence certification form (HUD-5382) as well as the VAWA notice of occupancy rights (form HUD-5380).

5700.64 [RESERVED]

5700.65 If the tenant and the owner agree to any changes in the lease, such changes must be in writing, and the owner must immediately give DCHA a copy of such changes. The lease, including any changes, must remain in accordance with the requirements of this chapter.

5700.66 Generally, DCHA approval of tenancy and execution of a new HAP contract are not required for changes in the lease. However, under certain circumstances, the execution of a new lease and HAP contract are required. These circumstances include:

(a) Changes in lease requirements governing tenant or owner responsibilities for utilities or appliances.

(b) Changes in lease provisions governing the term of the lease.

(c) The family moves to a new unit, even if the unit is in the same building or complex.

(d) In these cases, if the HCV assistance is to continue, the family must submit a new Request for Tenancy Approval (RTA) along with a new dwelling lease containing the proposed changes. A new tenancy must then be approved in accordance with this chapter.

5700.67 Where the owner is changing the amount of the rent to the owner, the owner must notify DCHA at least 60 days before any such changes go into effect. DCHA will agree to such an increase only if the amount of the rent to owner is considered reasonable according to the rent reasonableness standards discussed in Chapter 8. If the requested rent is not found to be reasonable, the owner must either reduce the requested rent increase, or terminate the tenancy in accordance with the terms of the lease.

5700.68 No rent increase is permitted during the initial term of the lease.

5700.69 DCHA will determine whether the requested increase is reasonable within 14 business days of receiving the request from the owner. The owner will be notified of the determination in writing. All rents adjustments will be effective the first of the month following sixty (60) days after DCHA's receipt of the owner's request or on the date specified by the owner, whichever is later.

Chapter 58, OWNER EVICTION GUIDELINES AND GROUNDS FOR TERMINATION FROM THE HOUSING CHOICE VOUCHER PROGRAM, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 58

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

5800 MOVING WITH CONTINUED ASSISTANCE

5800.1 The six (6) regulatory conditions under which an assisted family is allowed to move to a new unit with continued assistance, and DCHA permission, are listed below:

(a) The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease. If the family terminates the lease on notice to the owner, the family must give DCHA a copy of the notice at the same time;

(b) The lease for the family's unit has been terminated by mutual agreement of the owner and the family. If the family and the owner mutually agree to terminate the lease for the family's unit, the family must give DCHA a copy of the termination agreement;

(c) The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family. The family must give DCHA a copy of any owner eviction notice;

(d) The family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. This condition applies even when the family has moved out of its unit in violation of the lease, with or without prior notification to DCHA, if the family or family member who is the victim reasonably believed that they were imminently threatened by harm from further violence if they remained in the unit.

(1) If a family requests permission to move with continued assistance or for an external transfer to another covered housing program operated by DCHA based on a claim that the move is necessary to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, DCHA will request that the resident request the emergency transfer using form HUD-5383, and DCHA will request other documentation as well.

(2) DCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the family or family member will suffice. In such cases DCHA will document the waiver.

(3) DCHA may choose to provide a voucher to facilitate an emergency transfer of the victim without first terminating the assistance of the perpetrator.

(4) Before granting an emergency transfer, DCHA will ensure the victim is eligible to receive continued assistance based on the citizenship or immigration status of the victim.

(5) DCHA has adopted an emergency transfer plan;

(e) DCHA has terminated the HAP contract for the family's unit for the owner's breach; or

(f) DCHA determines that the family's current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, DCHA must issue the family a new voucher, and the family and DCHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, DCHA must terminate the HAP contract for the family's old unit in accordance with the HAP contract terms and must notify both the family and the owner of the termination. The HAP contract terminates at the end of the calendar month that follows the calendar month in which DCHA gives notice to the owner.

5800.2 A family's right to move is generally contingent upon the family's compliance with program requirements. HUD specifies two (2) conditions under which DCHA may deny a family permission to move and two (2) ways in which DCHA may restrict moves by a family.

5800.3 DCHA may deny a family permission to move under the following conditions:

(a) DCHA may deny a family permission to move either within or outside DCHA's jurisdiction if DCHA does not have sufficient funding for continued assistance. However, Notice PIH 2016-09 significantly restricts the ability of DCHA to deny permission to move due to insufficient funding and places further requirements on DCHA regarding moves denied due to lack of funding. The requirements found in this notice are mandatory.

(1) DCHA will deny a family permission to move on grounds that DCHA does not have sufficient funding for continued assistance if:

(i) The move is initiated by the family, not the owner or DCHA;

(ii) DCHA can demonstrate that the move will, in fact, result in higher subsidy costs;

(iii) DCHA can demonstrate that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs; and

(iv) for portability moves, the receiving PHA is not absorbing the voucher.

(2) If DCHA does not have sufficient funding for continued assistance, but the family must move from their unit (e.g., the unit failed HQS), the family may move to a higher cost unit if the move is

within DCHA's jurisdiction. DCHA, however, will not allow the family to move under portability in this situation if the family wishes to move to a higher cost area.

(3) For both moves within DCHA's jurisdiction and outside under portability, DCHA will not deny a move due to insufficient funding if DCHA previously approved the move and subsequently experienced a funding shortfall if the family cannot remain in their current unit. DCHA will rescind the voucher in this situation if the family will be allowed to remain in their current unit.

(4) DCHA will create a list of families whose moves have been denied due to insufficient funding. DCHA will keep the family's request open indefinitely, and when funds become available, the families on this list will take precedence over families on the waiting list. DCHA will use the same procedures for notifying families with open requests to move when funds become available as it uses for notifying families on the waiting list.

(5) DCHA will inform the family of its policy regarding moves denied due to insufficient funding in a letter to the family at the time the move is denied.

(b) DCHA may deny a family permission to move if it has grounds for denying or terminating the family's assistance. If DCHA has grounds for denying or terminating a family's assistance, DCHA will act on those grounds in accordance with the regulations and policies set forth herein. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances.

(c) DCHA is permitted to prohibit any elective move by a participant family during the family's initial lease term. They also permit DCHA to prohibit more than one elective move by a participant family during any twelve (12) month period. However, such prohibitions, if adopted, do not apply when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member. In addition, DCHA may not establish a policy permitting moves only at reexamination.

(1) DCHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within DCHA's jurisdiction or outside it under portability.

(2) DCHA will also deny a family permission to make more than one elective move during any twelve (12) month period. For elective

moves during the twelve (12) month period, DCHA will only allow a new lease to begin on the first of the month. This policy applies to all assisted families residing in DCHA's jurisdiction.

(3) DCHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family circumstances (e.g., new employment, school attendance in a distant area), or to address an emergency over which a family has no control.

(4) In addition, DCHA will allow exceptions to these policies for purposes of reasonable accommodation of a family member who is a person with disabilities.

5800.4 If a family wishes to move to a new unit, the family must notify DCHA and the owner before moving out of the old unit or terminating the lease on notice to the owner. If the family wishes to move to a unit outside DCHA's jurisdiction under portability, the notice to DCHA must specify the area where the family wishes to move. The notices must be in writing.

5800.5 Upon receipt of a family's notification that it wishes to move, DCHA will determine whether the move is approvable. DCHA will notify the family in writing of its determination within fourteen (14) business days following receipt of the family's notification.

5800.6 For families approved to move to a new unit within DCHA's jurisdiction, DCHA will not perform a new biennial/triennial reexamination unless the biennial/triennial reexamination is due with the effective date of the move.

5800.7 For families moving into, or families approved to move out of, DCHA's jurisdiction under portability, DCHA will follow the policies set forth in this § 5800.

5800.8 Families approved to move to a new unit within DCHA's jurisdiction are required to attend an online transfer briefing. Post-attendance, the family will be electronically provided with their voucher.

5800.9 DCHA will follow the policies on voucher term, extension, and expiration. If a family does not locate a new unit within the term of the voucher and any extensions, the family may remain in its current unit with continued voucher assistance if the owner agrees and DCHA approves. Otherwise, the family will lose its assistance.

5800.10 For families moving into or families approved to move out of DCHA's jurisdiction under portability, DCHA will follow the policies set forth in this § 5800.

5800.11 When a family moves out of an assisted unit, DCHA may not make any housing assistance payment to the owner for any month after the month the family moves out. The owner may keep the housing assistance payment for the month when the family moves out of the unit.

5800.12 If a participant family moves from an assisted unit with continued tenant-based assistance, the term of the assisted lease for the new assisted unit may begin during the month the family moves out of the first assisted unit. Overlap of the last housing assistance payment (for the month when the family moves out of the old unit) and the first assistance payment for the new unit, is not considered to constitute a duplicative housing subsidy.

5800.13 A participant who is not receiving any subsidy, but whose HAP contract is still in force, may request a voucher to move to a different unit. DCHA must issue a voucher to move unless it has grounds to deny assistance under the program regulations. However, if DCHA determines no subsidy would be paid at the new unit, DCHA may refuse to enter a HAP contract on behalf of the family.

5800.14 If a zero HAP family requests to move to a new unit, the family may request a voucher to move. However, if no subsidy will be paid at the unit to which the family requests to move, DCHA will not enter into a HAP contract on behalf of the family for the new unit.

5801 PART II: PORTABILITY

5801.1 Within the limitations of the regulations and this plan, a participant family or an applicant family that has been issued a voucher has the right to use tenant-based voucher assistance to lease a unit anywhere in the United States providing that the unit is located within the jurisdiction of a PHA administering a tenant-based voucher program. The process by which a family obtains a voucher from one PHA and uses it to lease a unit in the jurisdiction of another PHA is known as portability. The PHA that issues the voucher is called the initial PHA**.** The PHA that has jurisdiction in the area to which the family wants to move is called the receiving PHA.

5801.2 The receiving PHA has the option of administering the family's voucher for the initial PHA or absorbing the family into its own program. Under the first option, the receiving PHA provides all housing services for the family and bills the initial PHA for the family's housing assistance payments and the fees for administering the family's voucher. Under the second option, the receiving PHA pays for the family's assistance with its own program funds, and the initial PHA has no further relationship with the family. The initial PHA must contact the receiving PHA via

email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the initial PHA's voucher. Based on the receiving PHA's response, the initial PHA must determine whether they will approve or deny the portability request.

5801.3 PHAs commonly act as both the initial and receiving PHA because families may move into or out of their jurisdiction under portability. Each role involves different responsibilities. DCHA will follow the rules and policies in this § 5800 when it is acting as the initial PHA for a family and when it is acting as the receiving PHA for a family.

5801.4 In administering portability, the initial PHA and the receiving PHA must comply with financial procedures required by HUD, including the use of HUD-required forms.

5801.5 PHAs must also comply with billing and payment deadlines. HUD may reduce an administrative fee to an initial or receiving PHA if DCHA does not comply with HUD portability requirements.

5801.6 A family may move with voucher assistance only to an area where there is at least one PHA administering a voucher program. If there is more than one PHA in the area, the initial PHA provides the family with the contact information for the receiving PHAs that serve the area, and the family selects the receiving PHA. The family must inform the initial PHA which receiving PHA it has selected. If the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family.

5801.7 Applicant families that have been issued vouchers as well as participant families may qualify to lease a unit outside DCHA's jurisdiction under portability. HUD regulations and DCHA policy determine whether a family qualifies.

5801.8 Under HUD regulations, most applicant families qualify to lease a unit outside DCHA's jurisdiction under portability. However, HUD gives DCHA discretion to deny a portability move by an applicant family for the same two (2) reasons that it may deny any move by a participant family: insufficient funding and grounds for denial or termination of assistance. If DCHA intends to deny a family permission to move under portability due to insufficient funding, DCHA must notify HUD within ten (10) business days of the determination to deny the move.

5801.9 In determining whether to deny an applicant family permission to move under portability because DCHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established this § 5800. If DCHA does deny the move due to insufficient funding, DCHA will notify HUD in writing within ten (10) business days of DCHA's determination to deny the move.

5801.10 In addition, the initial PHA may establish a policy denying the right to portability to nonresident applicants during the first twelve (12) months after they are admitted to the program.

5801.11 If neither the head of household nor the spouse/co-head of an applicant family had a domicile (legal residence) in the initial PHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least twelve (12) months before requesting portability.

5801.12 DCHA will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, sexual assault, or stalking.

5801.13 The initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. The Violence against Women Act of 2013 (VAWA) creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of a family member who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit.

5801.14 DCHA will determine whether a participant family may move out of DCHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth in this § 5800. DCHA will notify the family of its determination in accordance with the approval policy set forth in this § 5800.

5801.15 An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area. The family must specify the area to which the family wishes to move.

5801.16 The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move. If the applicant family is not income eligible in that area, DCHA must inform the family that it may not move there and receive voucher assistance.

5801.17 The income eligibility of a participant family is not redetermined if the family moves to a new jurisdiction under portability.

5801.18 No new reexamination of family income and composition is required for an applicant family.

5801.19 For a participant family approved to move out of its jurisdiction under portability, DCHA generally will conduct a reexamination of family income and composition.

DCHA will make any exceptions to this policy necessary to remain in compliance with HUD regulations.

5801.20 DCHA is required to provide information on portability to all applicant families that qualify to lease a unit outside DCHA's jurisdiction under the portability procedures. Therefore, no special briefing is required for these families.

5801.21 No formal briefing will be required for a participant family wishing to move outside DCHA's jurisdiction under portability. However, DCHA will provide the family with the same oral and written explanation of portability that it provides to applicant families selected for admission to the program.

5801.22 DCHA will provide the name, address, and phone of the contact for DCHA in the jurisdiction to which they wish to move. If there is more than one PHA with jurisdiction over the area to which the family wishes to move, DCHA will advise the family that the family selects the receiving PHA and notify the initial PHA of which receiving PHA was selected. DCHA will provide the family with contact information for all of the receiving PHAs that serve the area. DCHA will not provide any additional information about receiving PHAs in the area. DCHA will further inform the family that if the family prefers not to select the receiving PHA, the initial PHA will select the receiving PHA on behalf of the family. In this case, DCHA will not provide the family with information for all receiving PHAs in the area.

5801.23 DCHA will advise the family that they will be under the receiving PHA's policies and procedures, including screening, subsidy standards, voucher extension policies, and payment standards.

5801.24 An applicant family has no right to portability until after the family has been issued a voucher.

5801.25 For participating families approved to move under portability, DCHA will issue a new voucher within ten (10) business days of DCHA's written approval to move. The initial term of the voucher will be sixty (60) days.

5801.26 The initial PHA will approve no extensions to a voucher issued to an applicant or participant family porting out of DCHA's jurisdiction except under the following circumstances:

(a) the initial term of the voucher will expire before the portable family will be issued a voucher by the receiving PHA;

(b) the family decides to return to the initial PHA's jurisdiction and search for a unit there; or

(c) the family decides to search for a unit in a third PHA's jurisdiction.

In such cases, the policies on voucher extensions, including the requirement that the family apply for an extension in writing prior to the expiration of the initial voucher term, shall apply.

5801.27 To receive or continue receiving assistance under the initial PHA's voucher program, a family that moves to another PHA's jurisdiction under portability must be under HAP contract in the receiving PHA's jurisdiction within ninety (90) days following the expiration date of the initial PHA's voucher term (including any extensions).

5801.28 Prior to approving a family's request to move under portability, the initial PHA must contact the receiving PHA via email or other confirmed delivery method to determine whether the receiving PHA will administer or absorb the family's voucher. Based on the receiving PHA's response, the initial PHA must determine whether it will approve or deny the move.

5801.29 DCHA will use email, when possible, to contact the receiving PHA regarding whether the receiving PHA will administer or absorb the family's voucher.

5801.30 After approving a family's request to move under portability, the initial PHA must promptly notify the receiving PHA via email or other confirmed delivery method to expect the family. The initial PHA must also advise the family how to contact and request assistance from the receiving PHA.

5801.31 Because the portability process is time sensitive, DCHA will notify the receiving PHA by phone, fax, or email to expect the family. The initial PHA will also ask the receiving PHA to provide any information the family may need upon arrival, including the name, fax, email address, and telephone number of the staff person responsible for business with incoming portable families and procedures related to appointments for voucher issuance. DCHA will pass this information along to the family. DCHA will also ask for the name, address, telephone number, fax and email of the person responsible for processing the billing information.

5801.32 The initial PHA is required to send the receiving PHA the following documents:

(a) Form HUD-52665, Family Portability Information, with Part I filled out;

(b) A copy of the family's voucher;

(c) A copy of the family's most recent form HUD-50058, Family Report, or, if necessary in the case of an applicant family, family and income information in a format similar to that of form HUD-50058; and

(d) Copies of the income verifications backing up the form HUD-50058, including a copy of the family's current EIV data.

In addition to these documents, DCHA will provide the following information, if available, to the receiving PHA: Social security numbers (SSNs)

5801.33 DCHA will notify the family in writing regarding any information provided to the receiving PHA.

5801.34 The deadline for submission of initial billing is ninety (90) days following the expiration date of the voucher issued to the family by the initial PHA. In cases where suspension of the voucher delays the initial billing submission, the receiving PHA must notify the initial PHA of delayed billing before the billing deadline and document the delay is due to the suspension. In this case, the initial PHA must extend the billing deadline by thirty (30) days.

5801.35 If the initial PHA does not receive a billing notice by the deadline and does not intend to honor a late billing submission, it must notify the receiving PHA in writing. The initial PHA may report to HUD the receiving PHA's failure to comply with the deadline.

5801.36 If the initial PHA will honor the late billing, no action is required.

5801.37 The initial PHA's decision as to whether to accept late billing will be based on internal PHA factors, including the initial PHA's leasing or funding status. If DCHA has not received an initial billing notice from the receiving PHA within the billing deadline and does not intend to honor the late billing, it will contact the receiving PHA to inform them that it will not honor a late billing submission and will return any subsequent billings that it receives on behalf of the family. In this case, DCHA will send the receiving PHA a written confirmation of its decision by email or efax.

5801.38 Among other considerations as to whether to accept late billing will be if the family includes a person with disabilities and the late billing is a result of a reasonable accommodation granted to the family by the receiving PHA.

5801.39 If the receiving PHA is administering the family's voucher, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. When reimbursing for administrative fees, the initial PHA must promptly reimburse the receiving PHA for the lesser of eighty percent (80%) of the initial PHA ongoing administrative fee or one hundred percent (100%) of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the

proration will apply to the amount of the administrative fee for which the receiving PHA may bill.

5801.40 The initial PHA is responsible for making billing payments in a timely manner. The first billing amount is due within thirty (30) calendar days after the initial PHA receives Part II of form HUD-52665 from the receiving PHA. Subsequent payments must be received by the receiving PHA no later than the fifth (5^{th}) business day of each month. The payments must be provided in a form and manner that the receiving PHA is able and willing to accept.

5801.41 The initial PHA may not terminate or delay making payments under existing portability billing arrangements because of over leasing or funding shortfalls. DCHA must manage its tenant-based program in a manner that ensures that it has the financial ability to provide assistance for families that move out of its jurisdiction under portability and are not absorbed by receiving PHAs as well as for families that remain within its jurisdiction.

5801.42 The initial PHA will utilize direct deposit to ensure that the payment is received by the deadline unless the receiving PHA notifies the initial PHA that direct deposit is not acceptable to them.

5801.43 If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire thirty (30) calendar days from the new expiration date of the initial PHA's voucher.

5801.44 If the initial PHA is being billed on behalf of a portable family, it should receive an updated form HUD-50058 each year from the receiving PHA. If the initial PHA fails to receive an updated 50058 by the family's annual reexamination date, the initial PHA should contact the receiving PHA to verify the status of the family. The initial PHA must continue paying the receiving PHA based on the last form HUD-50058 received, unless instructed otherwise by HUD. The initial PHA may seek absorption of the vouchers by following steps outlined in Notice PIH 2016-09.

5801.45 At any time, either the initial PHA or the receiving PHA may decide to deny or terminate assistance with the family.

5801.46 If a family has a right to lease a unit in the receiving PHA's jurisdiction under portability, the receiving PHA must provide assistance for the family. HUD may determine in certain instances that a PHA is not required to accept incoming portable families, such as a PHA in a declared disaster area. However, DCHA must have approval in writing from HUD before refusing any incoming portable families.

5801.47 Administration of the voucher must be in accordance with the receiving PHA's policies. This requirement also applies to policies of Moving to Work agencies.

The receiving PHA procedures and preferences for selection among eligible applicants do not apply to the family, and the receiving PHA waiting list is not used. The family's unit, or voucher, size is determined in accordance with the subsidy standards of the receiving PHA, and the receiving PHA's policies on extensions of the voucher term apply.

5801.48 The receiving PHA must respond via email or other confirmed delivery method to the initial PHA's inquiry to determine whether the family's voucher will be billed or absorbed. If the receiving PHA informs the initial PHA that it will be absorbing the voucher, the receiving PHA cannot reverse its decision later without consent of the initial PHA.

5801.49 DCHA will use email or eFax, when possible, to notify the initial PHA whether it will administer or absorb the family's voucher.

5801.50 Under the authority granted to DCHA under its Moving to Work status, DCHA does not administer the Family Self-Sufficiency (FSS) Program for port-in families. Therefore, DCHA will also notify the initial PHA that the initial PHA should address the status of an FSS family's escrow account.

5801.51 When a family moves into DCHA's jurisdiction under portability, the family is responsible for promptly contacting DCHA and complying with DCHA's procedures for incoming portable families. The family's failure to comply may result in denial or termination of the receiving PHA's voucher.

5801.52 If the voucher issued to the family by the initial PHA has expired, the receiving PHA must contact the initial PHA to determine if it will extend the voucher. An informal hearing is not required when a voucher has expired without the family leasing a unit.

5801.53 If for any reason the receiving PHA refuses to process or provide assistance to a family under the portability procedures, the family must be given the opportunity for an informal review or hearing.

5801.54 HUD allows the receiving PHA to require a briefing for an incoming portable family if the requirement does not unduly delay the family's search.

5801.55 DCHA requires the family to attend a virtual briefing. DCHA will provide the family with a briefing packet and inform the family about DCHA's payment and subsidy standards, procedures for requesting approval of a unit, the unit inspection process, and the leasing process.

5801.56 The receiving PHA does not redetermine eligibility for a portable family that was already receiving assistance in the initial PHA's voucher program. If the receiving PHA opts to conduct a new reexamination for a current participant family, the

receiving PHA may not delay issuing the family a voucher or otherwise delay approval of a unit.

5801.57 For any family moving into its jurisdiction under portability, DCHA will not conduct a new reexamination of family income and composition. The effective date of the HAP Contract/lease is the family's anniversary date.

5801.58 When a family moves into its jurisdiction under portability, the receiving PHA is required to issue the family a voucher. The family must submit a request for tenancy approval to the receiving PHA during the term of the receiving PHA's voucher.

5801.59 HUD expects the receiving PHA to issue the voucher within two weeks after receiving the family's paperwork from the initial PHA if the information is in order, the family has contacted the receiving PHA, and the family complies with the receiving PHA's procedures.

5801.60 When a family ports into its jurisdiction, DCHA will issue the family a voucher based on the paperwork provided by the initial PHA unless the family's paperwork from the initial PHA is incomplete, the family's voucher from the initial PHA has expired or the family does not comply with DCHA's procedures.

5801.61 The term of the receiving PHA's voucher may not expire 30 calendar days from the expiration of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher may not expire before thirty (30) days from the new expiration date of the initial PHA's voucher.

5801.62 The receiving PHA's voucher will expire thirty (30) calendars days from the expiration date of the initial PHA's voucher. If the initial PHA extends the term of the voucher, the receiving PHA's voucher will expire thirty (30) calendar days from the new expiration date of the initial PHA's voucher.

5801.63 Once the receiving PHA issues the portable family a voucher, the receiving PHA's policies on extensions of the voucher term apply. The receiving PHA must inform the initial PHA of any extension granted to the term of the voucher. It must also bear in mind the billing deadline provided by the initial PHA. Unless willing and able to absorb the family, the receiving PHA should ensure that any voucher expiration date would leave sufficient time to process a request for tenancy approval, execute a HAP contract, and deliver the initial billing to the initial PHA.

5801.64 DCHA generally will not extend the term of the voucher that it issues to an incoming portable family unless DCHA plans to absorb the family into its own program, in which case it will follow the policies on voucher extension set forth in Section 5-II.E.

5801.65 DCHA will consider an exception to this policy as reasonable accommodation to a person with disabilities.

5801.66 If the family submits a request for tenancy approval during the term of the receiving PHA's voucher, DCHA must suspend the term of that voucher. The term of the voucher stops from the date that the family submits a request for PHA approval of the tenancy until the date DCHA notifies the family in writing whether the request has been approved or denied.

5801.67 The receiving PHA must promptly notify the initial PHA if the family has leased an eligible unit under the program or if the family fails to submit a request for tenancy approval for an eligible unit within the term of the receiving PHA's voucher. The receiving PHA is required to use Part II of form HUD-52665, Family Portability Information, for this purpose.

5801.68 If an incoming portable family ultimately decides not to lease in the jurisdiction of the receiving PHA but instead wishes to return to the initial PHA's jurisdiction or to search in another jurisdiction, the receiving PHA must refer the family back to the initial PHA. In such a case the voucher of record for the family is once again the voucher originally issued by the initial PHA. Any extension of search time provided by the receiving PHA's voucher is only valid for the family's search in the receiving PHA's jurisdiction.

5801.69 To cover assistance for a portable family that was not absorbed, the receiving PHA bills the initial PHA for housing assistance payments and administrative fees. The amount of the housing assistance payment for a portable family in the receiving PHA's program is determined in the same manner as for other families in the receiving PHA's program.

5801.70 The receiving PHA may bill the initial PHA for the lesser of eighty percent (80%) percent of the initial PHA's ongoing administrative fee or one hundred percent (100%) of the receiving PHA's ongoing administrative fee for each program unit under contract on the first day of the month for which the receiving PHA is billing the initial PHA under portability. If the administrative fees are prorated for the HCV program, the proration will apply to the amount of the administrative fee for which the receiving PHA may bill (i.e., the receiving PHA may bill for the lesser of eighty percent (80%) of the initial PHA's prorated ongoing administrative fee or one hundred percent (100%) of the receiving PHA's ongoing administrative fee).

5801.71 If both PHAs agree, DCHAs may negotiate a different amount of reimbursement.

5801.72 Unless DCHA negotiates a different amount of reimbursement with the initial PHA, DCHA will bill the initial PHA the maximum amount of administrative fees allowed, ensuring any administrative fee proration has been properly applied.

5801.73 If a portable family's search for a unit is successful and the receiving PHA intends to administer the family's voucher, the receiving PHA must submit its initial billing notice (Part II of form HUD-52665) in time that the notice will be received no later than ninety (90) days following the expiration date of the family's voucher issued by the initial PHA. This deadline may be extended for thirty (30) additional days if the delay is due to suspension of the voucher's term. A copy of the family's form HUD-50058, Family Report, completed by the receiving PHA must be attached to the initial billing notice. The receiving PHA may send these documents by mail, fax, or email.

5801.74 DCHA will send its initial billing notice by eFax or email to meet the billing deadline.

5801.75 If the receiving PHA fails to send the initial billing by the deadline, it is required to absorb the family into its own program unless:

(a) The initial PHA is willing to accept the late submission; or

(b) HUD requires the initial PHA to honor the late submission (e.g., because the receiving PHA is over leased).

5801.76 The receiving PHA must send the initial PHA a copy of a portable family's updated form HUD-50058 after each annual reexamination for the duration of time the receiving PHA is billing the initial PHA on behalf of the family, regardless of whether there is a change in the billing amount.

5801.77 DCHA will send a copy of the updated HUD-50058 by regular mail no later than ten (10) business days after the effective date of the reexamination.

5801.78 The receiving PHA is required to notify the initial PHA, using form HUD-52665, of any change in the billing amount for the family because of:

(a) A change in the HAP amount (because of a reexamination, a change in the applicable payment standard, a move to another unit, etc.);

(b) An abatement or subsequent resumption of the HAP payment;

(c) Termination of the HAP contract;

(d) Payment of a damage/vacancy loss claim for the family; or

(e) Termination of the family from the program.

5801.79 The timing of the notice of the change in the billing amount should correspond with the notification to the owner and the family to provide the initial PHA with advance notice of the change. Under no circumstances should the notification be

later than 10 business days following the effective date of the change in the billing amount. If the receiving PHA fails to send Form HUD-52665 within ten (10) days of effective date of billing changes, the initial PHA is not responsible for any increase prior to notification. If the change resulted in a decrease in the monthly billing amount, the initial PHA will offset future monthly payments until the difference is reconciled.

5801.80 If the initial PHA fails to make a monthly payment for a portable family by the fifth business day of the month, the receiving PHA must promptly notify the initial PHA in writing of the deficiency. The notice must identify the family, the amount of the billing payment, the date the billing payment was due, and the date the billing payment was received (if it arrived late). The receiving PHA must send a copy of the notification to the Office of Public Housing (OPH) in the HUD area office with jurisdiction over the receiving PHA. If the initial PHA fails to correct the problem by the second month following the notification, the receiving PHA may request by memorandum to the director of the OPH with jurisdiction over the receiving PHA that HUD transfer the unit in question. A copy of the initial notification and any subsequent correspondence between DCHAs on the matter must be attached. The receiving PHA must send a copy of the memorandum to the initial PHA. If the OPH decides to grant the transfer, the billing arrangement on behalf of the family ceases with the transfer, but the initial PHA is still responsible for any outstanding payments due to the receiving PHA.

5801.81 In all cases where the receiving PHA has received billing payments for billing arrangements no longer in effect, the receiving PHA is responsible for returning the full amount of the overpayment (including the portion provided for administrative fees) to the initial PHA.

5801.82 In the event that HUD determines billing payments have continued for at least three months because the receiving PHA failed to notify the initial PHA that the billing arrangement was terminated, the receiving PHA must take the following steps:

(a) Return the full amount of the overpayment, including the portion provided for administrative fees, to the initial PHA; and

(b) Once full payment has been returned, notify the Office of Public Housing in the HUD area office with jurisdiction over the receiving PHA of the date and the amount of reimbursement to the initial PHA.

5801.83 At HUD's discretion, the receiving PHA will be subject to the sanctions spelled out in Notice PIH 2016-09.

5801.84 At any time, the receiving PHA may decide to deny or terminate assistance to a portable family for family action or inaction.

5801.85 In the case of a termination, DCHA should provide adequate notice of the effective date to the initial PHA to avoid having to return a payment. In no event should the receiving PHA fail to notify the initial PHA later than ten (10) business days following the effective date of the termination of the billing arrangement.

5801.86 If DCHA elects to deny or terminate assistance for a portable family, DCHA will notify the initial PHA within ten (10) business days after the informal review or hearing if the denial or termination is upheld. The receiving PHA will furnish the initial PHA with a copy of the review or hearing decision.

5801.87 The receiving PHA may absorb an incoming portable family into its own program when DCHA executes a HAP contract on behalf of the family or at any time thereafter providing that DCHA has funding available under its annual contributions contract (ACC).

5801.88 If the receiving PHA absorbs a family from the point of admission, the admission will be counted against the income targeting obligation of the receiving PHA.

5801.89 If the receiving PHA absorbs a family after aiding the family under a billing arrangement with the initial PHA, the receiving PHA must send an updated form HUD-52665 to the initial PHA no later than ten (10) business days following the effective date of the termination of the billing arrangement.

5801.90 If DCHA decides to absorb a portable family upon the execution of a HAP contract on behalf of the family, DCHA will notify the initial PHA by the initial billing deadline specified on form HUD-52665. The effective date of the HAP contract will be the effective date of the absorption.

5801.91 If DCHA decides to absorb a family after that, it will provide the initial PHA with thirty (30) days' advance notice, but no later than ten (10) business days following the effective date of the termination of the billing arrangement.

5801.92 Following the absorption of an incoming portable family, the family is assisted with funds available under the consolidated ACC for the receiving PHA's voucher program, and the receiving PHA becomes the initial PHA in any subsequent moves by the family under portability.

Chapter 59, DEFINITIONS, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 59

REEXAMINATIONS – HOUSING CHOICE VOUCHERS AND PROJECT-BASED VOUCHERS

5900 REGULAR REEXAMINATIONS

5900.1 Once an applicant becomes a participating household under the HCV or Project Based Voucher (PBV) programs, their eligibility for continued participation and their contribution towards rent, otherwise known as the "Total Tenant Payment", is reevaluated periodically.

5900.2 Under the authority granted to DCHA under its Moving to Work agreement with HUD, DCHA conducts triennial (every three (3) years) and biennial (every two (2) years) reexaminations.

5900.3 As part of the reexamination process, families are required to provide updated information to DCHA regarding the family's income, assets, deductions, expenses, and composition. A family's failure to comply with DCHA's reexamination process is grounds for terminating assistance.

5900.4 DCHA conducts triennial reexaminations for families with fixed incomes.

5900.5 For households that do not qualify for triennial reexaminations, DCHA conducts biennial reexaminations.

5900.6 DCHA initiates the reexamination process one hundred fifty (150) days before the scheduled effective date. Generally, DCHA will endeavor to schedule effective dates to coincide with the family's anniversary date, which is twenty-four (24) or thirty-six (36) months from the family's last annual examination or the family's initial examination, as applicable. However, DCHA may schedule reexaminations for a date other than the family's anniversary date for administrative purposes.

5900.7 Families will be notified electronically or by mail regarding the biennial/triennial reexamination requirements. The notice shall:

(a) Inform families of all the information that is required to be submitted to the DCHA as a condition for continuing participation in the program including but not limited to a DCHA reexamination form, an Authorization for Release of Information/Privacy Act Notice, and supporting documents and forms relating to the family's income, assets, deduction, expenses, and family composition; and

(b) Require such information by a specified date.

5900.8 If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the family does not provide the required documents or information within the required time period (plus any extensions), the family will be sent a notice of termination.

5900.9 If adding a new family member to the unit causes overcrowding according to the HQS, the DCHA is required to issue the family a new voucher, and the family and DCHA must try to find an acceptable unit as soon as possible. If an acceptable unit is available for rental by the family, DCHA must terminate the HAP contract per its terms.

5900.10 In general, an increase in the family share of the rent that results from a biennial/triennial reexamination will take effect on the family's anniversary date, and the family will be notified at least thirty (30) days in advance.

(a) If less than thirty (30) days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the thirty (30) day notice period.

(b) If a family moves to a new unit, the increase will take effect on the effective date of the new lease and HAP contract, and no thirty (30) day notice is required.

(c) If DCHA chooses to schedule a reexamination for completion before the family's anniversary date for administrative purposes, the effective date will be determined by DCHA, but will always allow for the thirty (30) day notice period.

(d) If the family causes a delay in processing the biennial/triennial reexamination, increases in the family share of the rent will be applied retroactively to the scheduled effective date of the reexamination. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement.

5900.11 In general, a decrease in the family share of the rent that results from a biennial/triennial reexamination will take effect on the family's anniversary date.

(a) If a family moves to a new unit, the decrease will take effect on the effective date of the new lease and HAP contract.

(b) If DCHA chooses to schedule a reexamination for completion before the family's anniversary date for administrative purposes, the effective date will be determined by DCHA.

(c) If the family causes a delay in processing the reexamination, *decreases* in the family share of the rent will be applied prospectively, from the first day of the month following the completion of the reexamination processing.

5900.12 Delays in reexamination processing are caused by the family if the family fails to provide the information requested by DCHA by the date specified, and this delay prevents DCHA from completing the reexamination as scheduled.

5901 INTERIM REEXAMINATIONS

5901.1 DCHA conducts interim reexaminations of family income and composition outside of the triennial and biennial schedule in the following cases:

(a) There have been changes to the family and household composition;

(b) There have been changes that affect a family's income or expenses;

(c) The participant requests an interim reexamination; and

(d) DCHA determines an interim reexamination is warranted.

5901.2 Households are required to report with supporting documentation all changes in income and household composition within ten (10) days of the date of such change. Households that report a change in income or household composition that is incomplete will be advised to forward written documentation as appropriate. DCHA uses all available resources (HUD EIV and IVT) to obtain an accurate representation of a participant's income and will analyze and verify all information included in the recertification (including income discrepancies such as unreported and underreported income). DCHA will contact the participant to address any income discrepancies. If DCHA does not receive the participant's response to the inquiry regarding the income discrepancy within ten (10) days of the request for additional information, it will commence termination of subsidy proceedings against the participant.

5901.3 In the case of an interim reexamination related to changes in family and household composition, requests to add a family member, other than through birth, adoption, court-ordered custody awards, or changes in household composition pursuant to 14 DCMR §5120, must be submitted in writing and approved by DCHA prior to the person moving into the unit. DCHA will endeavor to make its determination within fourteen (14) business days of receiving all information required to verify the individual's eligibility. When a new family or household member is added, DCHA must conduct a reexamination to determine if any new income or deductions are associated with the proposed new household member.

(a) DCHA will determine the eligibility of the new member. Based on that information, the DCHA will make appropriate adjustments to the household's total tenant payment and HAP payment.

(b) DCHA will not add a new adult to the family if doing so will result in an increase in family unit size (voucher size). This restriction does not apply to minor children, including the minor children of a newly added adult family member or children permitted by 14 DCMR §5120. Exceptions will be made on a case-by-case basis for purposes of reasonable accommodation.

(c) DCHA will not approve the addition of a foster child or foster adult if it will cause a violation of HQS space standards.

(d) If DCHA determines an individual meets DCHA eligibility criteria and documentation requirements, DCHA shall provide written approval to the family. If the approval of a new family member or live-in aide will cause overcrowding according to HQS standards, the approval letter will explain that the family will be issued a voucher and will be required to move.

(e) If DCHA determines that an individual does not meet DCHA's eligibility criteria or documentation requirements, DCHA will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

(f) Families must also obtain the owner's approval to add a new family or household member other than in cases of birth, adoption, the award of the custody of a child by a court, or child permitted to reside in the unit pursuant to 14 DCMR §5120.3.

5901.4 Families must promptly notify DCHA if any family member no longer lives in their unit. Because household members are considered when determining the family unit (voucher) size, the DCHA also needs to know when any live-in aide, foster child, or foster adult ceases to reside in the unit. If a household member ceases to reside in the unit, the family must inform DCHA within ten (10) business days. This requirement also applies to:

(1) a family member who has been considered temporarily absent at the point that the family concludes the individual is permanently absent.

(2) a minor child permitted to live in the unit pursuant to 14 DCMR §5120.4.

5901.5 DCHA initiates interim reexaminations at any time to correct errors in the initial examination or a previous reexamination, investigate a tenant fraud complaint,

address a multiple subsidy report, and for other reasons deemed appropriate by DCHA.

5901.6 DCHA conducts interim reexaminations in each of the following instances:

(a) If the family has reported zero income, DCHA will conduct an interim reexamination every six (6) months as long as the family continues to report that they have no income. Zero income families are families with zero annual income, as calculated under HUD rules. *Example*: A family's only source of income is food stamps. Food stamps are excluded from annual income. This is a zero income family;

(b) If at the time of the biennial/triennial reexamination, it is not feasible to anticipate a level of income for the next twelve (12) months (e.g. seasonal or cyclic income), DCHA will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income;

(c) If at the time of the biennial/triennial reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, DCHA will conduct an interim reexamination; and

(d) If at the time of the biennial/triennial reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, DCHA will conduct an interim reexamination.

5901.7 Zero Income families are required to report all increases in income between biennial/triennial reexaminations.

(a) Other than Zero income families, families are not required to report increases in income between biennial/triennial reexaminations.

(b) DCHA only conducts interim reexaminations for zero income families reporting an increase in income.

(c) Families are not required to report any other changes in income or expenses.

5901.8 The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination. DCHA must process the request if the family reports a change that will result in a reduced family income.

(a) If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced.

(b) If a family reports a change that it was not required to report and that would result in an increase in the family share of the rent, DCHA will note the information in the tenant file, but will not conduct an interim reexamination.

(c) If a family reports a change that it was not required to report and that would result in a decrease in the family share of the rent, DCHA will conduct an interim reexamination.

(d) Families may report changes in income or expenses at any time.

5901.9 The family must notify DCHA of changes in writing. If the family provides oral notice, DCHA will also require the family to submit the changes in writing. The family will not be required to attend an interview for an interim reexamination. Based on the type of change reported, DCHA will determine the documentation the family will be required to submit. The family must submit any required information or documents within ten (10) business days of receiving a request from DCHA. This time frame may be extended for good cause with DCHA approval. The DCHA will accept required documentation by mail, by email, in person, or through DCHA's portal.

5901.10 DCHA has determined that the effective dates for changes required due to an interim reexamination are as follows:

(a) If the family share of the rent is to increase:

(1) The increase generally will be effective on the first of the month following thirty (30) days' notice to the family.

(2) If a family fails to report a change within the required time frames or fails to provide all required information within the required time frames, the increase will be applied retroactively to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any overpaid subsidy and may be offered a repayment agreement.

(b) If the family share of the rent is to decrease, then the decrease will be effective on the first day of the month following the month in which the change was reported, and all required documentation was submitted. In cases where the change cannot be verified until after the

date the change would have become effective, the change will be made retroactively.

5902 RECALCULATING FAMILY SHARE AND SUBSIDY AMOUNT

5902.1 After gathering and verifying the required information for an annual or interim reexamination, DCHA must recalculate the family share of the rent and the subsidy amount, and notify the family and owner of the changes. This § 5902 lays out policies that affect these calculations during a reexamination.

5902.2 To calculate the family share of the rent and HAP amount correctly, changes in payment standards, subsidy standards, or utility allowances may need to be updated and included in the DCHA's calculations.

5902.3 The family share of the rent and HAP calculations must use the correct payment standard for the family, taking into consideration the family unit size, the size of the unit, and the area in which the unit is located.

5902.4 When DCHA changes its payment standards or the family's situation changes, new payment standards are applied at the following times:

(a) If the DCHA's payment standard amount changes during the term of the HAP contract, the date on which the new standard is applied depends on whether the standard has increased or decreased:

(1) If the payment standard amount has increased, the increased payment standard will be applied at the first annual reexamination following the effective date of the increase in the payment standard.

(2) If the payment standard amount has decreased, during the term of a HAP contract, DCHA is not required to reduce the payment standard if the HAP contract remains in effect. At the family's second annual reexamination, DCHA may, but is not required to, apply the decreased payment standard or may gradually implement the reduced payment standard.

(b) If the family moves to a new unit, or a new HAP contract is executed due to changes in the lease (even if the family remains in place) the current payment standard applicable to the family will be used when the new HAP contract is processed.

5902.5 If there is a change in the family unit size that would apply to a family during the HAP contract term, either due to a change in family composition, or a change in DCHA's subsidy standards, the new family unit size must be used to determine

the payment standard amount for the family at the family's first annual reexamination following the change in family unit size.

5902.6 The family share of the rent and HAP calculations must reflect any changes in the family's utility arrangement with the owner, or the DCHA's utility allowance schedule.

5902.7 When there are changes in the utility arrangement with the owner, DCHA must use the utility allowances in effect at the time the new lease and HAP contract are executed.

5902.8 At reexamination, revised utility allowances will be applied to a family's rent and subsidy calculations at the first biennial/triennial reexamination after the allowance is adopted.

5902.9 DCHA must notify the owner and family of any changes in the amount of the HAP payment. The notice must include the following information:

(a) The amount and effective date of the new HAP payment;

(b) The amount and effective date of the new family share of the rent; and

(c) The amount and effective date of the new tenant rent to the owner.

5902.10 The family must be given an opportunity for an informal hearing regarding DCHA's determination of their annual or adjusted income, and the use of such income to compute the housing assistance payment.

(a) The notice to the family will include the annual and adjusted income amounts that were used to calculate the family share of the rent and the housing assistance payment.

(b) The notice will state the family has the right to request an explanation of how the assistance was calculated and if the family disagrees, they have the right to an informal hearing. The notice will include the procedures for requesting an informal hearing.

5902.11 During an annual or interim reexamination, DCHA may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, DCHA may discover errors made by the DCHA. When errors resulting in the overpayment or underpayment of subsidy are discovered, corrections will be made.

Chapter 76, HOUSING CHOICE VOUCHER PROGRAM: WAITING LISTS, LOCAL PREFERENCES, AND APPLICANT SELECTION, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 76

TERMINATION OF ASSISTANCE AND TENANCY

7600 TERMINATION OF HCV ASSISTANCE – EVICTION

7600.1 DCHA shall terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease.

7600.2 A family will be considered evicted if the family moves after a legal eviction order has been issued, whether physical enforcement of the order was necessary.

7600.3 If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory.

7600.4 In such cases DCHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any alternative measures.

7600.5 In making its decision, DCHA will consider the factors described in § 7611 and § 7613. Upon consideration of such factors, DCHA may, on a case-by-case basis, choose not to terminate assistance.

7600.6 For purposes of this § 7600, "serious and repeated lease violations" will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether or not the reason for the eviction was the fault of the tenant or guests.

7601 TERMINATION OF HCV ASSISTANCE – FAILURE TO PROVIDE REQUIRED INFORMATION

7601.1 DCHA must terminate assistance if a participant family:

(a) Does not sign and submit any consent form or to provide required documentation they are required to submit for a regular or interim reexamination;

(b) Fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status;

(c) Does not produce evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family;

(d) Knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit. In this case, such termination must be for a period of at least twenty-four (24) months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated; or

(e) Does not disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number. DCHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of ninety (90) calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

7602 TERMINATION OF HCV ASSISTANCE – METHAMPHETAMINE CONVICTION

7602.1 DCHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

7603 TERMINATION OF HCV ASSISTANCE – REGISTERED SEX OFFENDERS

7603.1 If DCHA discovers that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, DCHA must immediately terminate assistance for the household member.

7603.2 In this situation, DCHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, DCHA must terminate assistance for the household.

7604 TERMINATION OF HCV ASSISTANCE – CERTAIN FULL TIME STUDENTS

7604.1 If a student enrolled at an institution of higher education is under the age of twenty-four (24), is not a veteran, is not married, does not have dependent

children, is not residing with their parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, DCHA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

7604.2 If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated but must be issued a voucher to move with continued assistance in accordance with program regulations and DCHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

7605 TERMINATION OF HCV ASSISTANCE – DEATH

7605.1 DCHA must immediately terminate program assistance for deceased single member households.

7606 TERMINATION OF HCV ASSISTANCE – CERTAIN DRUG & ALCOHOL USE

7606.1 DCHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

7606.2 DCHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents. "Currently engaged in" is defined as any use of illegal drugs during the previous three months.

7606.3 DCHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

7606.4 A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

7606.5 In making its decision to terminate assistance, DCHA will consider alternatives and other factors described in § 7611 and § 7613. Upon consideration of such alternatives and factors, DCHA may, on a case-by-case basis, choose not to terminate assistance.

7606.6 For purposes of this section, the following definitions apply:

(a) "Drug" means a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. §802).

(b) "Drug-related criminal activity" is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

(c) "Violent criminal activity" means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

7607 TERMINATION OF HCV ASSISTANCE – OTHER GROUNDS

7607.1 DCHA shall terminate HCV assistance in the following instances:

(a) The family has failed to comply with any family obligations under the program.

(b) Any family member has been evicted from federally assisted housing in the last five (5) years.

(c) Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

(d) The family currently owes rent or other amounts to DCHA or any DCHA in connection with Section 8 or public housing assistance under the 1937 Act.

(e) The family has not reimbursed DCHA or any DCHA for amounts the DCHA or any DCHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

(f) The family has breached the terms of a repayment agreement entered into with DCHA.

(g) A family member has engaged in or threatened violent or abusive behavior toward DCHA personnel. "Abusive or violent behavior towards DCHA personnel" includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior. "Threatening" refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

(h) If the family is absent from the unit for more than one hundred eighty (180) consecutive calendar days. In this case "absence" means no member of the family is residing in the unit.

(i) In making its decision to terminate assistance, DCHA may consider alternatives as described in § 7613 and other factors described in § 7611. Upon consideration of such alternatives and factors, DCHA may, on a case-by-case basis, choose not to terminate assistance.

7608 TERMINATION OF HCV ASSISTANCE – INSUFFICIENT FUNDS

7608.1 DCHA may terminate HAP contracts it determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

7608.2 DCHA shall determine whether there is sufficient funding to pay for currently assisted families. If DCHA determines there is a shortage of funding, prior to terminating any HAP contracts, DCHA will determine if any other actions can be taken to reduce program costs.

7608.3 In the event that DCHA decides to stop issuing vouchers as a result of a funding shortfall, and DCHA is not assisting the required number of special purpose vouchers (NED families, HUD-Veterans Affairs Supportive Housing (VASH) families, and family unification program (FUP) families), when DCHA resumes issuing vouchers, DCHA will issue vouchers first to the special purpose voucher families on its waiting list until it has reached the required number of special purpose vouchers, when applicable.

7608.4 If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, DCHA will terminate HAP contracts as a last resort.

7608.5 Prior to terminating any HAP contracts, DCHA will inform the local HUD field office. DCHA will terminate the minimum number needed in order to reduce HAP costs to a level within the DCHA's annual budget authority.

7608.6 If DCHA must terminate HAP contracts due to insufficient funding, DCHA will do so in accordance with the following criteria and instructions:

(a) Families who have been assisted in the HCV program the longest will be the first to be terminated, excluding families that include elderly or disabled family members; and

(b) Families comprising the required number of special purpose vouchers, including nonelderly disabled (NED), HUD-Veteran's Affairs Supportive Housing (HUD-VASH), and family unification program (FUP) will be the last to be terminated.

7609 APPROACH TO TERMINATION OF ASSISTANCE

7609.1 Termination of assistance for a participant may include any or all of the following:

(a) Terminating housing assistance payments under a current HAP contract;

(b) Refusing to enter into a new HAP contract or approve a lease; or

(c) Refusing to process a request for or to provide assistance under portability procedures.

7609.2 As a condition of continued assistance, DCHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit. As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon DCHA's request.

7609.3 If a family owes amounts to the DCHA, as a condition of continued assistance, DCHA shall require the family to repay the full amount or to enter into a repayment agreement, within thirty (30) days of receiving notice from DCHA of the amount owed.

7609.4 DCHA shall terminate assistance if a "preponderance of the evidence" indicates that a household member has engaged in criminal activity, regardless of whether the household member has been arrested or convicted. "Preponderance of the evidence" is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

7610 USE OF CONVICTION REGULATIONS AFTER ADMISSION TO PROGRAM

7610.1 HUD regulations do not permit DCHA to access records held by federal law enforcement agencies for lease enforcement and eviction of HCV participants and excludes by omission DCHA's use of records to terminate assistance for participants.

7610.2 The limitations to accessing and using those record, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR §5.902(b)). There is no prohibition that bars DCHA from using non-federal sources to conduct criminal background checks of program participants.

7611 CONSIDERATIONS OF CIRCUMSTANCES

7611.1 DCHA may, at its discretion, consider all relevant circumstances when determining whether a family's assistance should be terminated including:

(a) The seriousness of the case, especially with respect to how it would affect other residents' safety or property;

(b) The effects that termination of assistance may have on other members of the family who were not involved in the action or failure to act;

(c) The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or a victim of domestic violence, dating violence, sexual assault or stalking;

(d) The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future; and

(e) While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant engaged in disqualifying criminal activity. As part of its investigation, DCHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The DCHA may also consider:

(1) Any statements made by witnesses or the participant not included in the police report;

(2) Whether criminal charges were filed;

(3) Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal;

(4) Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity;

(5) Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property;

(6) In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. DCHA will require

the participant 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; and

(7) In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family.

7611.2 If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, DCHA shall determine whether the behavior is related to the disability.

7611.3 If so, upon the family's request, DCHA will determine whether alternative measures are appropriate as reasonable accommodation. DCHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance.

7612 VAWA-RELATED CONSIDERATIONS FOR TERMINATION OF ASSISTANCE

7612.1 VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking.

(a) First, VAWA provides that DCHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to DCHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and who reasonably believed they were imminently threatened by harm from further violence if they remained in the unit;

(b) Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim;

(c) Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault or stalking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, or stalking; and

(d) Fourth, it gives DCHA the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence.

7612.2 VAWA does not limit the authority of DCHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault or stalking so long as DCHA does not subject the victim to a more demanding standard than it applies to other program participants.

7612.3 VAWA does not limit the authority of DCHA to terminate the assistance of victim of domestic violence, dating violence, sexual assault or stalking if DCHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance.

7612.4 HUD regulations define "actual and imminent threat" to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

(a) The duration of the risk;

(b) The nature and severity of the potential harm;

(c) The likelihood that the potential harm will occur; and

(d) The length of time before the potential harm would occur.

7612.5 In order to demonstrate an actual and imminent threat, DCHA must have objective evidence of words, gestures, actions, or other indicators.

7612.6 Even when a victim poses an actual and imminent threat, however, HUD regulations authorize DCHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat."

7612.7 In determining whether a program participant who is a victim of domestic violence, dating violence, sexual assault or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, DCHA will consider the following, and any other relevant, factors:

(a) Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault or stalking;

(b) Whether the threat is a physical danger beyond a speculative threat;

(c) Whether the threat is likely to happen within an immediate time frame; and

(d) Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location or seeking a legal remedy to prevent the perpetrator from acting on the threat.

7612.8 If the participant wishes to contest DCHA's determination that they are an actual and imminent threat to other tenants or employees, the participant may do so as part of the informal hearing.

7612.9 When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault or stalking claims protection under VAWA, the DCHA will request that the individual provide documentation supporting the claim in accordance.

7612.10 DCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases DCHA will document the waiver.

7612.11 VAWA does not provide such protection for perpetrators of domestic violence. VAWA gives DCHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others" without terminating assistance to "or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant."

7612.12 DCHA will terminate assistance to a family member if DCHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

7612.13 In making its decision, DCHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to DCHA by the victim in accordance with this § 7612. Upon such consideration, DCHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

7612.14 If DCHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this § 7600.

7612.15 Whenever a family's assistance will be terminated, DCHA shall:

(a) Issue a written notice of termination to the family and to the owner that states the date the termination will take effect, which generally shall be 30 days from the issuance of the notice, but DCHA may make exceptions when HUD rules or the circumstances require;

(b) Send a form HUD-5382 and form HUD-5380 to the family with the termination notice; and

(c) Advise the owner of their right to offer the family a separate, unassisted lease.

7612.16 If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination must include VAWA information and a form HUD-5382 and form HUD-5380. DCHA will request in writing that a family member wishing to claim protection under VAWA notify the DCHA within fourteen (14) business days.

7612.17 Other notice requirements apply in two (2) situations:

(a) If a criminal record is the basis of a family's termination, the DCHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record; and

(b) If immigration status is the basis of a family's termination the special notice requirements in § 7612 must be followed.

7613 TERMINATION OF TENANCY BY THE OWNER

7613.1 Termination of an assisted tenancy is a matter between the owner and the family; DCHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy. Termination of tenancy for certain reasons will also result in termination of assistance as discussed in this section.

7613.2 During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease (such as failure to pay rent), certain violations of state or local law, or other good cause, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking and the victim is protected from eviction by the Violence against Women Act of 2013.

7613.3 DCHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

7613.4 The owner is permitted to terminate the tenancy if:

(a) A family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

(b) If any "covered person" - meaning any member of the household, a guest, or another person under the tenant's control - engages in any of the following types of criminal activity:

(1) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);

(2) Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;

(3) Any violent criminal activity on or near the premises;

(4) Any drug-related criminal activity on or near the premises;

(5) However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault or stalking, if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy.

(c) The owner may terminate tenancy during the term of the lease if any member of the household is:

(1) Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an 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

(2) Violating a condition of probation or parole imposed under federal or state law.

(d) The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

(e) The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines 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. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, or stalking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

(f) During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

(g) After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

(1) Failure by the family to accept the offer of a new lease or revision;

(2) The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or

(3) A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

(h) After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

(i) If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a ninety (90) day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a ninety (90) day notice to vacate.

7613.5 The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

(a) The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

(b) Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give DCHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the DCHA a copy of any eviction notice.

(c) If the eviction action is finalized in court, the owner must provide DCHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

7613.6 An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

(a) The nature of the offending action;

(b) The seriousness of the offending action;

(c) The effect on the community of the termination, or of the owner's failure to terminate the tenancy;

(d) The extent of participation by the leaseholder in the offending action;

(e) The effect of termination of tenancy on household members not involved in the offending activity;

(f) The demand for assisted housing by families who will adhere to lease responsibilities;

(g) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; or

(h) The effect of the owner's action on the integrity of the program.

7613.7 The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

7613.8 In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner 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. For this purpose, the owner 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.

7613.9 The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR § 5.105.

7613.10 An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault or stalking is limited by the Violence against Women Act of 2013 (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L.

7613.11 If a termination is not due to a serious or repeated violation of the lease, and if DCHA has no other grounds for termination of assistance, DCHA may issue a new voucher so that the family can move with continued assistance.

7613.12 Following is a listing of a participant family's obligations under the HCV program:

(a) The family must supply any information that the DCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status;

(b) The family must supply any information requested by the DCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition;

(c) The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information;

(d) Any information supplied by the family must be true and complete;

(e) The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest. Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit;

(f) The family must allow DCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan;

(g) The family must not commit any serious or repeated violation of the lease;

(1) DCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence,

including but not limited to, a court-ordered eviction or an owner's notice to evict, police reports, and affidavits from the owner, neighbors, or other credible parties with direct knowledge; and

(2) "Serious and repeated lease violations" will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, living or housekeeping habits that cause damage to the unit or premises, and criminal activity. Generally, the criterion to be used will be whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault or stalking will not be construed as serious or repeated lease violations by the victim;

(h) The family must notify the DCHA and the owner before moving out of the unit or terminating the lease. The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the DCHA at the same time the owner is notified;

(i) The family must promptly give the DCHA a copy of any owner eviction notice;

(j) The family must use the assisted unit for residence by the family. The unit must be the family's only residence;

(k) The composition of the assisted family residing in the unit must be approved by the DCHA. The family must promptly notify the DCHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request DCHA approval to add any other family member as an occupant of the unit. The request to add a family member must be submitted in writing and approved prior to the person moving into the unit;

(l) The family must promptly notify the DCHA in writing if any family member no longer lives in the unit;

(m) If the DCHA has given approval, a foster child or a live-in aide may reside in the unit. DCHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when DCHA consent may be given or denied;

(n) The family must not sublease the unit, assign the lease, or transfer the unit. Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member;

(o) The family must supply any information requested by the DCHA to verify that the family is living in the unit or information related to family absence from the unit;

(p) The family must promptly notify DCHA when the family is absent from the unit. Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than thirty (30) calendar days. Written notice must be provided to DCHA at the start of the extended absence;

(q) The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease;

(r) The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space);

(s) Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program;

(t) Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises;

(u) Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises;

(v) An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program; and

(w) A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the DCHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities.

Chapter 83, RENT AND HOUSING ASSISTANCE PAYMENTS, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 83

OWNERS

8300 OWNERS IN THE HCV PROGRAM

8300.1 DCHA's Housing Choice Voucher ("HCV") program is designed to enable very low-income families to have access to all types and ranges of affordable housing in the District, particularly housing outside areas of poverty or minority concentration. Accordingly, DCHA works to recruit housing owners representing all types and ranges of suitable housing in the District to participate in the HCV Program. Owners must provide sufficient proof of ownership of a unit to be considered for assistance.

8300.2 When DCHA conducts outreach events, it shall provide notices and communications in a manner that is effective for persons with hearing, visual, and other communications-related disabilities. DCHA shall also take reasonable steps to ensure meaningful access to programs to persons with limited English proficiency.

8300.3 DCHA outreach to owners includes:

(a) Distributing printed material about the program to property owners and managers;

(b) Contacting property owners and managers by phone or in-person;

(c) Holding ongoing virtual owner information sessions;

(d) Participating in community-based organizations comprised of private property and apartment owners and managers;

(e) Developing working relationships with owners, apartment associations, industry investor groups, and real estate brokers associations; and

(f) To the extent practical, partnering with and attending events hosted by other area agencies to deliver information about the HCV program.

8300.4 DCHA shall evaluate its strategies for owner recruitment and shall adapt its approach as appropriate to meet the needs of program participants.

8300.5 DCHA shall endeavor to design the administration of the HCV Program in a manner that encourages participating owners to remain active in the program. DCHA shall:

(a) Conduct activities that affect an owner's ability to lease a unit as rapidly as reasonably possible, to minimize vacancy losses for owners;

(b) Provide owners with information that explains the program, including HUD and DCHA policies and procedures, in easy-to-understand language online;

(c) Support new owners success in the HCV Program by:

(1) Providing the owner with a designated DCHA contact person;

(2) Coordinating inspection and leasing activities between the DCHA, the owner, and the family;

(3) Initiating contact with the owner to direct them to DCHA's online resources that explain the inspection process and provide other information about HUD housing quality standards;

(4) Creating other written information about how the program operates including answers to frequently asked questions; and

(5) Contacting owners to disseminate information; and

(d) Additional services may be undertaken on an as-needed basis, and as resources permit.

8300.6 DCHA assists families in their housing search by maintaining and disseminating a list of landlords or other parties known to DCHA who have indicated a willingness to lease units to HCV participants, or to help HCV participants find a unit. However, per HUD rules DCHA cannot maintain a list of owners that are pre-qualified to participate in the program. DCHA maintains a listing of willing owners and provides this listing to HCV participants as part of the informational briefing packet.

8300.7 Under the HCV Program, DCHA's responsibilities do not include screening participants for suitability for tenancy. Selection of tenants is the responsibility of the owner.

8300.8 If the owner is willing to rent to a household with an HCV, the family must file the following with DCHA:

(a) A completed Request for Tenancy Approval (RTA, Form HUD 52517) with information from the owner and the family. This constitutes the family's request for assistance in the specified unit and documents the owner's willingness to lease to the family and to follow the program's requirements. It is the first step in the process of obtaining DCHA approval for the family to receive HCV assistance for the unit; and

(b) A copy of the owner's proposed dwelling lease, including the HUD-required Tenancy Addendum (Form HUD-52641-A).

8300.9 DCHA shall evaluate the family's request to rent a unit considering the following:

(a) The selected unit must be of a type that is eligible for the HCV program under HUD rules and regulations. Certain types of dwelling units cannot be assisted under the HCV program. Other types may be assisted under certain conditions;

(b) The owner must be eligible to participate in the HCV program;

(c) The selected unit must meet HUD's Housing Quality Standards (HQS);

(d) The owner has provided DCHA acceptable documentation of legal ownership (e.g., deed, deed of trust, proof of taxes for most recent year); and

(e) DCHA must determine that the proposed rent for the unit is reasonable under HUD rules and regulations.

8300.10 At initial lease-up of a unit, if the gross rent exceeds the applicable payment standard, DCHA must ensure that the family share does not exceed 40 percent of the family's monthly adjusted income.

8300.11 The dwelling lease must comply with all program requirements. Owners must use the HUD-required Tenancy Addendum word-for-word as a part of the owner's lease.

8300.12 Once DCHA has determined that the unit meets program requirements, DCHA and the owner must execute a Housing Assistance Payment (HAP) Contract (Form HUD-52641).

8300.13 The basic owner responsibilities in the HCV program are fully described in HUD rules and regulations, as well as the HAP contract. Such responsibilities include:

(a) Complying with all of the owner's obligations under the housing assistance payments (HAP) contract and the lease;

(b) Performing all management and rental functions for the assisted unit, including selecting a voucher-holder to lease the unit, and deciding if the family is suitable for tenancy of the unit;

(c) Maintaining the unit in accordance with HQS, including performance of ordinary and extraordinary maintenance;

(d) Complying with equal opportunity and fair housing requirements;

(e) Preparing and furnishing to DCHA information required under the HAP contract;

(f) Collecting the security deposit, the tenant rent, and any charges for unit damage by the family;

(g) Enforcing tenant obligations under the dwelling lease;

(h) Paying for utilities and services that are not the responsibility of the family as specified in the lease;

(i) Allowing reasonable modifications to a dwelling unit occupied or to be occupied by a disabled person; and

(j) Complying with the Violence against Women Reauthorization Act of 2013 (VAWA) when screening prospective HCV tenants or terminating the tenancy of an HCV family.

8300.14 DCHA shall not approve assistance of a unit if the owner has been debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24. HUD may direct DCHA not to approve a tenancy request if a court or administrative agency has determined that the owner violated the Fair Housing Act or other federal equal opportunity requirements, or if such an action is pending.

8300.15 DCHA shall not approve a tenancy if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family. The owner is required to certify that no such relationship exists. This restriction applies at the time that the family receives assistance under the HCV program for occupancy of a particular unit. HAP contracts in effect on behalf of owners and families that are related may continue, but any new leases or contracts for these families may not be approved.

8300.16 DCHA has the discretion to make an exception as a reasonable accommodation for a family member with a disability.

8300.17 DCHA must not approve a tenancy in which any of the following classes of persons has any interest, direct or indirect, during tenure or for one year thereafter:

(a) Any present or former member or officer of DCHA (except a participant commissioner);

(b) Any employee of DCHA, or any contractor, subcontractor, or agent of the DCHA, who formulates policy or who influences decisions with respect to the programs;

(c) Any public official, member of a governing body, or State or local legislator, who exercises functions or responsibilities with respect to the programs; or

(d) Any member of the Congress of the United States.

8300.18 (a) Such "covered individual" may not have any direct or indirect interest in the HAP contract or in any benefits or payments under the contract (including the interest of an immediate family member of such covered individual) while such person is a covered individual or for one year thereafter.

(b) "Immediate family member" means the spouse, parent (including a stepparent), child (including a stepchild), grandparent, grandchild, sister, or brother (including a stepsister or stepbrother) of any covered individual.

8300.19 In cases where good cause exists, DCHA has the discretion to request a waiver from HUD regarding the conflict-of-interest requirements, except for members of Congress, to permit a requested tenancy to proceed.

8300.20 In considering whether to request a conflict of interest waiver from HUD, DCHA will consider certain factors such as consistency of the waiver with state and local laws, the existence of alternative housing available to families, the individual circumstances of a particular family, the specific duties of individuals whose positions present a possible conflict of interest, the nature of any financial investment in the property and plans for disclosure/divestiture, and the possible appearance of impropriety.

8300.21 If DCHA determines that a waiver request is warranted, it shall submit a waiver request to the HUD Field Office for determination. Any waiver request shall include the following:

(a) Complete statement of the facts of the case;

(b) Analysis of the specific conflict of interest provision of the HAP contract and justification as to why the provision should be waived;

(c) Analysis of and statement of consistency with state and local. The local HUD office, the DCHA, or both parties may conduct this analysis. Where appropriate, an opinion by the District's attorney general should be obtained;

(d) Opinion by the local HUD office as to whether there would be an appearance of impropriety if the waiver were granted;

(e) Statement regarding alternative existing housing available for lease under the HCV program or other assisted housing if the waiver is denied;

(f) If the case involves a hardship for a particular family, statement of the circumstances and discussion of possible alternatives;

(g) If the case involves a public official or member of the governing body, explanation of their duties under state or local law, including reference to any responsibilities involving the HCV program;

(h) If the case involves employment of a family member by DCHA or assistance under the HCV program for an eligible DCHA employee, explanation of the responsibilities and duties of the position, including any related to the HCV program; and

(i) If the case involves an investment on the part of a member, officer, or employee of the DCHA, description of the nature of the investment, including disclosure/divestiture plans.

8300.22 Where DCHA has requested a conflict-of-interest waiver from HUD, it is not permitted to execute the HAP contract until HUD has made a decision on the waiver request.

8300.23 DCHA is authorized to disapprove a request for tenancy for various actions and inactions of the owner.

8300.24 If DCHA disapproves a request for tenancy because an owner is not qualified, it may not terminate the HAP contract for any assisted families that are already living in the owner's properties unless the owner has violated the HAP contract for those units.

8300.25 DCHA shall refuse to approve a request for tenancy if it becomes aware of any of the following:

(a) The owner has violated obligations under a HAP contract under Section 8 of the 1937 Act (42 U.S.C. §1437f);

(b) The owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(c) The owner has engaged in any drug-related criminal activity or any violent criminal activity;

(d) The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs, or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program;

(e) The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity engaged in by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

(1) Threatens the right to peaceful enjoyment of the premises by other residents;

(2) Threatens the health or safety of other residents, of employees of DCHA, or of owner employees or other persons engaged in management of the housing;

(3) Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or

(4) Is drug-related criminal activity or violent criminal activity; or

(f) The owner has a history or practice of renting units that fail to meet state or local housing codes.

8300.26 DCHA shall consider any mitigating factors. Such factors may include, but are not limited to, the seriousness of the violation in relation to program requirements, the impact on the ability of families to lease units under the program, health and safety of participating families, among others. Upon consideration of such circumstances, DCHA has the discretion to, on a case-by-case basis, choose to approve an owner.

8300.27 The owner must not discriminate against any person because of race, color, religion, sex, national origin, age, familial status, or disability, in connection with

any actions or responsibilities under the HCV program and the HAP contract with DCHA.

8300.28 The owner must cooperate with DCHA and with HUD in conducting any equal opportunity compliance reviews and complaint investigations in connection with the HCV program and the HAP contract with DCHA.

8301 HAP CONTRACTS

8301.1 The HAP contract is the written agreement between DCHA and the owner of the dwelling unit occupied by a HCV assisted family.

8301.2 The HAP contract is used for all HCV tenant-based program tenancies except for assistance under the Section 8 homeownership program, assistance to families that own a manufactured home and use their assistance to lease the space for the manufactured home, and the Project Based Voucher program.

8301.3 When DCHA has determined that the unit meets program requirements and the tenancy is approvable, DCHA and owner must execute the HAP contract.

8301.4 The HAP contract format is required by HUD, specifically Housing Assistance Payment (HAP) Contract, Form HUD-52641.

8301.5 In general, the HAP contract cannot be modified. However, DCHA may add language to Part A of the HAP contract which prohibits the owner from collecting a security deposit more than private market practices or in excess of amounts charged to unassisted tenants.

8301.6 Subject to the provisions of the HAP contract, DCHA must make monthly HAP payments to the owner on behalf of the family at the beginning of each month. If a lease term begins after the first of the month, the HAP payment for the first month is prorated for a partial month.

8301.7 [RESERVED]

8301.8 DCHA must notify the owner and the family in writing of any changes in the HAP payment.

8301.9 HAP payments can be made only during the lease term, and only while the family is residing in the unit.

8301.10 The monthly HAP payment by DCHA is credited toward the monthly rent to owner under the family's lease. The total of the rent paid by the tenant and the HAP payment is equal to the rent to owner as specified in the lease.

8301.11 The family is not responsible for payment of the HAP payment, and DCHA is not responsible for payment of the family share of rent.

8301.12 The family's share of the rent cannot be more than the difference between the rent to owner and the HAP payment.

8301.13 The owner may not:

(a) Demand or accept any rent payment from the tenant in excess of this maximum, or

(b) Charge the tenant extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

8301.14 If the owner receives any excess HAP from DCHA the excess amount must be returned immediately.

8301.15 If DCHA determines that the owner is not entitled to all or a portion of the HAP, DCHA may deduct the amount of overpayment from any amounts due to the owner, including amounts due under any other Section 8 HCV contract.

8301.16 Unless the owner complies with all provisions of the HAP contract, the owner is not entitled to receive housing assistance payments under the HAP contract.

8301.17 By accepting the monthly check from DCHA, the owner certifies that it is:

(a) Complying with the terms of the HAP contract;

(b) Maintaining the unit and premises in accordance with HQS;

(c) Leasing the contract unit to the tenant family and, to the best of the owner's knowledge, the family resides in the unit as the family's only residence;

(d) Charging the same rent for the contract unit as the rents charged by the owner for comparable unassisted units on the premises; and

(e) Not receiving (other than rent to owner) any additional payments or other consideration for rent of the contract unit during the HAP term.

8301.18 DCHA is responsible for making HAP payments promptly when due to the owner, in accordance with the terms of the HAP contract. After the first two calendar months of the HAP contract term, the HAP contract provides for late penalties if DCHA fails to make the HAP payment on time.

8301.19 Penalties for late HAP payments may only be imposed if:

(a) The penalties are in accordance with generally accepted local rental market practices and law governing penalties for late payment by tenants;

(b) It is the owner's normal business practice to charge late payment penalties for both assisted and unassisted families; and

(c) The owner charges the assisted family for late payment of the family's share of the rent.

8301.20 DCHA is not required to pay a late payment penalty if HUD determines that the payment is late for reasons beyond DCHA's control. In addition, late payment penalties are not required if DCHA intentionally delays or denies payment as a remedy to an owner breach of the HAP contract.

8301.21 DCHA must continue making housing assistance payments to the owner in accordance with the HAP contract as long as the tenant continues to occupy the unit and the HAP contract is not violated.

8301.22 HAP payments terminate when the HAP contract terminates or when the tenancy is terminated in accordance with the terms of the lease.

8301.23 If the owner has initiated eviction proceedings against the family and the family continues to reside in the unit, DCHA must continue to make housing assistance payments to the owner until the owner has obtained a court judgment or other process allowing the owner to evict the tenant. In addition, the owner has the following obligations:

(a) The owner must inform DCHA when the owner has initiated eviction proceedings against the family and the family continues to reside in the unit;

(b) The owner must inform DCHA when the owner has obtained a court judgment or other process allowing the owner to evict the tenant and provide DCHA with a copy of such judgment or determination; and

(c) After the owner has obtained a court judgment or other process allowing the owner to evict the tenant, DCHA will continue to make HAP payments to the owner until the family actually moves from the unit or until the family is physically evicted from the unit, whichever is earlier. The owner must inform DCHA of the date when the family actually moves from the unit or the family is physically evicted from the unit.

8301.24 Any of the following actions by the owner constitutes a breach of the HAP contract:

(a) If the owner violates any obligations under the HAP contract including failure to maintain the unit in accordance with HQS;

(b) If the owner has violated any obligation under any other HAP contract under Section 8;

(c) If the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

(d) For projects with mortgages insured by HUD or loans made by HUD, if the owner has failed to comply with the regulation for the applicable program; or if the owner has committed fraud, bribery, or any other corrupt or criminal act in connection with the mortgage or loan;

(e) If the owner has engaged in drug-related criminal activity; and

(f) If the owner has committed any violent criminal activity.

8301.25 If DHCA determines that a breach of the HAP contract has occurred, it may exercise any of its rights and remedies under the HAP contract.

8301.26 DHCA rights and remedies against the owner under the HAP contract include recovery of any HAP overpayment, suspension of housing assistance payments, abatement or reduction of the housing assistance payment, termination of the payment, or termination of the HAP contract. DHCA may also obtain additional relief by judicial order or action.

8301.27 DCHA must notify the owner of its determination and provide in writing the reasons for the determination.

8301.28 Before DCHA invokes a remedy against an owner, DCHA evaluates all information and documents available to determine if the contract has been breached and, if relevant, shall conduct an audit of the owner records pertaining to the unit or units.

8301.29 If it is determined that the owner has breached the contract, DCHA shall consider all of the relevant factors including the seriousness of the breach, the effect on the family, the owner's record of compliance, and the number and seriousness of any prior HAP contract violations.

8301.30 The notice may require the owner to take corrective action by an established deadline. DCHA must provide the owner with written notice of any reduction in housing assistance payments or the termination of the HAP contract.

8301.31 The term of the HAP contract runs concurrently with the term of the dwelling lease, beginning on the first day of the initial term of the lease and terminating on the last day of the term of the lease, including any lease term extensions.

8301.32 The HAP contract and the housing assistance payments made under the HAP contract terminate if:

(a) The owner or the family terminates the lease;

(b) The lease expires;

(c) DCHA terminates the HAP contract;

(d) DCHA terminates assistance for the family;

(e) The family moves from the assisted unit. In this situation, the owner is entitled to keep the housing assistance payment for the month when the family moves out of the unit;

(f) 180 calendar days have elapsed since DCHA made the last housing assistance payment to the owner;

(g) The family is absent from the unit for longer than the maximum period permitted by DCHA;

(h) The Annual Contributions Contract (ACC) between DCHA and HUD expires; and

(i) DCHA elects to terminate the HAP contract.

8301.33 DCHA may terminate the HAP contract in each of the following situations:

(a) Available program funding is not sufficient to support continued assistance for families in the program;

(b) The unit does not meet HQS size requirements due to change in family composition;

(c) The unit does not meet HQS;

(d) The family breaks up; or

(e) The owner breaches the HAP contract.

8301.34 If DCHA terminates the HAP contract, it shall give the owner and the family written notice. The notice must specify the reasons for the termination and the effective date of the termination. Once a HAP contract is terminated, no further HAP payments are authorized under the HAP.

8301.35 DCHA policy provides that in the case of HAP contract determinations:

(a) Generally, the HAP contract terminates at the end of the calendar month that follows the calendar month in which DCHA gives written notice to the owner;

(b) DCHA cannot make any HAP payment for any month after the month the family vacates the unit; and

(c) The owner is not entitled to any housing assistance payment after this period and must return to the DCHA any housing assistance payment received after this period.

8301.36 If the family moves from the assisted unit into a new unit, even if the new unit is in the same building or complex as the assisted unit, the HAP contract for the assisted unit terminates. A new HAP contract would be required.

8301.37 When the family moves from an assisted unit into a new unit, the term of the HAP contract for the new unit may begin in the same month in which the family moves out of its old unit. This is not considered a duplicative subsidy.

8301.38 The HAP contract cannot be assigned to a new owner without the prior written consent of DCHA.

8301.39 An owner under a HAP contract must notify DCHA in writing prior to a change in the legal ownership of the unit. The owner must supply all information as requested by DCHA.

8301.40 Prior to approval of assignment to a new owner, the new owner must agree to be bound by and comply with the HAP contract. The agreement between the new owner and the former owner must be in writing and in a form that DCHA finds acceptable.

8301.41 The new owner must provide DCHA with a copy of the executed agreement. In addition, the following apply:

(a) Assignment of the HAP contract will be approved only if the new owner is qualified to become an owner under the HCV program;

(b) DCHA must receive a signed, written request from the existing owner stating the name and address of the new HAP payee and the effective date

of the assignment to change the HAP payee under an outstanding HAP contract; and

(c) Within 10 business days of receiving the owner's request, DCHA will inform the current owner in writing whether the assignment may take place.

8301.42 The new owner must provide a written certification to DCHA that includes:

(a) A copy of the escrow statement or other document showing the transfer of title and recorded deed;

(b) A copy of the owner's IRS Form W-9, Request for Taxpayer Identification Number and Certification, or the social security number of the new owner;

(c) The effective date of the HAP contract assignment;

(d) A written agreement to comply with the terms of the HAP contract; and

(e) A certification that the new owner is not prohibited from participating in the HCV Program due to a conflict of interest or other HCV Program requirements.

8301.43 If the new owner does not agree to an assignment of the HAP contract, or fails to provide the necessary documents, DCHA will terminate the HAP contract with the old owner.

8301.44 If the new owner wants to offer the family a new lease, and the family elects to stay with continued assistance, DCHA will process the leasing.

8301.45 Families receiving HCV assistance are entitled to certain protections set forth under the Protecting Tenants at Foreclosure Act (PTFA).

8301.46 During the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a ninety (90) day notice.

8301.47 In the case where the new owner will occupy the unit as their primary residence, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a ninety (90) day notice to vacate.

8301.48 The new owner assumes interest in the lease between the prior owner and the tenant and to the HAP contract. Any state or local law that provides longer

time periods or other additional protections for tenants also applies. In addition, DCHA applies the following policies:

(a) If a property is in foreclosure, DCHA will make all reasonable efforts to determine the status of the foreclosure and ownership of the property and will continue to make payments to the original owner until ownership legally transfers in accordance with the HAP contract;

(b) DCHA will attempt to obtain a written acknowledgement of the assignment of the HAP contract from the successor in interest. This will include a request for owner information, including a tax identification number and payment instructions from the new owner. Even if the new owner does not acknowledge the assignment of the HAP contract in writing, the assignment is still effective by operation of law;

(c) DCHA will inform the tenant that they must continue to pay rent in accordance with the lease, and if the new owner refuses to accept payment or cannot be identified, the tenant should pay rent into escrow. Failure to pay rent may constitute an independent ground for eviction;

(d) In the event that the DCHA is unable to make HAP payments to the new owner due to an action or inaction by the new owner that prevents such payments (e.g., rejection of payments or failure to maintain the property according to HQS), or due to an inability to identify the new owner, DCHA will either use the funds to pay:

(1) The utilities that are the owner's responsibility after taking reasonable steps to notify the owner; except that if the unit has been or will be rendered uninhabitable due to termination or threat of termination of service, prior notice is not required. In the latter case, DCHA shall notify the owner within a reasonable time after making the utility payment; or

(2) For the family's reasonable moving costs, including security deposit costs; and

(e) DCHA will also refer the tenant, as needed, to the local legal aid office in order to ensure adequate protection of the tenant's rights and enforcement of the successor in interest's performance under the HAP contract.

Chapter 85, HOUSING CHOICE VOUCHER PROGRAM: PARTICIPANT MOVES, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 85

PROGRAM INTEGRITY

8500 PREVENTING, DETECTING, AND INVESTIGATING ERRORS AND PROGRAM ABUSE

8500.1 DCHA is required by HUD to use the Enterprise Income Verification (EIV) system to prevent errors and detect program abuse in accordance with HUD administrative guidance. DCHA is further required to:

(a) Provide applicants and participants with form HUD-52675, "Debts Owed to PHAs and Terminations;" and

(b) Require all adult members of an applicant or participant family to acknowledge receipt of form HUD-52675 by signing a copy of the form for retention in the family file.

8500.2 To ensure that DCHA's HCV program is administered according to the highest ethical and legal standards, DCHA will employ a variety of techniques such as:

(a) Discussing program compliance and integrity issues during the voucher briefing sessions described in Chapter 53 of this Title.

(b) Providing each applicant and participant with a copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse.

(c) Giving each applicant and participant a copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD, require the head of each household to acknowledge receipt of the guide by signing a copy, and retaining the signed guide in the family file.

(d) Placing a warning statement about the penalties for fraud (as described in 18 U.S.C. §§ 1001 and 1010) on key DCHA forms and form letters that request information from a family or owner.

(e) Requiring DCHA staff to review and explain the contents of all HUD- and DCHA-required forms to the applicant or participant prior to requesting family member signatures.

(f) Explaining any changes in HUD regulations or DCHA policy that affect program participants at reexamination.

(g) Obliging first-time owners (or their agents) participating in the HCV program to attend a briefing session on HAP contract requirements.

(h) Issue periodic information and updates about the HCV program to owners, with an emphasis on actions and situations to avoid.

(i) Supplying each DCHA employee with the necessary training on program rules and the organization's standards of conduct and ethics.

8500.3 For purposes of this chapter the term *error* refers to an unintentional error or omission. *Program abuse or fraud* refers to a single act or pattern of actions that constitutes a false statement, omission, or concealment of a substantial fact, made with the intent to deceive or mislead.

8500.4 In addition to taking steps to prevent errors and program abuse, DCHA will use a variety of activities to detect errors and program abuse.

8500.5 Under the Section 8 Management Assessment Program (SEMAP), HUD requires DCHA to review a random sample of tenant records annually to determine if the records conform to program requirements and to conduct quality control inspections of a sample of units to ensure HQS compliance.

8500.6 In addition to the DCHA quality control requirements, DCHA will employ a variety of methods to detect errors and program abuse such as:

(a) Routinely use HUD and other non-HUD sources of up-front income verification. This may include The Work Number and any other private or public databases available to DCHA.

(b) At each biennial/triennial reexamination, compares current information provided by the family to information provided at the last reexamination to identify inconsistencies and incomplete information.

(c) Assess family-reported income and expenditures to detect possible unreported income.

8500.7 DCHA is required to have an independent audit (IPA). In addition, HUD conducts periodic on-site and automated monitoring of DCHA activities and notifies DCHA of errors and potential cases of program abuse.

8500.8 DCHA shall regularly analyze relevant information in any IPA or HUD monitoring reports to identify potential program abuses as well as to assess the

effectiveness of the DCHA's error detection and abuse prevention efforts and revises its processes accordingly.

8500.9 DCHA direct staff, program participants, and the public to report possible program abuse.

8500.10 DCHA shall review all referrals, specific allegations, complaints, and tips from any source including other agencies, companies, and individuals, to determine if they warrant investigation. In order for DCHA to investigate, the allegation must contain at least one independently verifiable item of information, such as the name of an employer or the name of an unauthorized household member.

8500.11 DCHA shall investigate when inconsistent or contradictory information is detected through file reviews and the verification process.

8500.12 DCHA may investigate possible instances of error or abuse using all available DCHA and public records. If necessary, DCHA will require HCV families to sign consent forms for the release of additional information.

8500.13 DCHA's evaluations shall be based on a preponderance of the evidence collected during its investigation.

(a) *Preponderance of the evidence,* for purposes of this Chapter, is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence that as a whole shows that the fact sought to be proved is more probable than not. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

(b) For each investigation, DCHA will determine:

(1) Whether an error or program abuse has occurred;

(2) Whether any amount of money is owed DCHA; and

(3) What corrective measures or penalties will be assessed.

8500.14 All errors and instances of program abuse must be corrected prospectively. Whether DCHA will enforce other corrective actions and penalties depends upon the nature of the error or program abuse.

8500.15 In the case of family-caused errors or program abuse, the PHA will take into consideration:

(a) The seriousness of the offense and the extent of participation or culpability of individual family members;

(b) Any special circumstances surrounding the case;

(c) Any mitigating circumstances related to the disability of a family member; and

(d) The effects of a particular remedy on family members who were not involved in the offense.

8500.16 In the case of owner-caused errors or program abuse, the PHA will take into consideration:

(a) The seriousness of the offense;

(b) The length of time since the violation has occurred; and

(c) The effects of a particular remedy on family members who were not involved in the offense.

8500.17 DCHA will inform the relevant party in writing of its findings and remedies within 10 business days of the conclusion of the investigation. The notice will include:

(a) A description of the error or program abuse,

(b) The basis on which DCHA determined the error or program abuses,

(c) The remedies to be employed, and

(d) The family's right to appeal the results through the informal review or hearing process, if applicable (see Chapter 16).

8501 CORRECTIVE MEASURES AND PENALTIES

8501.1 A subsidy under or overpayment includes:

(a) An incorrect housing assistance payment to the owner,

(b) An incorrect family share established for the family, and

(c) An incorrect utility reimbursement to a family.

8501.2 Whether the incorrect subsidy determination is an overpayment or underpayment of subsidy, DCHA must promptly correct the HAP, family share, and any utility reimbursement prospectively.

(a) Increases in the family share will be implemented on the first of the month following a written thirty (30) day notice.

(b) Any decreases in family share will become effective the first of the month following the discovery of the error.

8501.3 Whether the family or owner is required to reimburse DCHA or DCHA is required to make retroactive subsidy payments to the owner or family depends upon which party is responsible for the incorrect subsidy payment and whether the action taken was an error or program abuse. Policies regarding reimbursement are discussed in the three sections that follow.

8501.4 An incorrect subsidy determination caused by a family generally would be the result of incorrect reporting of family composition, income, assets, or expenses, but also would include instances in which the family knowingly allows DCHA to use incorrect information provided by a third party.

8501.5 In the case of family-caused errors or program abuse, the family will be required to repay any excess subsidy received. DCHA may, but is not required to, offer the family a repayment agreement in accordance with Chapter 16. If the family fails to repay the excess subsidy, DCHA will terminate the family's assistance in accordance with the policies in Chapter 76.

8501.6 DCHA shall not reimburse the family for any underpayment of assistance when the underpayment clearly is caused by the family.

8501.7 An applicant or participant in the HCV program must not knowingly:

(a) Make a false statement to DCHA; or

(b) Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

8501.8 Any of the following will be considered evidence of family program abuse:

(a) Payment to the owner in excess of amounts authorized by DCHA for rent, security deposit, and additional services;

(b) Offering bribes or illegal gratuities to any member of the DCHA Board of Commissioners, employees, contractors, or other DCHA representatives;

(c) Offering payments or other incentives to the owner or a third party as an inducement for the third party to make false or misleading statements to DCHA on the family's behalf;

(d) Use of a false name or the use of falsified, forged, or altered documents;

(e) Intentional misreporting of family information or circumstances (e.g., income, family composition);

(f) Omission facts that were obviously known by a family member (e.g., not reporting employment income);

(g) Admission of program abuse by an adult family member; or

(h) DCHA may determine other actions to be program abuse based upon a preponderance of the evidence, as defined earlier in this chapter.

8501.9 In the case of program abuse caused by a family DCHA may, at its discretion, impose any of the following remedies.

(a) DCHA may require the family to repay excess subsidy amounts paid by DCHA, as described earlier in this section.

(b) DCHA may require, as a condition of receiving or continuing assistance, that a culpable family member not reside in the unit. See policies in Chapter 53 (for applicants) and Chapter 76 (for participants).

(c) DCHA may deny or terminate the family's assistance following the policies set forth in Chapter 53 and Chapter 76 respectively.

(d) DCHA may refer the family for state or federal criminal prosecution as described in this Chapter.

8501.10 Owner requirements that are part of the regular process of offering, leasing, and maintaining a unit (e.g., HQS compliance, fair housing) are addressed in the appropriate chapters of this plan. This section focuses on errors and program abuse by owners.

8501.11 An incorrect subsidy determination caused by an owner generally would be the result of an incorrect owner statement about the characteristics of the assisted unit (e.g., the number of bedrooms, which utilities are paid by the family). It also includes accepting duplicate housing assistance payments for the same unit in the same month, or after a family no longer resides in the unit.

8501.12 In all cases of overpayment of subsidy caused by the owner, the owner must repay to DCHA any excess subsidy received. DCHA may recover overpaid amounts by withholding housing assistance payments due for subsequent months, or if the debt is large, DCHA may allow the owner to pay in installments over a period of time.

8501.13 In cases where the owner has received excess subsidy, DCHA will require the owner to repay the amount owed in accordance with the policies in Chapter 91 of this Title.

8501.14 An owner participating in the HCV program must not:

(a) Make any false statement to DCHA; or

(b) Commit fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program including.

8501.15 Any of the following will be considered evidence of owner program abuse:

(a) Charging the family rent above or below the amount specified by DCHA;

(b) Charging a security deposit other than that specified in the family's lease;

(c) Charging the family for services that are provided to unassisted tenants at no extra charge;

(d) Knowingly accepting housing assistance payments for any month(s) after the family has vacated the unit;

(e) Knowingly accepting incorrect or excess housing assistance payments;

(f) Offering bribes or illegal gratuities to the DCHA Board of Commissioners, employees, contractors, or other DCHA representatives;

(g) Offering payments or other incentives to an HCV family as an inducement for the family to make false or misleading statements to the PHA;

(h) Residing in the unit with an assisted family;

(i) Committing sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 50; or

(j) Retaliating against any applicant or participant reporting/alleging sexual or other harassment, either quid pro quo or hostile environment, based on the protected classes defined in Chapter 50.

8501.16 When DCHA determines that the owner has committed program abuse, DCHA may take any of the following actions:

(a) Require the owner to repay excess housing assistance payments, as discussed earlier in this section and in accordance with the policies in Chapter 91.

(b) Terminate the HAP contract.

(c) Bar the owner from future participation in any DCHA programs.

(d) Refer the case to state or federal officials for criminal prosecution as described in this Chapter 85.

8501.17 The responsibilities and expectations of DCHA staff with respect to normal program administration are discussed throughout this plan. This section specifically addresses actions of a DCHA staff member that are considered errors or program abuse related to the HCV program. Additional standards of conduct may be provided in the DCHA personnel policy.

8501.18 DCHA-caused incorrect subsidy determinations include:

(a) failing to correctly apply HCV rules regarding family composition, income, assets, and expenses;

(b) assigning the incorrect voucher size to a family; and

(c) errors in calculation.

8501.19 Neither a family nor an owner is required to repay an overpayment of subsidy if the error or program abuse is caused by DCHA staff.

8501.20 DCHA must reimburse a family for any underpayment of subsidy, regardless of whether the underpayment was the result of staff-caused error or staff or owner program abuse. Funds for this reimbursement must come from DCHA's administrative fee reserves.

8501.21 Any of the following will be considered evidence of program abuse by DCHA staff:

(a) Failing to comply with any HCV program requirements for personal gain;

(b) Failing to comply with any HCV program requirements as a result of a conflict of interest relationship with any applicant, participant, or owner;

(c) Seeking or accepting anything of material value from applicants, participating families, vendors, owners, contractors, or other persons who provide services or materials to the DCHA;

(d) Disclosing confidential or proprietary information to outside parties;

(e) Gaining profit as a result of insider knowledge of DCHA activities, policies, or practices;

(f) Misappropriating or misusing HCV funds;

(g) Destroying, concealing, removing, or inappropriately using any records related to the HCV program; or

(h) Committing any other corrupt or criminal act in connection with any federal housing program

8501.22 When DCHA determines that program abuse by an owner, family, or DCHA staff member has occurred and the amount of overpaid subsidy meets or exceeds the threshold for prosecution under local or state law, DCHA will refer the matter to the appropriate entity for prosecution. When the amount of overpaid assistance meets or exceeds the federal threshold, the case will also be referred to the HUD Office of Inspector General (OIG). Other criminal violations related to the HCV program will be referred to the appropriate local, state, or federal entity.

8501.23 DCHA may retain a portion of program fraud losses that DCHA recovers from a family or owner through litigation, court order, or a repayment agreement [See, 24 CFR 982.163].

8501.24 DCHA must be the principal party initiating or sustaining the action to recover amounts due from tenants that are due as a result of fraud and abuse. DCHA may retain the greater of:

(a) Fifty percent (50%) of the amount it actually collects from a judgment, litigation (including settlement of a lawsuit) or an administrative repayment agreement; or

(b) Reasonable and necessary costs that DCHA incurs related to the collection including costs of investigation, legal fees, and agency collection fees.

8501.25 The family must be afforded the opportunity for an informal hearing in accordance with requirements in 24 CFR § 982.555.

8501.26 If HUD incurs costs on behalf of DCHA related to the collection, these costs must be deducted from the amount retained by DCHA.

Chapter 89, INFORMAL HEARING PROCEDURES FOR APPLICANTS AND PARTICIPANTS OF THE HOUSING CHOICE VOUCHER AND MODERATE REHABILITATION PROGRAM, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 89

SPECIAL HOUSING TYPES

8900 SINGLE ROOM OCCUPANCY

8900.1 A single room occupancy (SRO) unit provides living and sleeping space for the exclusive use of the occupant but requires the occupant to share sanitary and/or food preparation facilities with others. More than one person may not occupy an SRO unit. HCV regulations do not limit the number of units in an SRO facility, but the size of a facility may be limited by local ordinances.

8900.2 When providing HCV assistance in an SRO unit, a separate lease and HAP contract are executed for each assisted person. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Single room occupancy (SRO) housing."

8900.3 The payment standard for SRO housing is seventy-five percent (75%) of the zero-bedroom payment standard amount on the PHA's payment standard schedule.

8900.4 The utility allowance for an assisted person residing in SRO housing is seventy-five percent (75%) of the zero-bedroom utility allowance.

8900.5 The HAP for an assisted occupant in an SRO facility is the lower of the SRO payment standard amount minus the Total Tenant Payment (TTP) or the gross rent for the unit minus the TTP.

8900.6 HQS requirements described in Chapter 8 apply to SRO housing except that sanitary facilities and space and security characteristics must meet local code standards for SRO housing. In the absence of applicable local code standards for SRO housing, the following standards apply:

(a) Access: Access doors to the SRO unit must have working locks for privacy. The occupant must be able to access the unit without going through any other unit. Each unit must have immediate access to two or more approved means of exit from the building, appropriately marked and leading to safe and open space at ground level. The SRO unit must also have any other means of exit required by State or local law.

(b) Fire Safety: All SRO facilities must have a sprinkler system that protects major spaces. "Major spaces" are defined as hallways, large common areas, and any other areas specified in local fire, building, or safety codes. SROs must also have hard-wired smoke detectors, and any other fire and safety equipment required by state or local law.

(c) Sanitary facilities and space and security standards must meet local code requirements for SRO housing. In the absence of local code standards, the requirements discussed below apply.

(d) Sanitary Facilities: At least one flush toilet that can be used in privacy, a lavatory basin, and a bathtub or shower in proper operating condition must be provided for each six persons (or fewer) residing in the SRO facility. If the SRO units are leased only to males, flush urinals may be substituted for up to one half of the required number of toilets. Sanitary facilities must be reasonably accessible from a common hall or passageway to all persons sharing them and may not be located more than one floor above or below the SRO unit. They may not be located below grade unless the SRO units are located on that level.

(e) Space and Security: An SRO unit must contain at least 110 square feet of floor space, and at least four square feet of closet space with an unobstructed height of at least five feet, for use by the occupant. If the closet space is less than four square feet, the habitable floor space in the SRO unit must be increased by the amount of the deficiency. Exterior doors and windows accessible from outside the SRO unit must be lockable.

8900.7 Because no children live in SRO housing, the housing quality standards applicable to lead-based paint do not apply.

8901 CONGREGATE HOUSING

8901.1 Congregate housing is intended for use by elderly persons or persons with disabilities. A congregate housing facility contains a shared central kitchen and dining area and a private living area for the individual household that includes at least a living room, bedroom, and bathroom. Food service for residents must be provided.

8901.2 If approved by DCHA, a family member or live-in aide may reside with the elderly person or person with disabilities. DCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

8901.3 When providing HCV assistance in congregate housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP

contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Congregate housing."

8901.4 The payment standard for an individual unit in a congregate housing facility is based on the number of rooms in the private living area for the assisted family. If there is only one room in the unit (not including the bathroom or the kitchen, if a kitchen is provided), DCHA must use the payment standard for a zero-bedroom unit. If the unit has two (2) or more rooms (other than the bathroom and the kitchen), DCHA must use the one-bedroom payment standard.

8901.5 The HAP for an assisted occupant in a congregate housing facility is the lower of the applicable payment standard minus the TTP or the gross rent for the unit minus the TTP.

8901.6 The gross rent for the unit for the purpose of calculating HCV assistance is the shelter portion (including utilities) of the resident's monthly housing expense only. The residents' costs for food service should not be included in the rent for a congregate housing unit.

8901.7 HQS requirements as described in Chapter 8 apply to congregate housing except for the requirements stated below. Congregate housing must have a refrigerator of appropriate size in the private living area of each resident, a central kitchen, and dining facilities located within the premises and accessible to the residents, and food service for the residents, that is not provided by the residents themselves.

8901.8 The congregate housing must contain adequate facilities and services for the sanitary disposal of food waste and refuse, including facilities for temporary storage where necessary.

8901.9 The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

8902 GROUP HOME

8902.1 A group home is a state-approved (licensed, certified, or otherwise approved in writing by the state) facility intended for occupancy by elderly persons and/or persons with disabilities. Except for live-in aides, all persons living in a group home, whether assisted or not, must be elderly persons or persons with disabilities. Persons living in a group home must not require continuous medical or nursing care.

8902.2 A group home consists of bedrooms for residents, which can be shared by no more than two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared

with other residents. No more than twelve (12) persons may reside in a group home including assisted and unassisted residents and any live-in aides.

8902.3 If approved by DCHA, a live-in aide may live in the group home with a person with disabilities. DCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

8902.4 When providing HCV assistance in a group home, a separate lease and HAP contract is executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Group home."

8902.5 Unless there is a live-in aide, the family unit size (voucher size) for an assisted occupant of a group home must be zero - or one - bedroom. If there is a live-in aide, the aide must be counted in determining the household's unit size.

8902.6 The payment standard used to calculate the HAP is the lower of the payment standard for the family unit size or the pro-rata share of the payment standard for the group home size. The pro-rata share is calculated by dividing the number of persons in the assisted household by the number of persons (assisted and unassisted) living in the group home. The number of persons in the assisted household equals one assisted person plus any DCHA-approved live-in aide.

8902.7 The HAP for an assisted occupant in a group home is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

8902.8 The utility allowance for an assisted occupant in a group home is the prorata share of the family unit size to the utility allowance for the group home.

8902.9 The rents paid for participants residing in group homes are subject to generally applicable standards for rent reasonableness. The rent for an assisted person must not exceed the pro-rata portion of the reasonable rent for the group home. In determining reasonable rent, DCHA must consider whether sanitary facilities and facilities for food preparation and service are common facilities or private facilities.

8902.10 The entire unit must comply with HQS requirements described in Chapter 8, except for the requirements stated below.

(a) Sanitary Facilities: A group home must have at least one bathroom in the facility, with a flush toilet that can be used in privacy, a fixed basin with hot and cold running water, and a shower or bathtub with hot and cold

running water. A group home may contain private or common bathrooms. However, no more than four residents can be required to share a bathroom.

(b) Food Preparation and Service: Group home units must contain a kitchen and dining area with adequate space to store, prepare, and serve food. The facilities for food preparation and service may be private or may be shared by the residents. The kitchen must contain a range, an oven, a refrigerator, and a sink with hot and cold running water. The sink must drain into an approvable public or private disposal system.

(c) Space and Security: Group homes must contain at least one bedroom of appropriate size for every two people, and a living room, kitchen, dining area, bathroom, and other appropriate social, recreational, or community space that may be shared with other residents. Doors and windows accessible from outside the unit must be lockable.

(d) Structure and Material: To avoid any threat to the health and safety of the residents, group homes must be structurally sound. Elevators must be in good condition. Group homes must be accessible to and usable by residents with disabilities.

(e) Site and Neighborhood: Group homes must be located in a residential setting. The site and neighborhood should be reasonably free from disturbing noises and reverberations, and other hazards to the health, safety, and general welfare of the residents, and should not be subject to serious adverse conditions, such as:

(1) Dangerous walks or steps;

(2) Instability;

(3) Flooding, poor drainage;

(4) Septic tank back-ups, sewage hazards;

(5) Mud slides;

(6) Abnormal air pollution;

(7) Smoke or dust;

(8) Excessive noise;

(9) Vibrations or vehicular traffic;

(10) Excessive accumulations of trash;

(11) Vermin or rodent infestation; and

(12) Fire hazards.

8902.11 The housing quality standards applicable to lead-based paint do not apply unless a child under the age of six is expected to reside in the unit.

8903 SHARED HOUSING

8903.1 Families in markets with tight rental conditions or with a prevalence of single-family housing may determine a shared housing living arrangement to be a useful way to secure affordable housing.

8903.2 Shared housing is a single housing unit occupied by an assisted family and another resident or residents. The unit may be a house or an apartment. The shared unit consists of both common space for use by the occupants of the unit and separate private space for each assisted family.

8903.3 An assisted family may share a unit with other persons assisted under the HCV program or with other unassisted persons.

8903.4 Shared housing may be offered in several ways, including for-profit co-living (such as a boarding house, single bedroom with common living room/kitchen/dining room) run by a private company.

8903.5 The owner of a shared housing unit may reside in the unit, but housing assistance may not be paid on behalf of the owner. The resident owner may not be related by blood or marriage to the assisted family.

8903.6 If approved by DCHA, a live-in aide may reside with the family to care for a person with disabilities. DCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

8903.7 DCHA will work with local jurisdictions as necessary to identify solutions consistent with fair housing laws and will inform HUD if it encounters barriers to shared housing that conflict with fair housing laws. Families will be advised they can conduct their own internet search. Families will be cautioned to not enter into any rental agreement or pay any deposit or rental payment until the tenancy is approved by DCHA.

8903.8 When providing HCV assistance in shared housing, a separate lease and HAP contract are executed for each assisted family. The standard form of the HAP contract is used (form HUD-52641) with the special housing type specified in Part A of the HAP contract, as follows: “This HAP contract is used for the following

special housing type under HUD regulations for the Section 8 voucher program: Shared housing."

8903.9 The payment standard for a family in shared housing is the lower of the payment standard for the family unit size (voucher size) or the pro-rata share of the payment standard for the shared housing unit size.

8903.10 The pro-rata share is calculated by dividing the number of bedrooms available for occupancy by the assisted family in the private, non-shared space by the total number of bedrooms in the unit.

Example:

Family holds a two-bedroom voucher.
Shared housing unit size: bedrooms available to assisted family: 2
Total bedrooms in the unit: 3
2 Bedrooms for assisted family ÷ 3 Bedrooms in the unit = .667 pro-rata share
2 BR payment standard: $1200
3 BR payment standard: $1695 x .667 (pro-rata share) = $1131
$1131 is lower than the $1200 payment standard for the 2 BR family unit size.
$1131 is the payment standard used to calculate the HAP.

8903.11 The HAP for a family in shared housing is the lower of the payment standard minus the TTP or the gross rent minus the TTP.

8903.12 The utility allowance for an assisted family living in shared housing is the pro-rata share of the utility allowance for the shared housing unit.

Example:

A family holds a 2-bedroom voucher.
The family decides to occupy 3 out of 4 bedrooms available in the unit.
The utility allowance for a 4-bedroom unit equals $200.
The utility allowance for a 2-bedroom unit equals $100.
The pro-rata share of the utility allowance is $150 (3/4 of $200).
The PHA will use the 2-bedroom utility allowance of $100.

8903.13 The rents paid for families living in shared housing are subject to generally applicable standards for rent reasonableness. The rent paid to the owner for the assisted family must not exceed the pro-rata portion of the reasonable rent for the shared unit. In determining reasonable rent, the DCHA may consider whether sanitary and food preparation areas are private or shared.

8903.14 DCHA may not give approval to reside in shared housing unless the entire unit, including the portion of the unit available for use by the assisted family under its lease, meets the housing quality standards.

8903.15 HQS requirements described in Chapter 8 apply to shared housing except for the requirements stated below.

(a) Facilities Available for the Family: Facilities available to the assisted family, whether shared or private, must include a living room, a bathroom, and food preparation and refuse disposal facilities.

(b) Space and Security: The entire unit must provide adequate space and security for all assisted and unassisted residents. The private space for each assisted family must contain at least one bedroom for each two persons in the family. The number of bedrooms in the private space of an assisted family must not be less than the family unit size (voucher size). A zero-bedroom or one-bedroom unit may not be used for shared housing.

8904 COOPERATIVE HOUSING

8904.1 This part applies to rental assistance for a cooperative member residing in cooperative housing. It does not apply to assistance for a cooperative member who has purchased membership under the HCV homeownership option, or to rental assistance for a family that leases a cooperative housing unit from a cooperative member.

8904.2 A cooperative is a form of ownership (nonprofit corporation or association) in which the residents purchase memberships in the ownership entity. Rather than being charged "rent" a cooperative member is charged a "carrying charge." The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. It does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

8904.3 The occupancy agreement or lease and other appropriate documents must provide that the monthly carrying charge is subject to Section 8 limitations on rent to owner, and the rent must be reasonable as compared to comparable unassisted units.

8904.4 When providing HCV assistance in cooperative housing, the standard form of the HAP contract is used with the special housing type specified in Part A of the HAP contract, as follows: "This HAP contract is used for the following special housing type under HUD regulations for the Section 8 voucher program: Cooperative housing."

8904.5 The payment standard and utility allowance are determined according to regular HCV program requirements.

8904.6 The HAP for a cooperative housing unit is the lower of the payment standard minus the TTP or the gross rent (monthly carrying charge for the unit, plus any utility allowance) minus the TTP. The monthly carrying charge includes the member's share of the cooperative debt service, operating expenses, and necessary payments to cooperative reserve funds. The carrying charge does not include down payments or other payments to purchase the cooperative unit or to amortize a loan made to the family for this purpose.

8904.7 All standard HQS requirements apply to cooperative housing units. There are no additional HQS requirements. DCHA remedies described in 24 CFR 982.404 do not apply. Rather, if the unit and premises are not maintained in accordance with HQS, DCHA may exercise all available remedies regardless of whether the family or cooperative is responsible for the breach of HQS.

8904.8 No housing assistance payment can be made unless unit meets HQS and the defect is corrected within the period as specified by DCHA and DCHA verifies correction (see Chapter 8).

8904.9 In addition to regular breaches of HQS, breaches of HQS by the family include failure to perform any maintenance for which the family is responsible in accordance with the terms of the cooperative occupancy agreement [HCV GB].

8905 MANUFACTURED HOMES

8905.1 A manufactured home is a manufactured structure, transportable in one or more parts, that is built on a permanent chassis, and designed for use as a principal place of residence. HCV-assisted families may occupy manufactured homes in three different ways.

(a) A family can choose to rent a manufactured home already installed on a space and DCHA must permit it. In this instance program rules are the same as when a family rents any other residential housing, except that there are special HQS requirements as provided in 15-VI.D below;

(b) A family can purchase a manufactured home under the Housing Choice Voucher Homeownership program; or

(c) HUD rules permit an otherwise eligible family that owns a manufactured home to rent a space for the manufactured home and receive HCV assistance with the rent for the space as well as certain other housing expenses. PHAs may, but are not required to, provide assistance for such families.

8905.2 In determining the annual income of families leasing manufactured home spaces, the value of the family's equity in the manufactured home in which the family resides is not counted as a family asset.

8905.3 There is a designated HAP Contract (form HUD-52642) and designated Tenancy Addendum (form HUD 52642-A) for this special housing type.

8905.4 The DCHA payment standard for manufactured homes is determined in accordance with 24 CFR § 982.505 and is the payment standard used for the PHA's HCV program. It is based on the applicable FMR for the area in which the manufactured home space is located.

8905.5 The payment standard for the family is the lower of the family unit size (voucher size) or the payment standard for the number of bedrooms in the manufactured home.

8905.6 DCHA establishes utility allowances for manufactured home space rental. For the first twelve (12) months of the initial lease term only, the allowance must include an amount for a utility hook-up charge if the family actually incurred a hook-up charge because of a move. This allowance will not be given to a family that leases in place. Utility allowances for manufactured home space must not include the costs of digging a well or installing a septic system.

8905.7 If the amount of the monthly assistance payment for a family exceeds the monthly rent for the manufactured home space (including the owner's monthly management and maintenance charges), DCHA may pay the remainder to the family, lender, or utility company.

8905.8 The rent for the manufactured home space (including other eligible housing expenses) is the total of:

(a) The rent charged for the manufactured home space;

(b) Owner maintenance and management charges for the space;

(c) The monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and

(d) The applicable allowance for tenant-paid unities.

8905.9 The monthly payment made by the family to amortize the cost of purchasing the manufactured home is the debt service established at the time of application to a lender for financing the purchase of the manufactured home if monthly payments are still being made. Any increase in debt service due to refinancing after purchase of the home may not be included in the amortization cost. Debt service for set-up charges incurred by a family may be included in the monthly amortization payments made by the family. In addition, set-up charges incurred

before the family became an assisted family may be included in the amortization cost if monthly payments are still being made to amortize the charges.

8905.10 The HAP for a manufactured home space under the housing choice voucher program is the lower of the payment standard minus the TTP or the manufactured home space rent (including other eligible housing expenses) minus the TTP.

8905.11 Initially, and at least annually thereafter, DCHA must determine that the rent for the manufactured home space is reasonable based on rents for comparable manufactured home spaces. DCHA must consider the location and size of the space, and any services and maintenance to be provided by the owner. By accepting the monthly housing assistance payment, the owner of the manufactured home space certifies that the rent does not exceed rents charged by the owner for comparable unassisted spaces in the same manufactured home park or elsewhere.

8905.12 If requested by the DCHA, the owner must give the DCHA information on rents charged by the owner for other manufactured home spaces.

8905.13 Under either type of occupancy described above, the manufactured home must meet the following requirements:

(a) All HQS performance requirements and acceptability criteria; and

(b) A manufactured home must be placed on the site in a stable manner and must be free from hazards such as sliding or wind damage. The home must be securely anchored by a tie-down device that distributes and transfers the loads imposed by the unit to appropriate ground anchors to resist overturning and sliding.

8906 HOMEOWNERSHIP

8906.1 The homeownership option is used to assist a family residing in a home purchased and owned by one or more members of the family. A family assisted under this option may be newly admitted or an existing participant in the HCV program. DCHA operates its HCV homeownership program in accordance with 14 DCMR Chapter 92. Where this section conflicts with 14 DCMR Chapter 92, 14 DCMR Chapter 92 shall control as the operable regulation and policy of DCHA.

8906.2 DCHA has instituted a minimum homeowner down payment requirement of at least three percent of the purchase price and requires that at least one percent of the purchase price come from the family's personal resources.

8906.3 DCHA will offer the monthly homeownership assistance payments to qualified families.

8906.4 DCHA must approve a live-in aide if needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

8906.5 The family must meet all the requirements listed below before the commencement of homeownership assistance.

(a) The family must have been admitted to the HCV program;

(b) The family must qualify as a first-time homeowner, or may be a cooperative member;

(c) The family may not include any person who has held an ownership interest in a residence during the three (3) years prior to commencement of homeownership assistance except as follows:

(1) Equitable interest in a property under the terms of a lease-purchase agreement prior to exercise of the purchase option; or

(2) A single parent or displaced homemaker who, while married, owned a home with their spouse or resided in a home owned by their spouse.

"Displaced homemaker," as defined in 12 U.S.C. § 12713 means an individual who – (a) is an adult; (b) has not worked full-time, full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (c) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment. An individual who is now single, but had previously owned a home with his or her former spouse even within the three-year period;

(d) DCHA has established a higher minimum income requirement of Twenty-Five Thousand Dollars ($25,000) in gross annual income per year;

(e) A family that meets the federal minimum income requirement (but not the DCHA's requirement) will be considered to meet the minimum income requirement if it can demonstrate that it has been pre-qualified or pre-approved for financing that is sufficient to purchase an eligible unit;

(f) For disabled families, the minimum income requirement is equal to the current SSI monthly payment for an individual living alone, multiplied by twelve (12);

(g) For elderly or disabled families, welfare assistance payments for adult family members who will own the home will be included in determining

whether the family meets the minimum income requirement. It will not be included for other families;

(h) The family must satisfy the employment requirements by demonstrating that one or more adult members of the family who will own the home at commencement of homeownership assistance is currently employed on a full-time basis (the term 'full-time employment' means not less than an average of thirty (30) hours per week); and has been continuously so employed during the year before commencement of homeownership assistance for the family;

(i) Under the authority granted to DCHA under its Moving to Work (MTW) status, DCHA requires that at least one borrower shall have been employed for at least two (2) continuous years preceding the beginning of homeownership assistance;

(j) Families will be considered “continuously employed” if the break in employment does not exceed four (4) months;

(k) DCHA will count self-employment in a business when determining whether the family meets the employment requirement;

(l) The employment requirement does not apply to elderly and disabled families. In addition, if a family, other than an elderly or disabled family includes a person with disabilities, DCHA must grant an exemption from the employment requirement if DCHA determines that it is needed as a reasonable accommodation.;

(m) The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option;

(n) Except for cooperative members who have acquired cooperative membership shares prior to commencement of homeownership assistance, no family member has a present ownership interest in a residence at the commencement of homeownership assistance for the purchase of any home;

(o) Except for cooperative members who have acquired cooperative membership shares prior to the commencement of homeownership assistance, the family has entered a contract of sale in accordance with 24 CFR § 982.631(c); and

(p) To be eligible to participate in the homeownership option, families must meet the following criteria:

(1) The family has had no family-caused violations of HUD's Housing Quality standards within the past year;

(2) The family is not within the initial one-year period of a HAP Contract;

(3) The family owes no money to DCHA;

(4) The family owes no monies under the lease and has not committed any serious or repeated violations of a DCHA-assisted lease within the past year; and

(5) The family has not committed fraud in connection with the HCV program or any other federal housing program.

8906.6 [RESERVED]

8906.7 [RESERVED]

8906.8 All families must meet eligibility requirements as defined in § 5100.

8906.9 In order for a unit to be eligible, the unit must satisfy all of the following requirements:

(a) The unit must meet HUD's "eligible housing" requirements. The unit may not be any of the following:

(1) A public housing or Indian housing unit;

(2) A unit receiving Section 8 project-based assistance;

(3) A nursing home, board and care home, or facility providing continual psychiatric, medical or nursing services;

(4) A college or other school dormitory; or

(5) On the grounds of penal, reformatory, medical, mental, or similar public or private institutions;

(b) The unit must be a one-unit property or a single dwelling unit in a cooperative or condominium;

(c) The unit must have been inspected by DCHA and by an independent inspector designated by the family;

(d) The unit must meet HQS;

(e) For a unit where the family will not own fee title to the real property (such as a manufactured home), the home must have a permanent foundation and the family must have the right to occupy the site for at least forty (40) years;

(f) Families may enter contracts of sale for units not yet under construction. However, DCHA will not commence homeownership assistance for the family for that unit until:

(1) Either the responsible entity completes the environmental review as required by 24 CFR part 58 and HUD approved the environmental certification and request for release of funds prior to commencement of construction or HUD performed an environmental review under CFR part 50 and notified the PHA in writing of environmental approval of the site prior to construction commencement; and

(2) Construction of the unit has been completed and the unit has passed the required HQS inspection and independent inspection as addressed elsewhere in this chapter;

(g) For DCHA-owned units all of the following conditions must be satisfied:

(1) DCHA informs the family, both orally and in writing, that the family has the right to purchase any eligible unit and a DCHA-owned unit is freely selected by the family without DCHA pressure or steering;

(2) The unit is not ineligible housing; and

(3) DCHA obtains the services of an independent agency to inspect the unit for compliance with HQS, review the independent inspection report, review the contract of sale, determine the reasonableness of the sales price and any DCHA provided financing. All of these actions must be completed in accordance with program requirements; and

(h) DCHA must not approve the unit if DCHA has been informed that the seller is debarred, suspended, or subject to a limited denial of participation

8906.10 It is the family's responsibility to find a home that meets the criteria for voucher homeownership assistance. DCHA may establish the maximum time that will be allowed for a family to locate and purchase a home and may require the family to report on their progress in finding and purchasing a home. If the family is unable to purchase a home within the maximum time established by DCHA, DCHA may

issue the family a voucher to lease a unit or place the family's name on the waiting list for a voucher.

8906.11 Once the PHA has determined the family eligible for the homeownership assistance, the family will attend a homeownership briefing. The family must also meet counseling and education requirements. Upon completion of these steps, the family will be issued a Preliminary Certificate of Assistance. DCHA will also provide a Preliminary Certificate of Assistance document to the family's lender of choice.

8906.12 Once the family has been issued the Preliminary Certificate of Assistance, the family has thirty (30) calendar days to obtain mortgage pre-approval. The family must submit the pre-approval letter to DCHA within ten (10) calendar days. Once the family provides written proof of being pre-approved for a loan to DCHA, DCHA will issue them a Home Search Authorization. The mortgage pre-approval letter shall reflect the maximum purchase price, first trust mortgage loan amount, interest rate, and term of loan**.**

8906.13 Once the family receives their Home Search Authorization, the family will be allowed one hundred eighty (180) days to identify a unit and submit a sales contract to DCHA for review, and to close on the home. DCHA may grant up to two (2) extensions of three (3) months each for good cause.

8906.14 During these periods, the family will continue to receive HCV rental assistance in accordance with any active lease and HAP contract until the family vacates the rental unit for its purchased home.

8906.15 All requests for extensions must be submitted in writing to DCHA prior to the expiration of the period for which the extension is being requested. DCHA will approve or disapprove the extension request within ten (10) business days. The family will be notified of the DCHA's decision in writing.

8906.16 If the family does not meet one of the time requirements above, and is not receiving rental assistance under a HAP contract at the time the search and purchase time period expires, the family will be issued a voucher to lease a unit, and required to wait one (1) year before they shall be again allowed to participate in the DCHA's Homeownership program.

8906.17 Before commencement of homeownership assistance for a family, the family must attend and satisfactorily complete the pre-assistance homeownership and housing counseling program required by DCHA. HUD suggests the following topics for the DCHA-required pre-assistance counseling:

(a) Home maintenance (including care of the grounds);

(b) Budgeting and money management;

(c) Credit counseling;

(d) How to negotiate the purchase price of a home;

(e) How to obtain homeownership financing and loan pre-approvals, including a description of types of financing that may be available, and the pros and cons of different types of financing;

(f) How to find a home, including information about homeownership opportunities, schools, and transportation in the PHA jurisdiction;

(g) Advantages of purchasing a home in an area that does not have a high concentration of low-income families and how to locate homes in such areas;

(h) Information on fair housing, including fair housing lending and local fair housing enforcement agencies; and

(i) Information about the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) (RESPA), state and Federal truth-in-lending laws, and how to identify and avoid loans with oppressive terms and conditions.

8906.18 DCHA may adapt the subjects covered in pre-assistance counseling (as listed) to local circumstances and the needs of individual families.

8906.19 DCHA may also offer additional counseling after commencement of homeownership assistance (ongoing counseling). If DCHA offers a program of ongoing counseling for participants in the homeownership option, DCHA shall have discretion to determine whether the family is required to participate in the ongoing counseling.

8906.20 If DCHA does not use a HUD-approved housing counseling agency to provide the counseling, DCHA shall ensure that its counseling program is consistent with the counseling provided under HUD's Housing Counseling program.

8906.21 Pre-purchase homeownership counseling is provided through the District of Columbia Housing and Community Development Home Purchase Assistance Program (DHCD HPAP). The family must provide DCHA with a copy of the Certificate of Completion provided to them from the DHCD HPAP.

8906.22 Post-purchase homeownership counseling is required by DCHA, provided by DCHA-approved entities. DCHA may require families to attend and complete other post-purchase homeownership counseling as determined necessary by DCHA.

8906.23 DCHA may not commence monthly homeownership assistance payments for a family until DCHA has inspected the unit and has determined that the unit passes HQS:

(a) When the family locates a home they wish to purchase and submits a copy of their purchase offer/contract, DCHA will conduct a HQS inspection within ten (10) business days. Any items found not to meet HQS must be repaired before the unit can be determined eligible for the homeownership program.

(b) Generally, if a unit fails inspection three (3) times, the family must attempt to locate another unit within the term of the homeownership voucher. DCHA may allow an additional inspection if HQS deficiencies are minor and can be reasonably expected to be addressed within a timely manner.

(c) Whenever possible, DCHA will conduct in-person inspections. If not possible (such as due to federal distancing requirements), DCHA may conduct remote inspections.

8906.24 An independent professional inspector selected by and paid for by the family must also inspect the unit. The independent inspection must cover major building systems and components, including foundation and structure, housing interior and exterior, and the roofing, plumbing, electrical, and heating systems. The independent inspector must be qualified to report on property conditions, including major building systems and components.

8906.25 DCHA may not require the family to use an independent inspector selected by DCHA. However, DCHA may establish standards for qualification of inspectors selected by families under the homeownership option:

(a) The family must hire an independent professional inspector, whose report must be submitted to DCHA for review. This inspector must be a member of the American Society of Home Inspectors (ASHI) or other recognized professional society, or a licensed engineer. The inspector cannot be a DCHA employee or contractor.

(b) The family must provide a copy of the inspection report to DCHA within five (5) working days of receiving the report.

8906.26 DCHA may disapprove a unit for assistance based on information in the independent inspector's report, even if the unit was found to comply with HQS:

(a) DCHA will review the professional report in a timely fashion and, based on the presence of major physical problems, may disapprove the purchase of the home.

(b) If DCHA disapproves the purchase of a home, the family will be notified in writing of the reasons for the disapproval.

(c) While the family is receiving homeownership assistance, DCHA will not conduct HQS inspections.

8906.27 Before commencement of monthly homeownership assistance payments, a member or members of the family must enter a contract of sale with the seller of the unit to be acquired by the family. The family must give DCHA a copy of the contract of sale. The contract of sale must:

(a) Specify the price and other terms of sale by the seller to the purchaser;

(b) Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser;

(c) Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser;

(d) Provide that the purchaser is not obligated to pay for any necessary repairs; and

(e) Contain a certification from the seller that the seller has not been debarred, suspended, or subject to a limited denial of participation under CFR part 24.

8906.28 A contract for the sale of a unit not yet under construction must meet all above requirements, and the requirements below. Commencement of construction in violation of the below requirements voids the purchase contract:

(a) The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site received environmental approval prior to commencement of construction in accordance with 24 CFR § 982.628; and

(b) The construction will not commence until the environmental review has been completed and the seller has received written notice from DCHA that environmental approval has been obtained. Environmental approval may be conditioned on the contracting parties' agreement to modification to the unit design or to mitigation actions.

8906.29 In its administrative discretion, DCHA may deny approval of a seller for the same reasons DCHA may disapprove an owner under the regular HCV program.

8906.30 DCHA may establish requirements for financing purchase of a home under the homeownership option. This may include requirements concerning qualification

of lenders, terms of financing, restrictions concerning debt secured by the home, lender qualifications, loan terms, and affordability of the debt. DCHA must establish policies describing these requirements in the Plan.

8906.31 DCHA may not require that families acquire financing from one or more specified lenders, thereby restricting the family's ability to secure favorable financing terms:

(a) As a check against predatory lending, DCHA will review the financing of each purchase transaction, including estimated closing costs. DCHA will review the loans for features, such as balloon payments, adjustable rate mortgages, and unusually high interest rates, all of which are prohibited. DCHA also will not approve "seller financing" or "owner-held" mortgages. Beyond these basic criteria, DCHA will rely on the lenders to determine that the loan will be affordable to program participants.

(b) The mortgage the family applies for must require a minimum down payment of at least three percent (3%) of the sales price with one percent (1%) of the down payment coming from the purchaser's personal funds. DCHA will not require that the family have any more than the minimum of one percent (1%) of their own money in the transaction. However, in cases where a lender is requiring a larger amount, the family may be held to the underwriting guidelines set by their lending institution.

(c) DCHA will approve a family's request to utilize its Family Self-Sufficiency escrow account after final disbursement for down payment and/or closing costs when purchasing a unit under the HCV homeownership option.

8906.32 Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, DCHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to DCHA the homeownership assistance for the month when the family moves out.

8906.33 Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD [form HUD-52649]. In the statement, the family agrees to comply with all family obligations under the homeownership option.

8906.34 The family must comply with the following obligations:

(a) The family must comply with the terms of the mortgage securing debt incurred to purchase the home, or any refinancing of such debt;

(b) The family may not convey or transfer ownership of the home, except for purposes of financing, refinancing, or pending settlement of the estate of a deceased family member. Use and occupancy of the home are subject to 24 CFR § 982.551 (h) and (i);

(c) The family must supply information to DCHA or HUD as specified in 24 CFR § 982.551(b). The family must further supply any information required by DCHA or HUD concerning mortgage financing or refinancing, sale or transfer of any interest in the home, or homeownership expenses;

(d) The family shall obtain written approval from DCHA before securing any refinancing on the primary loan, subordinate equity loan or line of credit;

(e) The family must notify DCHA before moving out of the home;

(f) The family must notify DCHA if the family defaults on the mortgage used to purchase the home;

(g) The family must provide DCHA with information on any satisfaction or payment of the mortgage debt;

(h) No family member may have any ownership interest in any other residential property;

(i) The family must comply with the obligations of a participant family described in 24 CFR § 982.551, except for the following provisions which do not apply to assistance under the homeownership option: 24 CFR § 982.551(c), (d), (e), (f), (g) and (j);

(j) DCHA will require families to establish and deposit a minimum of Fifty Dollars ($50) a month into a maintenance reserve account;

(k) The family must attend a DCHA scheduled annual meeting, and provide what documentation is required at that meeting;

(l) DCHA will terminate the family's homeownership assistance if the family's income falls below the minimum annual income requirements for more than twelve (12) consecutive months;

(m) If, during the first ten (10) years of homeownership, the family sells the unit DCHA will recapture a percentage of the homeownership proceeds provided to the family, unless proceeds are invested in purchasing another home under the Homeownership program; and

(n) DCHA shall also recapture a percentage of any proceeds realized upon refinancing that are retained by the household (i.e., during a "cash-out" of the refinanced debt).

8906.35 Sale of the Home**:** In the case of the sale of the home, the recapture amount shall be in the amount equaling the lesser of the following:

(a) The amount of Homeownership assistance provided to the household, adjusted to reflect the automatic reduction provided in "Reduction of Recapture Amount" below; and

(b) The difference between the sales price and the purchase price of the home, minus:

(1) The cost of any documented capital expenditures; and

(2) The cost incurred by the household in the sale of the home, such as brokerage fees or repair and fix-up costs; and

(3) The amount of the difference between the sales price and purchase price that is being used upon sale, toward the purchase of a new home under the Home Ownership Program; and

(4) Any amounts previously recaptured.

8906.36 Refinancing of the Home: In the case of a refinancing of the home, the recapture shall be the amount equaling the lesser of the following:

(a) The amount of Homeownership assistance provided to the household, adjusted to reflect the automatic reduction provided in "Reduction of Recapture Amount" below; or

(b) The difference between the current mortgage debt and the new mortgage debt; minus:

(1) The cost of any documented capital expenditures; and

(2) The cost incurred by the household in the refinancing of the home, such as reasonable and customary closing costs; and

(3) Any amounts previously recaptured.

8906.37 Reduction of Recapture Amount. The amount of the recapture shall be reduced in increments of ten percent (10%) for each full year of receipt of HCV Homeownership Assistance/subsidies with, no recapture required after the end of the tenth (10^{th}) year of participation.

8906.38 At the time of purchase, the household shall execute a Recapture Agreement and Mortgage document which obligates the household to repay a portion of the Subsidy under certain circumstances and secures DCHA's right to recapture Homeownership Assistance Subsidy.

8906.39 Subordinate Lien: The lien securing the recapture may be subordinated to the mortgage lien of the primary loan and other subordinate liens securing repayment of down-payment assistance.

8906.40 Except in the case of a family that qualifies as an elderly or disabled family, other family members (described below) shall not receive homeownership assistance for more than:

(a) Fifteen (15) years, if the initial mortgage incurred to finance purchase of the home has a term of twenty (20) years or longer; or

(b) Ten (10) years, in all other cases.

8906.41 The maximum term described above applies to any member of the family who:

(a) Has an ownership interest in the unit during the time that homeownership payments are made; or

(b) Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

8906.42 In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at the start of homeownership assistance. In the case of a disabled family, the exception applies if at any time during receipt of homeownership assistance the family qualifies as a disabled family.

8906.43 If, during the course of homeownership assistance, the family ceases to qualify as a disabled or elderly family, the maximum term becomes applicable from the date homeownership assistance commenced. However, such a family must be provided at least 6 months of homeownership assistance after the maximum term becomes applicable (provided the family is otherwise eligible to receive homeownership assistance).

8906.44 If the family has received such assistance for different homes, or from different PHAs, the total of such assistance terms is subject to the maximum term described in this part.

8906.45 The monthly homeownership assistance payment is the lower of: the voucher payment standard minus the total tenant payment, or the monthly homeownership expenses minus the total tenant payment.

8906.46 In determining the amount of the homeownership assistance payment, DCHA will use the same payment standard schedule, payment standard amounts, and subsidy standards as those described elsewhere in this plan for the HCV program. The payment standard for a family is the greater of:

(a) The payment standard as determined at the commencement of homeownership assistance for occupancy of the home, or

(b) The payment standard at the most recent regular reexamination of family income and composition since the commencement of homeownership assistance for occupancy of the home.

8906.47 [RESERVED]

8906.48 Homeownership expenses (not including cooperatives) must include amounts allowed by DCHA to cover:

(a) Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;

(b) Real estate taxes and public assessments on the home;

(c) Home insurance;

(d) DCHA allowance for maintenance expenses;

(e) DCHA allowance for costs of major repairs and replacements;

(f) DCHA utility allowance for the home;

(g) Principal and interest on mortgage debt incurred to finance costs for major repairs, replacements, or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if DCHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person;

(h) Land lease payments where a family does not own fee title to the real property on which the home is located; and

(i) For a condominium unit, condominium operating charges or maintenance fees assessed by the condominium homeowner association.

8906.49 DCHA does not have the discretion to exclude any of the listed homeownership expenses or to add any additional items.

8906.50 Homeownership expenses for a cooperative member include amounts allowed by DCHA to cover:

(a) The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;

(b) Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;

(c) Home insurance;

(d) DCHA allowance for maintenance expenses;

(e) DCHA allowance for costs of major repairs and replacements;

(f) DCHA utility allowance for the home;

(g) Principal and interest on debt incurred to finance major repairs, replacements or improvements for the home. If a member of the family is a person with disabilities, such debt may include debt incurred by the family to finance costs needed to make the home accessible for such person, if DCHA determines that allowance of such costs as homeownership expenses is needed as a reasonable accommodation so that the homeownership option is readily accessible to and usable by such person; and

(h) Cooperative operating charges or maintenance fees assessed by the cooperative homeowner association.

8906.51 DCHA will use the following amounts for homeownership expenses:

(a) **Monthly homeownership payment**. This includes principal and interest on initial mortgage debt, taxes and insurance, public assessments, and any mortgage insurance premium, if applicable;

(b) **Utility allowance**. DCHA's utility allowance for the unit, based on the current HCV utility allowance schedule;

(c) **Monthly maintenance/major repair/replacement allowance**. A single monthly maintenance/repair/replacement allowance will be provided at Fifty Dollars ($50) per month;

(d) **Monthly co-op/condominium assessments**. If applicable, the monthly amount of co-op or condominium association operation and maintenance assessments;

(e) **Monthly principal and interest on debt for improvements**. Principal and interest for major home repair, replacements, or improvements, if applicable; and

(f) **Land lease payments.** Land lease payments where a family does not own fee title to the real property on which the home is located.

8906.52 DCHA may pay the homeownership assistance payments directly to the family, or at DCHA's discretion, to a lender on behalf of the family. If the assistance payment exceeds the amount due to the lender, DCHA shall pay the excess directly to the family:

(a) DCHA's housing assistance payment will be paid directly to the family via direct deposit. It will be the family's responsibility to make the entire payment to the lender. DCHA may make an exception if the family requests the payment to go directly to the lender, and this arrangement is acceptable to the mortgage company. If the assistance payment exceeds the amount due to the lender, DCHA must pay the excess directly to the family.

(b) DCHA will require families to establish and deposit a minimum of Fifty Dollars ($50) a month into a maintenance reserve account.

8906.53 Under the authority granted to the PHA under its Moving to Work (MTW) status, homeownership families may not exercise portability.

8906.54 [RESERVED]

8906.55 A family receiving homeownership assistance may move with continued tenant-based assistance or with voucher homeownership assistance.

8906.56 DCHA must determine that all initial requirements have been satisfied if a family that has received homeownership assistance wants to move with continued homeownership assistance. However, the following do not apply:

(a) The requirement that a family must be a first-time homeowner is not applicable; and

(b) The requirement for pre-assistance counseling is not applicable. However, DCHA may require that the family complete additional counseling (before or after moving to a new unit with continued homeownership assistance).

8906.57 Continued tenant-based assistance for a new unit cannot begin so long as any family member holds title to the prior home. However, when the family or a member of the family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health or safety of the family or family member (or any family member has been the victim of a sexual assault that occurred on the premises during the ninety (90)-calendar-day period preceding the family's request to move), such family or family member may be assisted with continued tenant-based assistance even if they own any title or other interest in the prior home.

8906.58 DCHA may deny permission to move to a new unit with continued voucher assistance:

(a) If DCHA has insufficient funding to provide continued assistance;

(b) In accordance with 24 CFR § 982.638, regarding denial or termination of assistance. In this case, DCHA must provide written notification to the local HUD Office within ten (10) business days of determining it is necessary to deny moves based on insufficient funding; or

(c) In accordance with DCHA's policy regarding number of moves within a twelve (12)-month period.

8906.59 DCHA must deny the family permission to move to a new unit with continued voucher rental assistance if:

(a) The family defaulted on an FHA-insured mortgage; and

(b) The family fails to demonstrate that the family has conveyed, or will convey, title to the home, as required by HUD, to HUD or HUD's designee; and

(c) The family has moved, or will move, from the home within the period established or approved by HUD.

8906.60 For families participating in the homeownership option, requests to move will be approved and/or denied in accordance with DCHA policies in this § 8600. DCHA may require additional counseling of any families who move with continued assistance.

8906.61 At any time, DCHA may deny or terminate homeownership assistance in accordance with HCV program requirements in 24 CFR § 982.552 (Grounds for denial or termination of assistance) or 24 CFR § 982.553 (Crime by family members).

8906.62 DCHA may also deny or terminate assistance for violation of participant obligations described in 24 CFR Parts § 982.551 or § 982.633 and in accordance with its own policy.

8906.63 Homeownership assistance for a family automatically terminates one hundred eighty (180) calendar days after the last homeownership assistance payment on behalf of the family. However, a PHA may grant relief from this requirement in those cases where automatic termination would result in extreme hardship for the family.

8906.64 In order for DCHA to consider granting relief from the requirement to automatically terminate homeownership assistance one hundred eighty (180) days following DCHA's last housing assistance payment on behalf of the family, the family must submit a written request to DCHA at least thirty (30) days prior to the date of automatic termination. The request must include an explanation of the circumstances that will cause an extreme hardship for the family (e.g., the imminent loss of income or employment) as well as documentation supporting the request. DCHA will determine on a case-by-case basis whether to grant relief from the requirement and for what period of time. In no case will DCHA postpone termination beyond an additional ninety (90) days.

8906.65 DCHA must terminate voucher homeownership assistance for any member of family receiving homeownership assistance that is dispossessed from the home pursuant to a judgment or order of foreclosure on any mortgage (whether FHA insured or non-FHA) securing debt incurred to purchase the home, or any refinancing of such debt.

8906.66 (a) DCHA will terminate a family's homeownership assistance if the family violates any of the homeowner obligations listed in § 8900 as well as for any of the reasons listed in Section 2 of form HUD-52649, Statement of Homeowner Obligations Housing Choice Homeownership Voucher Program.

(b) In making its decision to terminate homeownership assistance, the DCHA will consider alternatives and other factors. Upon consideration of such alternatives and factors, DCHA may, on a case-by-case basis, choose not to terminate assistance.

(c) Termination notices will be sent in accordance with the requirements and policies set forth in § 5100.

Chapter 91, HOUSING CHOICE VOUCHER PROGRAM: RENT REFORM DEMONSTRATION PROGRAM, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 91

PROGRAM ADMINISTRATION & INFORMAL HEARINGS

9100 ADMINISTRATIVE FEE RESERVE

9100.1 DCHA maintains administrative fee reserves, or unrestricted net position (UNP) for the program to pay program administrative expenses in excess of administrative fees paid by HUD in a fiscal year. The use of the funds in the reserve is regulated by HUD. Expenditures from the UNP account will be made in accordance with all applicable federal requirements. Expenditures will not exceed Two Hundred Fifty Thousand Dollars ($250,000) per occurrence without the prior approval of DCHA's Board of Commissioners.

9101 SETTING PROGRAM STANDARDS AND SCHEDULES

9101.1 Copies of the payment standard and utility allowance schedules are available for review in the DCHA's offices during normal business hours. Payment standard schedules are also available on the DCHA's website. DCHA will maintain documentation to support its annual review of payment standards and utility allowance schedules. This documentation will be retained for at least three (3) years.

9101.2 [RESERVED]

9101.3 The payment standard sets the maximum subsidy payment a family can receive from the DCHA each month. Payment standards are based on fair market rents (FMRs) published annually by HUD. FMRs are set at a percentile within the rent distribution of standard quality rental housing units in each FMR area.

9101.4 DCHA will review the appropriateness of the payment standards on an annual basis when the new FMR is published, and at other times as determined necessary.

9101.5 In addition to ensuring the payment standards are always within the "authorized range" DCHA will consider the following factors when determining whether an adjustment should be made to the payment standard schedule:

(a) DCHA will review the budget to determine the impact projected subsidy adjustments will have on funding available for the program and the number of families served. DCHA will compare the number of

families who could be served under revised payment standard amounts with the number assisted under current payment standard amounts.

(b) DCHA will analyze rent burden will be determined by identifying the percentage of families, for each unit size, that are paying more than thirty percent (30%) of their monthly adjusted income as the family share. When forty percent (40%) or more of families, for any given unit size, are paying more than thirty percent (30%) of adjusted monthly income as the family share, the DCHA will consider increasing the payment standard. In evaluating rent burdens, the DCHA will not include families renting a larger unit than their family unit size.

(1) DCHA may review the quality of units selected by participant families when making the determination of the percent of income families are paying for housing, to ensure that payment standard increases are only made when needed to reach the mid-range of the market.

(2) DCHA may review a sample of the units to determine how often owners are increasing or decreasing rents and the average percent of increases/decreases by bedroom size.

(3) DCHA may review the availability of units for each unit size, particularly in areas with low concentrations of poor and minority families.

(4) DCHA may consider the percentage of families that are unable to locate suitable housing before the voucher expires and whether families are leaving the jurisdiction to find affordable housing.

9101.6 Effective dates of changes to payment standard amounts will be determined at the time of update. DCHA will always ensure the payment standards will be within the authorized range.

9101.7 [RESERVED]

9101.8 HUD allows DCHA to establish a HUD-Veterans Affairs Supportive Housing (HUD-VASH) exception payment standard. DCHA may go up to, but no higher than, one hundred twenty percent (120%) percent of the FMR or SAFMR specifically for VASH families. If DCHA wants to establish a VASH exception payment standard over one hundred twenty percent (120%) percent, then DCHA shall request a waiver from HUD.

9101.9 SAFMRs may be voluntarily adopted for one or more zip code areas.

9101.10 Unit-by-unit exceptions to DCHA's payment standards generally are not permitted. However, an exception may be made as a reasonable accommodation for a family that includes a person with disabilities. This type of exception does not affect DCHA's payment standard schedule.

9101.11 DCHA may make an exception to the payment standard without HUD approval if the exception amount does not exceed one hundred twenty percent (120%) percent of the applicable FMR for the unit size.

9101.12 A family that requires a reasonable accommodation may request a higher payment standard at the time the Request for Tenancy Approval (RTA) is submitted. The family must document the need for the exception. In order to approve an exception, or request an exception from HUD, DCHA must determine that:

(a) There is a shortage of affordable units that would be appropriate for the family;

(b) The family's TTP would otherwise exceed forty percent (40%) of adjusted monthly income; and

(c) The rent for the unit is reasonable.

9101.13 If a substantial percentage of families have difficulty finding a suitable unit, DCHA may request a "success rate payment standard" that applies to the entire jurisdiction. If DCHA decides to request a "success rate payment standard," it shall compile information demonstrate that during the most recent six (6) month period for which information is available:

(a) Fewer than seventy-five percent (75%) of families who were issued vouchers became participants;

(b) DCHA had established payment standards for all unit sizes, and for the entire jurisdiction, at one hundred ten percent (110%) percent of the published FMR; and

(c) DCHA had a policy of allowing voucher holders who made sustained efforts to locate units at least ninety (90) days to search for a unit.

9101.14 Although HUD approves the success rate payment standard for all unit sizes in the FMR area, DCHA may choose to adjust the payment standard for only some unit sizes in all, or a designated part, of the DCHA's jurisdiction within the FMR area.

9101.15 DCHA must request HUD approval to establish a payment standard amount that is lower than the basic range.

9101.16 A DCHA-established utility allowance schedule is used in determining family share and DCHA subsidy. DCHA must maintain a utility allowance schedule for

(a) all tenant-paid utilities;

(b) the cost of tenant-supplied refrigerators and ranges; and

(c) other tenant-paid housing services such as trash collection.

9101.17 The utility allowance schedule must be determined based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. In developing the schedule, DCHA must use normal patterns of consumption for the community as a whole, and current utility rates.

9101.18 The utility allowance must include the utilities and services that are necessary in the locality to provide housing that complies with housing quality standards. Costs for telephone, cable/satellite television, and internet services are not included in the utility allowance schedule.

9101.19 In the utility allowance schedule, DCHA must classify utilities and other housing services according to the following general categories: space heating; air conditioning; cooking; water heating; water; sewer; trash collection; other electric; cost of tenant-supplied refrigerator; cost of tenant-supplied range; and other specified housing services.

9101.20 The cost of each utility and housing service must be stated separately by unit size and type.

9101.21 Under its authority as a Moving to Work PHA, DCHA simplified its utility allowance schedule, factoring in air-conditioning into that schedule.

9101.22 On request from a family that includes a person with disabilities, DCHA must approve a utility allowance which is higher than the applicable amount on the utility allowance schedule if a higher utility allowance is needed as a reasonable accommodation to make the program accessible and usable by the family member with a disability.

9101.23 DCHA may grant requests for relief from charges in excess of the utility allowance on reasonable grounds, such as special needs of the elderly, ill, or residents with disabilities, or special factors not within control of the resident, as DCHA deems appropriate. The family must request the higher allowance and

provide DCHA with an explanation of the need for the individual relief and information about the amount of additional allowance required.

9101.24 DCHA should develop criteria for granting individual relief and to notify residents about the availability of individual relief, and also to notify participants about the availability of individual relief programs (sometimes referred to as "Medical Baseline discounts") offered by the local utility company.

9101.25 DCHA must review its schedule of utility allowances each year, and must revise the schedule if there has been a change of ten percent (10%) or more in any utility rate since the last time the allowance for that utility was revised.

9101.26 DCHA must maintain information supporting its annual review of utility allowance and any revisions made in its utility allowance schedule.

9102 INFORMAL REVIEWS AND HEARINGS

9102.1 Both applicants and participants have the right to disagree with, and appeal, certain decisions of DCHA that may adversely affect them.

9102.2 The process for applicant appeals of DCHA decisions is called the "informal review." For participants (or applicants denied admission because of citizenship issues), the appeal process is called an "informal hearing."

9102.3 Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program but is not yet a participant in the program. Informal reviews are intended to provide a "minimum hearing requirement," and need not be as elaborate as the informal hearing requirements.

9102.4 DCHA will only offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes the following:

(a) Determining a family ineligible to assistance, denying listing on the DCHA waiting list;

(b) Denying or withdrawing a voucher; refusing to process or provide assistance under portability procedures;

(c) Refusing to enter into a HAP contract or approve a lease for reasons unrelated to HQS; or

(d) Owner disapproval.

9102.5 DCHA must give an applicant prompt notice of a decision denying assistance. The notice must contain a brief statement of the reasons for the DCHA decision,

and must also state that the applicant may request an informal review of the decision. The notice must describe how to obtain the informal review.

9102.6 A request for an informal review must be made in writing and delivered to DCHA electronically, in person, or by first class mail, by the close of the business day, no later than fourteen (14) business days from the date of the DCHA's denial of assistance.

9102.7 DCHA must schedule and send written notice of the informal review within fourteen (14) business days of the family's request.

9102.8 If the informal review will be conducted remotely, at the time DCHA notifies the family of the informal review, the family will be informed:

(a) Regarding the processes to conduct a remote informal review;

(b) That, if needed, DCHA will provide technical assistance prior to and during the informal review; and

(c) That if the family or any individual witness has any technological, resource, or accessibility barriers preventing them from fully accessing the remote informal review, the family may inform DCHA and DCHA will assist the family in either resolving the issues or allow the family to participate in an in-person informal review, as appropriate.

9102.9 The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person. The applicant must be provided an opportunity to present written or oral objections to the decision of DCHA.

9102.10 DCHA has the sole discretion to require that informal reviews be conducted remotely. DCHA will conduct an informal review remotely upon request of the applicant as a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal review, or if the applicant believes an in-person informal review would create an undue health risk. DCHA will consider other reasonable requests for a remote informal review on a case-by-case basis.

9102.11 As with in-person informal reviews, the platform for conducting remote informal reviews must be accessible to persons with disabilities and the informal review must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities. Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard

accessibility, accessible documents, screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual. DCHA shall never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal hearings.

9102.12 DCHA is required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal review process.

9102.13 If no method of conducting a remote informal review is available that appropriately accommodates an individual's disability, DCHA may not hold against the individual their inability to participate in the remote informal review, and DCHA should consider whether postponing the remote informal review to a later date is appropriate or whether there is a suitable alternative.

9102.14 Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

9102.15 As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal reviews, including the use of interpretation services and document translation.

9102.16 [RESERVED]

9102.17 As with in-person informal reviews, DCHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal review. The family must also be provided with an accessible means by which to transmit their own evidence.

9102.18 DCHA must ensure that the applicant has the right to hear and be heard. All DCHA policies and processes for remote informal reviews must be conducted in accordance with due process requirements and be in compliance with HUD regulations at 24 CFR § 982.554 and guidance specified in Notice PIH 2020-32.

(a) DCHA will conduct remote informal reviews via a video conferencing platform. This may be via the family's own electronic devices, or through the family utilizing a DCHA customer service center, where an electronic means of attending the informal review will be provided.

(b) At least five (5) business days prior to the scheduled remote review, DCHA will provide the family with login information or conferencing call-in information and an electronic or physical copy of all materials being presented via first class mail or email, or make the materials

available through a tenant portal. The notice will advise the family of technological requirements for the review and request the family notify DCHA of any known barriers. DCHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person review.

(c) DCHA will require the family to provide any documents directly relevant to the informal review through the mail or electronically so that they will be received by DCHA at least three (3) business days before the scheduled review. DCHA will provide copies of these documents to DCHA representative(s) the same day.

(d) Documents will be shared electronically whenever possible.

(e) DCHA will follow up the email with a phone call or email to the applicant at least one business day prior to the remote informal review to ensure that the applicant received all information and is comfortable accessing the video conferencing or call-in platform.

(f) DCHA will ensure that all electronic information stored or transmitted with respect to the informal review is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

9102.19 DCHA must notify the applicant of DCHA's decision, including a brief statement of the reasons for the decision.

(a) In rendering a decision, DCHA will evaluate the following matters:

(1) Whether or not the grounds for denial were stated factually in the notice to the family;

(2) The validity of the grounds for denial of assistance. If the grounds for denial are not specified in the regulations/policy, then the decision to deny assistance will be overturned;

(3) The validity of the evidence. DCHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, DCHA will uphold the decision to deny assistance; and

(4) If the facts prove the grounds for denial, and the denial is discretionary, DCHA will consider the recommendation of the person conducting the informal review in making the decision whether to deny assistance.

(b) DCHA will notify the applicant of DCHA's decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within ten (10) business days of the informal review, to the applicant and their representative, if any, along with proof of mailing. If DCHA's decision is upheld, the notice will advise the applicant that they may request an informal hearing, and include instructions on how to request the informal hearing.

(c) If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

(d) If the family fails to appear for their informal review, the denial of admission will stand, and the family will be so notified.

9102.20 DCHA must offer an informal hearing for certain DCHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the DCHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether DCHA'a decisions related to the family's circumstances are in accordance with the law, HUD regulations, and DCHA policies.

9102.21 DCHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

(a) Refusing to enter into a HAP contract or approve a lease;

(b) Terminating housing assistance payments under an outstanding HAP contract; or

(c) Refusing to process or provide assistance under portability procedures.

9102.22 Circumstances for which DCHA must give a participant family an opportunity for an informal hearing are as follows:

(a) A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment;

(b) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the DCHA utility allowance schedule;

(c) A determination of the family unit size under DCHA's subsidy standards;

(d) A determination to terminate assistance for a participant family because of the family's actions or failure to act;

(e) A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under DCHA policy and HUD rules; and

(f) A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account.

9102.23 In accordance with 24 CFR § 982.555(b), DCHA will not provide an informal hearing for the following circumstances:

(a) Discretionary administrative determinations by DCHA;

(b) General policy issues or class grievances;

(c) Establishment of DCHA schedule of utility allowances for families in the program;

(d) DCHA determination not to approve an extension of a voucher term;

(e) DCHA determination not to approve a unit or tenancy;

(f) DCHA determination that a unit selected by the applicant is not in compliance with the HQS;

(g) DCHA determination that the unit is not in accordance with HQS because of family size; or

(h) A determination by DCHA to exercise or not to exercise any right or remedy against an owner under a HAP contract.

9102.24 DCHA will only offer participants the opportunity for an informal hearing when required to by the regulations, and if DCHA denies a request for a reasonable accommodation.

9102.25 (a) DCHA has the sole discretion to require that informal hearings be conducted remotely.

(b) DCHA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have childcare or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. DCHA will

consider other reasonable requests for a remote informal hearing on a case-by-case basis.

9102.26 [RESERVED]

9102.27 [RESERVED]

9102.28 If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, DCHA may not hold against the individual their inability to participate in the remote informal hearing, and DCHA should consider whether postponing the remote hearing to a later date is appropriate or whether there is a suitable alternative.

9102.29 Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation will depend on the specific circumstances and requirements.

9102.30 As with in-person reviews, Limited English Proficiency (LEP) requirements also apply to remote informal hearings, including the use of interpretation services and document translation.

9102.31 Conducting Informal Hearings Remotely

(a) DCHA must ensure that the lack of technology or inability to use technology for remote informal hearings does not pose a disadvantage to families that may not be apparent to DCHA. DCHA should determine through a survey or other means if these barriers exist prior to conducting the remote informal hearing and, if the family does not have the proper technology to fully participate, either postpone the informal hearing or provide an alternative means of access.

(b) As with in-person informal hearings, DCHA must provide all materials presented, whether paper or electronic, to the family prior to the remote informal hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

(c) DCHA will conduct remote informal hearings via a video conferencing platform. This may be via the family's own electronic devices, or through the family utilizing a DCHA customer service center, where an electronic means of attending the informal hearing will be provided.

(d) At least five (5) business days prior to scheduling the remote hearing, DCHA will provide the family with login information or conferencing call-in information and an electronic or physical copy of all materials being presented via first class mail or email, and/or make the materials available through a tenant portal. The notice will advise the family of

technological requirements for the hearing and request the family notify DCHA of any known barriers. DCHA will resolve any barriers using the guidance in Section 6 of Notice PIH 2020-32, including offering the family the opportunity to attend an in-person hearing.

(1) The PHA will follow up with a phone call and/or email to the family at least one business day prior to the remote informal hearing to ensure that the family received all information and is comfortable accessing the video conferencing or call-in platform.

(2) The PHA will ensure that all electronic information stored or transmitted with respect to the informal hearing is secure, including protecting personally identifiable information (PII), and meets the requirements for accessibility for persons with disabilities and persons with LEP.

9102.32 When DCHA makes a decision that is subject to informal hearing procedures, DCHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

(a) For decisions related to the family's annual or adjusted income, the determination of the appropriate utility allowance, and the determination of the family unit size, DCHA must notify the family that they may ask for an explanation of the basis of the determination, and that if they do not agree with the decision, they may request an informal hearing on the decision.

(b) For decisions related to the termination of the family's assistance, or the denial of a family's request for an exception to DCHA's subsidy standards, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

(c) In cases where DCHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

(1) The proposed action or decision of DCHA;

(2) A brief statement of the reasons for the decision, including the regulatory or policy reference;

(3) The date the proposed action will take place;

(4) A statement of the family's right to an explanation of the basis for the DCHA's decision, where appropriate;

(5) A statement that if the family does not agree with the decision the family may request an informal hearing of the decision;

(6) A deadline for the family to request the informal hearing;

(7) To whom the hearing request should be addressed; and

(8) A copy of DCHA's hearing procedures.

9102.33 When an informal hearing is required, DCHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

9102.34 A request for an informal hearing must be made in writing and delivered to DCHA electronically, in person, or by first class mail, by the close of the business day, no later than thirty-five (35) calendar days from the date of the DCHA's written notice of the DCHA's decision.

(a) DCHA will send written notification to any family whose request for an informal hearing was received by DCHA after the deadline stating no hearing will be granted.

(b) If the family is being terminated from the HCV program, and the request for informal hearing was received no later than sixty (60) days after written notice of termination of assistance, the family will also be provided notice they may request a good cause hearing to determine whether the family had good cause to miss the deadline. The opportunity for a good cause hearing is not provided if DCHA action is for other than termination of assistance.

(c) If the family requests a good cause hearing, and the hearing officer determines that the family did have good cause to miss the deadline, an informal hearing will be scheduled.

(d) If it is determined that the family did not have good cause, no informal hearing will be scheduled and DCHA's decision to terminate assistance will stand.

(e) DCHA must schedule and send written notice of the informal hearing to the family within fourteen (14) business days of the family's request.

(f) If DCHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

(1) Regarding the processes involved in a remote informal hearing;

(2) That DCHA will provide technical assistance prior to and during the informal hearing, if needed; and

(3) That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform DCHA and DCHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

(g) The family may request to reschedule a hearing for good cause for failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause for not appearing to a scheduled informal hearing is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, DCHA may request documentation of the "good cause" prior to rescheduling the hearing.

(h) If the family does not appear within twenty (20) minutes of the scheduled time and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact DCHA within twenty-four (24) hours of the scheduled hearing date, excluding weekends and holidays. DCHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as reasonable accommodation for a person with disabilities. If the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, DCHA's decision will stand.

9102.35 DCHA will compile a hearing packet, consisting of all documents DCHA intends to produce at the informal hearing. DCHA will deliver copies of the hearing packet to the family, the family's representatives, if any, and the hearing officer at least three days before the scheduled remote informal hearing. The original hearing packet will be in the possession of DCHA representative and retained by DCHA. Documents will be shared electronically whenever possible.

9102.36 If the informal hearing is to be conducted remotely, DCHA will require the family to provide any documents directly relevant to the informal hearing through the mail or electronically so that they will be received by DCHA at least three (3) business days before the scheduled informal hearing. DCHA will provide copies of these documents to the hearing officer and DCHA representative(s) the same day. Documents will be shared electronically whenever possible.

9102.37 At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

9102.38 Informal hearings will be conducted by a person or persons approved by DCHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

9102.39 Hearings may be attended by a hearing officer and the following applicable persons:

(a) A DCHA representative(s) and any witnesses for DCHA;

(b) The participant and any witnesses for the participant;

(c) The participant's counsel or other representative; and

(d) Any other person approved by DCHA as a reasonable accommodation for a person with a disability.

9102.40 The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive, or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

9102.41 DCHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

(a) Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four (4) categories of evidence.

(1) Oral evidence: the testimony of witnesses relevant to the case;

(2) Documentary evidence: a writing which is relevant to the case, for example, a letter written to DCHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof;

(3) Demonstrative evidence: Evidence relevant to the case created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram; and

(4) Real evidence: A tangible item relating directly to the case.

(b) "Hearsay Evidence" is evidence based not on a witness' personal knowledge. In and of itself, hearsay evidence carries no weight when making a finding of fact. The hearing officer may include hearsay evidence when considering their decision if it is corroborated by other evidence. Even though hearsay evidence is generally admissible in a hearing, the hearing officer will not base a hearing decision on hearsay alone unless there is clear probative value and credibility of the evidence, and the party presenting the evidence has met the burden of proof.

(c) The hearing officer has the authority to overrule any objections to evidence.

9102.42 The hearing officer may ask the family for additional information or might adjourn the hearing in order to reconvene at a later date, before reaching a decision.

(a) If the family misses an appointment to provide additional information established by the hearing officer, the hearing officer will decide based on what information/documentation has been received.

(b) If the family misses an appointment to reconvene, the action of DCHA will take effect and another hearing will not be granted.

9102.43 The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing.

(a) In rendering a decision, the hearing officer will consider the following matters:

(1) DCHA Notice to the Family: The hearing officer will determine if the reasons for the DCHA's decision are factually stated in the Notice;

(2) Document Review: The hearing officer will determine if DCHA and the family were given the opportunity to examine any relevant documents in accordance with DCHA policy;

(3) DCHA Evidence to Support the DCHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the DCHA's conclusion; and

(4) Validity of Grounds for Termination of Assistance (when applicable): The hearing officer will determine if the termination

of assistance is for one of the grounds specified in the HUD regulations and DCHA policies. If the grounds for termination are not specified in the regulations or in compliance with DCHA policies, then the decision of DCHA will be overturned.

(b) The hearing officer will issue a written decision to the family and DCHA no later than fourteen (14) business days after the hearing. The report will contain the following information:

(1) Hearing information:

(i) Name of the participant;

(ii) Date, time and place/type of the hearing;

(iii) Name of the hearing officer;

(iv) Name of the DCHA representative(s); and

(v) Name of family representative (if any);

(2) Background: A brief, impartial statement of the reason for the hearing;

(3) Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that were produced and that are admitted into evidence;

(4) Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. "Preponderance of the evidence" is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence;

(5) Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold DCHA's decision; and

(6) Order: The hearing report will include a statement of whether DCHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct DCHA to change the decision in accordance with the hearing officer's determination. In the case of

termination of assistance, the hearing officer will instruct DCHA to restore the participant's program status.

9102.44 A copy of the hearing must be furnished promptly to the family. The hearing officer will send a "Notice of Hearing Decision" to DCHA, and DCHA will promptly mail the "Notice of Hearing Decision" to the participant. This notice of proposed decision will be sent by first-class mail and email. A copy of the "Notice of Hearing Decision" will be maintained in DCHA's file.

9102.45 DCHA is not bound by the decision of the hearing officer for matters in which DCHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws. If DCHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, DCHA must promptly notify the family of the determination and the reason for the determination.

9102.46 The Executive Director has the authority to determine that DCHA is not bound by the decision of the hearing officer because DCHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements, or the decision was otherwise contrary to federal, state, or local laws.

9102.47 The proposed decision will become final on the tenth (l0th) day following the postmark of the proposed decision unless one of the parties has submitted a written request to the Executive Director requesting the Executive Director to reconsider the proposed decision before issuing a final decision. That request must include the basis for such review.

9102.48 If the Executive Director does review the decision of the hearing officer, after the review a "Notice of Final Decision" will be mailed to DCHA and the participant on the same day. The "Notice of Final Decision" will be sent by first-class mail and email. A copy of this notice will be maintained in the DCHA's file.

9102.49 The family has the right to appeal DCHA's final decision to the District of Columbia's Court of Appeals. DCHA shall include within the Hearing Officer's decision (proposed Decision), and the Notice of Final Decision information advising the family of their right to appeal.

9102.50 Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

9102.51 Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a

family may not be terminated or denied while the DCHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

9102.52 A decision against a family member, issued in accordance with the USCIS appeal process or the DCHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

9102.53 The notice of denial or termination of assistance for noncitizens must advise the family:

(a) That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance;

(b) The family may be eligible for proration of assistance.

(c) In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families;

(d) That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal;

(e) That the family has a right to request an informal hearing with DCHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal; and

(f) For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

9102.54 When DCHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, DCHA must notify the family of the results of the USCIS verification. The family will have thirty (30) days from the date of the notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS. The family must provide DCHA with a copy of the written request for appeal and the proof of mailing.

(a) DCHA will notify the family in writing of the results of the USCIS secondary verification within fourteen (14) business days of receiving the results.

(b) The family must provide DCHA with a copy of the written request for appeal and proof of mailing within ten (10) business days of sending the request to the USCIS.

9102.55 The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

9102.56 The USCIS will notify the family, with a copy to DCHA, of its decision. When the USCIS notifies DCHA of the decision, DCHA must notify the family of its right to request an informal hearing.

9102.57 DCHA will send written notice to the family of its right to request an informal hearing within fourteen (14) business days of receiving notice of the USCIS decision regarding the family's immigration status.

9102.58 After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that DCHA provide a hearing. The request for a hearing must be made either within thirty (30) days of receipt of DCHA notice of denial, or within thirty (30) days of receipt of the USCIS appeal decision. The informal hearing procedures for applicant families are described below.

(a) DCHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision;

(b) The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of DCHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing;

(c) The family will be allowed to obtain any documents related to the hearing at no cost. The family must request discovery of DCHA documents no later than 12:00 p.m. on the business day prior to the hearing. Documents will be shared electronically whenever possible;

(d) The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

(e) The family must also be provided the opportunity to refute evidence relied upon by DCHA, and to confront and cross-examine all witnesses on whose testimony or information DCHA relies;

(f) The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf;

(g) If needed, the family must request an interpreter for DCHA to provide interpretation services. DCHA will provide competent interpretation services, free of charge;

(h) The family is entitled to have the hearing recorded by audiotape;

(i) If the family desires a transcript, the family must notify DCHA in writing. DCHA will secure the services of a qualified transcriber service. The family is responsible for all costs incurred; and

(j) DCHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within fourteen (14) calendar days of the date of the informal hearing. The decision must state the basis for the decision.

9102.59 After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request DCHA provide a hearing. The request for a hearing must be made either within thirty (30) days of receipt of DCHA notice of termination, or within thirty (30) days of receipt of the USCIS appeal decision.

9102.60 DCHA must retain for a minimum of five (5) years the following documents that may have been submitted to DCHA by the family, or provided to DCHA as part of the USCIS appeal or the DCHA informal hearing process:

(a) The application for assistance;

(b) The form completed by the family for income reexamination;

(c) Photocopies of any original documents, including original USCIS documents;

(d) The signed verification consent form;

(e) The USCIS verification results;

(f) The request for a USCIS appeal;

(g) The final USCIS determination;

(h) The request for an informal hearing; and

(i) The final informal hearing decision.

9103 OWNER OR FAMILY DEBTS TO DCHA

9103.1 This § 9103 describes DCHA's policies for recovery of monies owed to DCHA by families or owners.

9103.2 When an action or inaction of an owner or participant results in the overpayment of housing assistance, DCHA holds the owner or participant liable to return any overpayments to DCHA.

9103.3 DCHA will enter into repayment agreements in accordance with the policies contained in this part as a means to recover overpayments.

9103.4 (a) Any amount due to DCHA by an owner must be repaid by the owner within thirty (30) days of DCHA determination of the debt.

(b) If the owner fails to repay the debt within the required time frame and is entitled to future HAP payments, DCHA will reduce the future HAP payments by the amount owed until the debt is paid in full.

(c) If the owner is not entitled to future HAP payments DCHA may, in its sole discretion, offer to enter into a repayment agreement on terms prescribed by DCHA.

(d) If the owner refuses to repay the debt, does not enter into a repayment agreement, or breaches a repayment agreement, DCHA will ban the owner from future participation in the program and pursue other modes of collection.

(e) When an owner refuses to repay monies owed to DCHA, DCHA will utilize other available collection alternatives including, but not limited to, the following:

(1) Collection agencies;

(2) Small claims court;

(3) Civil lawsuit; and

(4) State income tax set-off program.

9103.5 Any amount owed to DCHA by an HCV family must be repaid by the family. If the family is unable to repay the debt within thirty (30) days, DCHA will offer to enter into a repayment agreement in accordance with the policies below.

9103.6 The term "repayment agreement" refers to a formal written document signed by a tenant or owner and provided to DCHA in which a tenant or owner acknowledges a debt in a specific amount and agrees to repay the amount due at specific time periods.

9103.7 DCHA will require no down payment of amounts owed at the time of entering into a repayment agreement with the family.

9103.8 (a) DCHA has established the following thresholds for repayment of debts:

(1) Amounts between Three Thousand Dollars ($3,000) and the federal or state threshold for criminal prosecution must be repaid within thirty-six (36) months;

(2) Amounts between Two Thousand Dollars ($2,000) and Two Thousand Nine Hundred Ninety-Nine Dollars ($2,999) must be repaid within thirty (30) months;

(3) Amounts between One Thousand Dollars ($1,000) and One Thousand Nine Hundred Ninety-Nine Dollars ($1,999) must be repaid within twenty-four (24) months; and

(4) Amounts under One Thousand Dollars ($1,000) must be repaid within twelve (12) months.

(b) If a family can provide evidence satisfactory to DCHA that the threshold applicable to the family's debt would impose an undue hardship, DCHA may, in its sole discretion, determine that a lower monthly payment amount is reasonable. In making its determination, DCHA will consider all relevant information, including the following:

(1) The amount owed by the family to DCHA;

(2) The reason for the debt, including whether the debt was the result of family action/inaction or circumstances beyond the family's control;

(3) The family's current and potential income and expenses;

(4) The family's current family share, as calculated under 24 CFR § 982.515; and

(5) The family's history of meeting its financial responsibilities.

9103.9 Any repayment agreement between DCHA and a family must be signed and dated by DCHA and by the head of household and spouse or co-head (if applicable). If another adult member is responsible for the debt owed, DCHA may require that adult to also sign the repayment agreement.

9103.10 All payments are due by the close of business on the fifteenth (15th) day of the month. If the fifteenth (15th) does not fall on a business day, the due date is the close of business on the first business day after the fifteenth (15th).

9103.11 (a) If a payment is not received by the end of the business day on the date due, and prior approval for the missed payment has not been given by DCHA, DCHA will send the family a delinquency notice giving the family ten (10) business days to make the late payment.

(b) If the payment is not received by the due date of the delinquency notice, it will be considered a breach of the agreement and DCHA will terminate assistance.

(c) If a family receives three (3) delinquency notices for unexcused late payments in a twelve (12) month period, the repayment agreement will be considered in default, and DCHA will terminate assistance.

9103.12 DCHA generally will not enter into a repayment agreement with a family if there is already a repayment agreement in place with the family or if the amount owed by the family exceeds the federal or state threshold for criminal prosecution.

9103.13 All repayment agreements must be in writing, dated, signed by both the family and DCHA, include the total retroactive rent amount owed, any amount of lump sum payment made at time of execution, if applicable, and the monthly repayment amount. At a minimum, the following provisions shall be included in any repayment agreement involving amounts owed by a family because it underreported or failed to report income:

(a) A reference to the items in the family briefing packet that state the family's obligation to provide true and complete information at every reexamination and the grounds on which DCHA may terminate assistance because of a family's action or failure to act;

(b) A statement clarifying that each month the family not only must pay to DCHA the monthly payment amount specified in the agreement but must also pay to the owner the family's monthly share of the rent to owner;

(c) A statement that the terms of the repayment agreement may be renegotiated if the family's income decreases or increases; and

(d) A statement that late or missed payments constitute default of the repayment agreement and may result in termination of assistance.

9104 SECTION 8 MANAGEMENT ASSESSMENT PROGRAM (SEMAP)

9104.1 Under the authority granted to DCHA under its Moving to Work status, is not scored under Section 8 Management Assessment Program (SEMAP).

9104.2 [RESERVED]

9104.3 DCHA must submit the HUD-required SEMAP certification form within sixty (60) calendar days after the end of its fiscal year. The certification must be approved by a DCHA board resolution and signed by the DCHA Executive Director.

9104.4 [RESERVED]

9104.5 Failure of DCHA to submit its SEMAP certification within the required time frame will result in an overall performance rating of "troubled."

9104.6 DCHA's SEMAP certification is subject to HUD verification by an on-site confirmatory review at any time.

9104.7 [RESERVED]

9104.8 Several of the SEMAP indicators are scored based on a review of a quality control sample selected for this purpose. DCHA or the Independent Auditor must select an unbiased sample that provides an adequate representation of the types of information to be assessed, in accordance with SEMAP requirements.

9104.9 [RESERVED]

9104.10 The below lists each of the SEMAP indicators, contains a description of each indicator, and explains the basis for points awarded under each indicator.

(a) Indicator 1: Selection from the waiting list; Maximum Points: 15

(1) This indicator shows whether the PHA has written policies in its Plan for selecting applicants from the waiting list and whether the PHA follows these policies when selecting applicants from the waiting list.

(2) Points are based on the percent of families that are selected from the waiting list in accordance with the PHA's written policies, according to the PHA's quality control samples.

(b) Indicator 2: Rent reasonableness; Maximum Points: 20

(1) This indicator shows whether the PHA has and implements a reasonable written method to determine and document for each unit leased that the rent to owner is reasonable based on current rents for comparable unassisted units at the required times.

(2) Points are based on the percent of units for which the PHA follows its written method to determine reasonable rent and has documented its determination that the rent to owner is reasonable, according to the PHA's quality control sample.

(c) Indicator 3: Determination of adjusted income; Maximum Points: 20

(1) This indicator measures whether the PHA verifies and correctly determines adjusted income for each assisted family, and where applicable, uses the appropriate utility allowances for the unit leased in determining the gross rent.

(2) Points are based on the percent of files that are calculated and verified correctly, according to the PHA's quality control sample.

(d) Indicator 4: Utility allowance schedule; Maximum Points: 5

(1) This indicator shows whether the PHA maintains an up-to-date utility allowance schedule.

(2) Points are based on whether the PHA has reviewed the utility allowance schedule and adjusted it when required, according to the PHA's certification.

(e) Indicator 5: HQS quality control inspections; Maximum Points: 5

(1) This indicator shows whether a PHA supervisor reinspects a sample of units under contract during the PHA fiscal year, which meets the minimum sample size requirements for quality control of HQS inspections.

(2) Points are based on whether the required quality control reinspections were completed, according to the PHA's certification.

(f) Indicator 6: HQS enforcement; Maximum Points: 10

(1) This indicator shows whether, following each HQS inspection of a unit under contract where the unit fails to meet HQS, any cited life-threatening deficiencies are corrected within 24 hours from the inspection and all other deficiencies are corrected within no more than 30 calendar days from the inspection or any PHA-approved extension.

(2) Points are based on whether the PHA corrects all HQS deficiencies in accordance with required time frames, according to the PHA's certification.

(g) Indicator 7: Expanding housing opportunities; Maximum Points: 5

(1) Only applies to PHAs with jurisdiction in metropolitan FMR areas.

(2) This indicator shows whether the PHA has adopted and implemented a written policy to encourage participation by owners of units located outside areas of poverty or minority concentration; informs voucher holders of the full range of areas where they may lease units both inside and outside the PHA's jurisdiction; and supplies a list of landlords or other parties who are willing to lease units or help families find units, including units outside areas of poverty or minority concentration.

(3) Points are based on whether the PHA has adopted and implemented written policies in accordance with SEMAP requirements, according to the PHA's certification.

(h) Indicator 8: FMR limit and payment standards; Maximum Points: 5

(1) This indicator shows whether the PHA has adopted a payment standard schedule that establishes payment standard amounts by unit size for each FMR area in the PHA's jurisdiction, that are within the basic range of 90 to 110 percent of the published FMR.

(2) Points are based on whether the PHA has appropriately adopted a payment standard schedule(s), according to the PHA's certification.

(i) Indicator 9: Annual reexaminations; Maximum Points: 10

(1) This indicator shows whether the PHA completes a reexamination for each participating family at least every 12 months.

(2) Points are based on the percent of reexaminations that are less than two months overdue, according to data from PIC.

(j) Indicator 10: Correct tenant rent calculations; Maximum Points: 5

(1) This indicator shows whether the PHA correctly calculates the family's share of the rent to owner.

(2) Points are based on the percent of correct calculations of family share of the rent, according to data from PIC.

(k) Indicator 11: Pre-contract HQS inspections; Maximum Points: 5

(1) This indicator shows whether newly leased units pass HQS inspection on or before the effective date of the assisted lease and HAP contract.

(2) Points are based on the percentage of newly leased units that passed HQS inspection on or before the effective date of the lease and HAP contract, according to data from PIC.

(l) Indicator 12: Annual HQS inspections; Maximum Points: 10

(1) This indicator shows whether the PHA inspects each unit under contract at least annually.

(2) Points are based on the percentage of annual HQS inspections of units under contract that are more than 2 months overdue, according to data from PIC.

(m) Indicator 13: Lease-up; Maximum Points: 20

(1) This indicator shows whether the PHA enters HAP contracts for at least 98 percent of the number of the PHA's baseline voucher units in the ACC for the calendar year ending on or before the PHA's fiscal year, or whether the PHA has expended at least 98 percent of its allocated budget authority for the same calendar year. The PHA can receive 15 points if 95 to 97 percent of vouchers are leased or budget authority is utilized.

(2) Points are based on utilization of vouchers and HAP expenditures as reported in the voucher management system (VMS) for the most recently completed calendar year.

(n) Indicator 14: Family self-sufficiency (FSS) enrollment and escrow account balances; Maximum Points: 10

(1) Only applies to PHAs with mandatory FSS programs.

(2) This indicator shows whether the PHA has enrolled families in the FSS program as required and measures the percent of current FSS participants that have had increases in earned income which resulted in escrow account balances.

(3) Points are based on the percent of mandatory FSS slots that are filled and the percentage of families with escrow account balances, according to data from PIC.

(o) Indicator 15: Success Rate of Voucher Holders; Maximum Points: 5

(1) Only applies to PHAs that have received approval to establish success rate payment standard amounts and isn't effective until the second full PHA fiscal year following the date of HUD approval of success rate payment standard amounts.

(2) This indicator shows whether voucher holders were successful in leasing units with voucher assistance.

(3) Points are based on the percentage of families that were issued vouchers, and that became participants in the voucher program.

(p) Indicator 16: Deconcentration Bonus Indicator; Maximum Points: 5

(1) Submission of data for this indicator is mandatory for a PHA using one or more payment standard amount(s) that exceed(s) 100 percent of the published FMR set at the 50th percentile rent, starting with the second full PHA fiscal year following initial use of payment standard amounts based on the FMRs set at the 50th percentile.

(2) Additional points are available to PHAs that have jurisdiction in metropolitan FMR areas and that choose to submit the required data.

(3) Points are based on whether the data that is submitted meets the requirements for bonus points.

9105 RECORD KEEPING

9105.1 DCHA must maintain complete and accurate accounts and other records for the program in accordance with HUD requirements, in a manner that permits a speedy and effective audit. All such records must be made available to HUD or the Comptroller General of the United States upon request. In addition, DCHA

must ensure that all applicant and participant files are maintained in a way that protects an individual's privacy rights.

9105.2 During the term of each assisted lease, and for at least three (3) years thereafter, DCHA must keep:

(a) A copy of the executed lease;

(b) The HAP contract; and

(c) The application from the family.

9105.3 In addition, DCHA must keep the following records for at least three (3) years:

(a) Records that provide income, racial, ethnic, gender, and disability status data on program applicants and participants;

(b) An application from each ineligible family and notice that the applicant is not eligible;

(c) HUD-required reports;

(d) Unit inspection reports;

(e) Lead-based paint records as required by 24 CFR § 35, Subpart B;

(f) Accounts and other records supporting DCHA budget and financial statements for the program;

(g) Records to document the basis for DCHA determination that rent to owner is a reasonable rent (initially and during the term of a HAP contract); and

(h) Other records specified by HUD.

9105.4 DCHA must keep the last three (3) years of the Form HUD-50058 and supporting documentation during the term of each assisted lease, and for a period of at least three (3) years from the end of participation (EOP) date.

9105.5 DCHA must maintain Enterprise Income Verification (EIV) system Income Reports in the tenant file for the duration of the tenancy but for a period not to exceed three (3) years from the EOP date.

9105.6 [RESERVED]

9105.7 DCHA must keep confidential records of all emergency transfers requested by victims of domestic violence, dating violence, sexual assault, and stalking under

DCHA's Emergency Transfer Plan, as well as the outcomes of such requests, and retain the records for a period of three (3) years.

9105.8 If an informal hearing to establish a family's citizenship status is held, longer retention requirements apply for some types of documents.

9105.9 (a) All applicant and participant information will be kept in a secure location and access will be limited to authorized DCHA staff.

(b) DCHA staff will not discuss personal family information unless there is a business reason to do so. Inappropriate discussion of family information or improper disclosure of family information by staff will result in disciplinary action.

9105.10 The collection, maintenance, use, and dissemination of social security numbers (SSN), employer identification numbers (EIN), any information derived from these numbers, and income information of applicants and participants must be conducted, to the extent applicable, in compliance with the Privacy Act of 1974, and all other provisions of Federal, State, and local law.

9105.11 Applicants and participants, including all adults in the household, are required to sign a consent form, HUD-9886, Authorization for Release of Information. This form incorporates the Federal Privacy Act Statement and describes how the information collected using the form may be used, and under what conditions HUD or DCHA may release the information collected.

9105.12 Prior to utilizing HUD's Enterprise Income Verification (EIV) system, DCHA will adopt and implement EIV security procedures required by HUD.

9105.13 DCHA may only disclose the criminal conviction records which DCHA receives from a law enforcement agency to officers or employees of DCHA, or to authorized representatives of DCHA who have a job-related need to have access to the information.

9105.14 DCHA must establish and implement a system of records management that ensures that any criminal record received by DCHA from a law enforcement agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the DCHA action without institution of a challenge or final disposition of any such litigation.

9105.15 DCHA must establish and implement a system of records management that ensures that any sex offender registration information received by DCHA from a State or local agency is maintained confidentially, not misused or improperly disseminated, and destroyed, once the purpose for which the record was requested

has been accomplished, including expiration of the period for filing a challenge to the DCHA action without institution of a challenge or final disposition of any such litigation. However, a record of the screening, including the type of screening and the date performed must be retained. This requirement does not apply to information that is public information or is obtained by a PHA other than under 24 CFR § 5.905.

9105.16 DCHA is not permitted to inquire about the nature or extent of a person's disability. DCHA may not inquire about a person's diagnosis or details of treatment for a disability or medical condition. If DCHA receives a verification document that provides such information, DCHA should not place this information in the tenant file. DCHA should destroy the document.

9105.17 [RESERVED]

9106 REPORTING AND RECORD KEEPING FOR CHILDREN WITH ELEVATED BLOOD LEAD LEVEL

9106.1 DCHA has certain responsibilities relative to children with elevated blood lead levels that are receiving HCV assistance. This § 9106 deals with the reporting requirements, and data collection and record keeping responsibilities that DCHA is subject to.

9106.2 The owner must report the name and address of a child identified as having an elevated blood lead level to the public health department within five (5) business days of being so notified by any other medical health care professional. The owner must also notify the HUD field office and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five (5) business days. DCHA may collaborate with the owner on the notification process, such as by agreeing with the owner to provide the required notifications on the owner's behalf.

(a) District of Columbia Department of Energy and the Environment (DOEE), which is the local authority in charge of collecting all lead blood level tests in the District of Columbia works with DCHA to inform of EBLLs at addresses in DCHA's programs.

(b) When notified by DOEE, medical professionals, or program participants of an EBLL, DCHA provides the owner written notification and holds the owner responsible for performing the required notifications to the District of Columbia Department of Energy and the Environment, the HUD field office, and the HUD Office of Lead Hazard Control and Healthy Homes (OLHCHH) of the child's address within five (5) business days.

9106.3 At least quarterly, DCHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and addresses of children less than six (6) years old with an elevated blood lead level.

9106.4 If DCHA obtains names and addresses of elevated blood lead level children from the public health department(s), DCHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, DCHA must carry out the notification, verification, hazard reduction requirements, and the reporting requirement discussed above.

9106.5 At least quarterly, DCHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

9107 DETERMINATION OF INSUFFICIENT FUNDING

9107.1 [RESERVED]

9107.2 DCHA will determine whether there is adequate funding to issue vouchers, approve moves to higher cost units and areas, and continue subsidizing all current participants by comparing DCHA's annual budget authority to the annual total HAP needs on a monthly basis. The total HAP needs for the calendar year will be projected by establishing the actual HAP costs year to date. To that figure, DCHA will add anticipated HAP expenditures for the remainder of the calendar year. Projected HAP expenditures will be calculated by multiplying the projected number of units leased per remaining months by the most current month's average HAP. The projected number of units leased per month will take into account the average monthly turnover of participant families. If the total annual HAP needs equal or exceed the annual budget authority and funding reserves, or if DCHA cannot support the cost of the proposed subsidy commitment (voucher issuance or move) based on the funding analysis, DCHA will be considered to have insufficient funding.

9108 VIOLENCE AGAINST WOMEN ACT (VAWA): NOTIFICATION, DOCUMENTATION, CONFIDENTIALITY

9108.1 The Violence against Women Act of 2013 (VAWA) provides special protections for victims of domestic violence, dating violence, sexual assault and stalking who are applying for or receiving assistance under the housing choice voucher (HCV) program. If your state or local laws provide greater protection for such victims, those laws apply in conjunction with VAWA.

9108.2 In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and DCHA policies in three (3) areas: notification, documentation, and confidentiality.

9108.3 As used in VAWA:

(a) The term "bifurcate" means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

(b) The term "dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(1) The length of the relationship;

(2) The type of relationship; and

(3) The frequency of interaction between the persons involved in the relationship.

(c) The term "domestic violence" includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

(d) The term "affiliated individual" means, with respect to a person:

(1) A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or

(2) Any other individual, tenant, or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.

(e) The term "sexual assault" means any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks the capacity to consent.

(f) The term "stalking" means to engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

9108.4 To help ensure that all actual and potential beneficiaries of its HCV program are aware of their rights under VAWA, DCHA will post the following information regarding VAWA in its offices and on its website. It will also make the information readily available to anyone who requests it:

(a) A copy of the notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380);

(b) A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation;

(c) A copy of the DCHA's emergency transfer plan;

(d) A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383;

(e) The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY); and

(f) Contact information for local victim advocacy groups or service providers.

9108.5 DCHA is required to inform program applicants and participants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

9108.6 (a) DCHA will provide all applicants with information about VAWA at the time they apply for housing assistance and as part of the written briefing packet in preparation for admission (lease-up) to the program. DCHA will also include information about VAWA in all notices of denial of assistance.

(b) DCHA will provide all participants with information about VAWA at reexamination. DCHA will also include information about VAWA in notices of termination of assistance.

9108.7 (a) Whenever DCHA has reason to suspect that providing information about VAWA to a participant might place a victim of domestic violence at risk,

it will attempt to deliver the information by hand directly to the victim by having the victim come to an office or other space that may be safer for the individual, making reasonable accommodations as necessary. For example, DCHA may decide not to send mail regarding VAWA protections to the victim's unit if DCHA believes the perpetrator may have access to the victim's mail, unless requested by the victim.

(b) When discussing VAWA with the victim, DCHA will take reasonable precautions to ensure that no one can overhear the conversation, such as having conversations in a private room.

(c) The victim may, but is not required to, designate an attorney, advocate, or other secure contact for communications regarding VAWA protections.

9108.8 DCHA will provide owners and managers with information about their rights and obligations under VAWA upon request.

9108.9 DCHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, stalking, or criminal activity related to any of these forms of abuse may - but is not required to - request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least fourteen (14) business days after receipt of the request to submit the documentation. DCHA may extend this time period at its discretion. The individual may satisfy DCHA's request by providing any one of the following three (3) forms of documentation:

(a) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim. The form may be filled out and submitted on behalf of the victim;

(b) A federal, state, tribal, territorial, or local police report or court record, or an administrative record; or

(c) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

9108.10 (a) Any request for documentation of domestic violence, dating violence, sexual assault or stalking will be in writing, will specify a deadline of fourteen (14) business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

(b) DCHA may, in its discretion, extend the deadline for ten (10) business days. In determining whether to extend the deadline, DCHA will consider factors that may contribute to the victim's inability to provide documentation in a timely manner, including cognitive limitations, disabilities, limited English proficiency, absence from the unit, administrative delays, the danger of further violence, and the victim's need to address health or safety issues. Any extension granted by DCHA will be in writing.

(c) Once the victim provides documentation, DCHA will acknowledge receipt of the documentation within ten (10) business days.

9108.11 DCHA must honor any court orders issued to protect the victim or to address the distribution of property.

9108.12 (a) If presented with conflicting certification documents from members of the same household, DCHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR § 5.2007(e) and by following any HUD guidance on how such determinations should be made.

(b) When requesting third-party documents, DCHA will provide contact information for local domestic violence and legal aid offices. In such cases, applicants or tenants will be given thirty (30) calendar days from the date of the request to provide such documentation.

(c) If DCHA does not receive third-party documentation within the required timeframe (and any extensions) DCHA will deny VAWA protections and will notify the applicant or tenant in writing of the denial. If, as a result, the applicant or tenant is denied or terminated from the program, DCHA will hold separate hearings for the applicants or tenants.

(d) Once the third-party documentation is received, it will be reviewed by a designated review panel to determine what further action will be taken by DCHA, if any.

9108.13 DCHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence - i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

9108.14 If DCHA accepts an individual's statement or other corroborating evidence (as determined by the victim) of domestic violence, dating violence, sexual assault or stalking, DCHA will document acceptance of the statement or evidence.

9108.15 In order to deny relief for protection under VAWA, DCHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within fourteen (14) business days from the date of receipt, or such longer time as DCHA may allow, DCHA may deny relief for protection under VAWA.

9108.16 If disclosure is required for use in an eviction proceeding, termination of assistance, or is otherwise required by applicable law, DCHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

Chapter 94, AFFORDABLE HOUSING RENTAL REHABILITATION FINANCIAL ASSISTANCE, of Title 14 DCMR, HOUSING, is deleted, renamed, and replaced in its entirety to read as follows:

CHAPTER 94

PROJECT-BASED VOUCHERS

9400 GENERAL REQUIREMENTS

9400.1 The project-based voucher (PBV) program allows PHAs that already administer a tenant-based voucher program under an annual contributions contract (ACC) with HUD to take up to twenty percent (20%) of its authorized units and attach the funding to specific units rather than using it for tenant-based assistance.

9400.2 DCHA will administer its PBV program in accordance with its Moving to Work (MTW) Plan: Under the authority granted to DCHA under its MTW status, DCHA is not subject to the PBV cap. However, DCHA will maintain a twenty percent (20%) cap unless the cap is adjusted as approved by the Board of Commissioners.

9400.3 PBV assistance may be attached to existing housing or newly constructed or rehabilitated housing. If PBV units are already selected for project-based assistance either under an agreement to enter into HAP Contract (Agreement) or a HAP contract, DCHA is not required to reduce the number of these units if the number of authorized units is subsequently reduced. However, DCHA is responsible for determining the amount of budget authority that is available for

project-based vouchers and ensuring that the amount of assistance that is attached to units is within the amounts available under the ACC, regardless of whether DCHA has vouchers available for project-basing.

9400.4 DCHA may project-base an additional ten percent (10%) of its units above the twenty percent (20%) program limit. The units may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the ten percent (10%) percent cap.

9400.5 For units under a HAP contract that was first executed on or after April 18, 2017, units qualify under this exception if the units:

(a) Are specifically made available to house individuals and families that meet the definition of homeless under Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11302) and contained in the Continuum of Care Interim Rule at 24 CFR § 578.3;

(b) Are specifically made available to house families that are comprised of or include a veteran. "Veteran" means an individual who has served in the United States Armed Forces;

(c) Provide supportive housing to persons with disabilities or elderly persons as defined in 24 CFR § 5.403; or

(d) Are located in a census tract with a poverty rate of twenty percent (20%) percent or less, as determined in the most recent American Community Survey Five-Year Estimates.

9400.6 PBV units that house eligible youth receiving FUPY/FYI assistance are also covered by this ten percent (10%) percent exception authority if the units are under a HAP contract that became effective after December 27, 2020, and if the unit is occupied by an eligible youth receiving FUPY/FYI assistance. FYI TPVs that were awarded under Notice PIH 2019-20 are not part of this exception since PHAs are prohibited from project-basing FYI TPVs. Units added after December 27, 2020, through an amendment of a HAP contract that became effective after December 27, 2020, are eligible for this ten percent (10%) percent exception authority. In contrast, units added after December 27, 2020, through an amendment of a HAP contract that became effective on or prior to December 27, 2020, are not eligible for this ten percent (10%) percent exception authority.

9400.7 While, under the authority granted to DCHA under its MTW status, DCHA is not subject to the PBV cap, DCHA may project-base up to an additional ten percent (10%) of its authorized units, up to thirty percent (30%), in accordance with standard HUD regulations and requirements.

9400.8 PBV units under the RAD program and HUD-VASH PBV set-aside vouchers do not count toward the twenty percent (20%) percent limitation when PBV assistance is attached to them.

9400.9 In addition, units that were previously subject to certain federal rent restrictions or were receiving another type of long-term housing subsidy provided by HUD are not subject to the cap. The unit must be covered under a PBV HAP contract that first became effective on or after April 18, 2017.

9400.10 DCHA may project-base units not subject to the twenty percent (20%) cap in accordance with HUD regulations and requirements.

9400.11 Much of the tenant-based voucher program regulations also apply to the PBV program. Consequently, many of DCHA policies related to tenant-based assistance also apply to PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR § 983.2.

9400.12 Except as otherwise noted in this chapter, or unless specifically prohibited by PBV program regulations, DCHA policies for the tenant-based voucher program contained in this Plan also apply to the PBV program and its participants.

9400.13 Any persons displaced as a result of implementation of the PBV program must be provided relocation assistance in accordance with the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA) and implementing regulations at 49 CFR Part 24.

9400.14 The cost of required relocation assistance may be paid with funds provided by the owner, local public funds, or funds available from other sources. DCHA may not use voucher program funds to cover relocation costs, except that DCHA may use their administrative fee reserve to pay for relocation expenses after all other program administrative expenses are satisfied, and provided that payment of the relocation benefits is consistent with state and local law. Use of the administrative fee for these purposes must also be consistent with other legal and regulatory requirements, including the requirement in 24 CFR § 982.155 and other official HUD issuances.

9400.15 The acquisition of real property for a PBV project is subject to the URA and 49 CFR part 24, subpart B. It is the responsibility of DCHA to ensure the owner complies with these requirements.

9400.16 DCHA must comply with all equal opportunity requirements under federal law and regulations in its implementation of the PBV program. This includes the requirements and authorities cited at 24 CFR § 5.105(a). In addition, DCHA must comply with DCHA Plan certification on civil rights and affirmatively furthering fair housing, submitted in accordance with 24 CFR § 903.7(o).

9401 PBV OWNER PROPOSALS

9401.1 With certain exceptions, DCHA must describe the procedures for owner submission of PBV proposals and for PHA selection of PBV proposals. Before selecting a PBV proposal, DCHA must determine that the PBV proposal complies with HUD program regulations and requirements, including a determination that the property is eligible housing, complies with the cap on the number of PBV units per project, and meets the site selection standards. DCHA may not commit PBVs until or unless it has followed the proposal selection requirements defined in 24 CFR § 983.51.

9401.2 DCHA must select PBV proposals by either of the following two (2) methods.

(a) DCHA request for PBV Proposals. DCHA may solicit proposals by using a request for proposals to select proposals on a competitive basis in response to DCHA request. DCHA may not limit proposals to a single site or impose restrictions that explicitly or practically preclude owner submission of proposals for PBV housing on different sites; or

(b) DCHA may select proposal that were previously selected based on a competition. This may include selection of a proposal for housing assisted under a federal, state, or local government housing assistance program that was subject to a competition in accordance with the requirements of the applicable program, community development program, or supportive services program that requires competitive selection of proposals (e.g., HOME, and units for which competitively awarded LIHTCs have been provided), where the proposal has been selected in accordance with such program's competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. DCHA need not conduct another competition.

9401.3 For certain public housing projects where DCHA has an ownership interest or control, DCHA may attach PBV assistance non-competitively without following one of the two processes above. This exception applies when DCHA is engaged in an initiative to improve, develop, or replace a public housing property or site. The public housing units may either currently be in the public housing inventory or may have been removed from the public housing inventory within five years of the date on which DCHA entered the AHAP or HAP.

9401.4 If DCHA is planning rehabilitation or new construction on the project, a minimum threshold of Twenty-Five Thousand Dollars ($25,000) per unit in hard costs must be expended.

9401.5 If DCHA plans to replace public housing by attaching PBV assistance to existing housing in which DCHA has an ownership interest or control, then the Twenty-Five Thousand Dollars ($25,000) per unit minimum threshold does not apply as long as the existing housing substantially complies with HQS.

9401.6 DCHA must include in the Plan what work it plans to do on the property or site and how many PBV units will be added to the site.

9401.7 DCHA may attach PBVs to public housing projects when the following circumstances are met:

(a) DCHA has an ownership interest or control;

(b) DCHA is engaged in an initiative to improve, develop, or replace a public housing property or site; or

(c) DCHA is planning rehabilitation or new construction where at least Twenty-Five Thousand Dollars ($25,000) in hard costs per unit will be expended.

9401.8 DCHA procedures for selecting PBV proposals must be designed and actually operated to provide broad public notice of the opportunity to offer PBV proposals for consideration by DCHA. The public notice procedures may include publication of the public notice in a local newspaper of general circulation and other means designed and operated to provide broad public notice. The public notice of DCHA request for PBV proposals must specify the submission deadline. Detailed application and selection information must be provided at the request of interested parties.

9401.9 DCHA will advertise its request for proposals (RFP) for rehabilitated and newly constructed housing in *The Washington Post Sunday Edition,* other minority media, and posting on the DCHA website.

(a) The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

(b) In addition, DCHA will post the RFP and proposal submission and rating and ranking procedures on its website.

(c) DCHA will publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units DCHA

estimates that it will be able to assist under the funding DCHA is making available. The deadline date for submission of proposals will be included in the notice.

(d) For the proposal to be considered, the owner must submit the proposal to DCHA by the published deadline date, and the proposal must respond to all requirements as outlined in the RFP. Incomplete proposals will not be reviewed.

(e) In addition to including information specific to the development, the RFP will include information regarding the following requirements:

(1) SNS;

(2) Davis-Bacon;

(3) Accessibility;

(4) Subsidy layering reviews; and

(5) Environmental reviews.

(f) In addition, the RFP will clearly state that DCHA will administer the wait list and that the project will be subject to underwriting standards.

(g) DCHA will rate and rank proposals for rehabilitated and newly constructed housing using the following criteria:

(1) Owner experience and capability to build or rehabilitate housing as identified in the RFP, including experience of the owner and development team in successful completion of one or more mixed income, HUD subsidized residential development projects;

(2) The experience and professionalism of the proposed management company in providing high quality management of innovative projects and the quality of the proposed Management and Maintenance Plan;

(3) Extent to which the project furthers DCHA goal of deconcentrating poverty and expanding housing and economic opportunities;

(4) The convenience of the facilities and amenities of the neighborhood and, if the property is located in a poverty impacted neighborhood, whether a comprehensive neighborhood revitalization strategy is underway or realistically expected to begin implementation in the next three (3) years;

(5) If applicable, the extent to which services for special populations are provided on site or in the immediate area for occupants of the property;

(6) To promote partially assisted projects, projects where less than twenty-five percent (25%) percent of the units will be assisted will be rated higher than projects where twenty-five percent (255) or more of the units will be assisted. In the case of projects for occupancy by the elderly, persons with disabilities or families needing other services, DCHA will rate partially assisted projects on the percentage of units assisted. Projects with the lowest percentage of assisted units will receive the highest score;

(7) The owner's ability and commitment to meet unit accessibility requirements as established by HUD and DCHA;

(8) The owner's ability and commitment to meet Labor Standards;

(9) Project financials (to determine if the project needs all of the vouchers);

(10) The owner's Tenant Selection Plan (TSP);

(11) Supportive services offered to the resident populations; and

(12) Such other factors as are published in the announcement.

9401.10 DCHA will advertise its request for proposals (RFP) for existing housing in *The Washington Post Sunday Edition,* other minority media and posting on the DCHA website.

(a) The advertisement will state the number of vouchers available to be project-based, the type of units that will be considered, the submission deadline, and will note how to obtain the full RFP with information on the application and selection process. Advertisements will also contain a statement that participation in the PBV program requires compliance with Fair Housing and Equal Opportunity (FHEO) requirements.

(b) In addition, DCHA will post the notice inviting such proposal submission and the rating and ranking procedures on its website.

(c) DCHA will periodically publish its advertisement in the newspapers and trade journals mentioned above for at least one day per week for three consecutive weeks. The advertisement will specify the number of units DCHA estimates that it will be able to assist under the funding DCHA is

making available. Owner proposals will be accepted on a first-come first-served basis and will be evaluated using the following criteria:

(1) Experience as an owner in the tenant-based voucher program and owner compliance with the owner's obligations under the tenant-based program;

(2) Extent to which the project furthers DCHA goal of deconcentrating poverty and expanding housing and economic opportunities;

(3) The convenience of the facilities and amenities of the neighborhood and, if the property is located in a poverty impacted neighborhood, whether a comprehensive neighborhood revitalization strategy is underway or realistically expected to begin implementation in the next three (3) years;

(4) If applicable, extent to which services for special populations are provided on site or in the immediate area for occupants of the property;

(5) Extent to which units are occupied by families that are eligible to participate in the PBV program;

(6) Project financials (to determine if the project needs all of the vouchers);

(7) The owner's Tenant Selection Plan (TSP);

(8) Supportive services offered to the resident populations; and

(9) Such other factors as are published in the announcement.

9401.11 DCHA will accept proposals for PBV assistance on an ongoing basis from owners that were competitively selected under another federal, state, or local housing assistance program, including projects that were competitively awarded nine percent (9%) Low-Income Housing Tax Credits.

(a) Proposals will be reviewed on a first-come first-served basis. DCHA will evaluate each proposal on a quarterly basis, subject to PBV availability.

(b) Proposals will be evaluated on merits using the following factors:

(1) Extent to which the project furthers DCHA goal of deconcentrating poverty and expanding housing and economic opportunities;

(2) Project financials (to determine if the project needs all of the vouchers);

(3) The owner's Tenant Selection Plan (TSP);

(4) Supportive services offered to the resident populations; and

(5) Such other factors as are published in the announcement.

(c) DCHA may directly contact specific owners that have already been selected for Federal, state, or local housing assistance based on a previously held competition, to inform them of available PBV assistance.

9401.12 A DCHA-owned unit may be assisted under the PBV program only if the HUD field office or HUD-approved independent entity reviews the selection process and determines that DCHA-owned units were appropriately selected based on the selection procedures specified in DCHA Plan. This also applies to noncompetitive selections. If DCHA selects a proposal for housing that is owned or controlled by DCHA, DCHA must identify the entity that will review DCHA proposal selection process and perform specific functions with respect to rent determinations, the term of the HAP contract, and inspections.

9401.13 In the case of DCHA-owned units, the term of the HAP contract and any HAP contract renewal must be agreed upon by DCHA and a HUD-approved independent entity. In addition, an independent entity must determine the initial rent to owner, the redetermined rent to owner, and reasonable rent. Housing quality standards inspections must also be conducted by an independent entity.

9401.14 The independent entity that performs these program services may be the unit of general local government for DCHA jurisdiction (unless DCHA is itself the unit of general local government or an agency of such government) or another HUD-approved public or private independent entity.

9401.15 DCHA may submit a proposal for project-based housing that is owned or controlled by DCHA. If the proposal for DCHA-owned housing is selected, DCHA will use a HUD-approved independent entity to review DCHA selection process, when required. DCHA will obtain HUD approval of the entity prior to selecting the proposal for DCHA-owned housing.

9401.16 DCHA may only compensate the independent entity from DCHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). DCHA may not use other program receipts to compensate the independent entity for its services. DCHA and independent entity may not charge the family any fee for the appraisal, or the services provided by the independent entity.

9401.17 DCHA must give prompt written notice to the party that submitted a selected proposal and must also give prompt public notice of such selection. Public notice procedures may include publication of public notice in a local newspaper of general circulation and other means designed and operated to provide broad public notice.

(a) Within ten (10) business days of DCHA making the selection, DCHA will notify the selected owner in writing of the owner's selection for the PBV program. DCHA will also notify in writing all owners that submitted proposals that were not selected and advise such owners of the name of the selected owner.

(b) In addition, DCHA will publish its notice for selection of PBV proposals for two consecutive days in the same newspapers and trade journals DCHA used to solicit the proposals. The announcement will include the name of the owner that was selected for the PBV program. DCHA will also post the notice of owner selection on its electronic web site.

(c) DCHA will not make available sensitive owner information that is privileged, such as financial statements and similar information about the owner.

9401.18 DCHA may attach PBV assistance for units in existing housing or for newly constructed or rehabilitated housing developed under and in accordance with an agreement to enter into a housing assistance payments contract that was executed prior to the start of construction. A housing unit is considered an existing unit for purposes of the PBV program, if, at the time of notice of DCHA's selection, the units substantially comply with HQS. Units for which new construction or rehabilitation began after the owner's proposal submission but prior to the execution of the HAP do not subsequently qualify as existing housing. Units that were newly constructed or rehabilitated in violation of program requirements also do not qualify as existing housing.

9401.19 DCHA must decide what housing type, new construction, rehabilitation, or existing housing, will be used to develop project-based housing. DCHA choice of housing type must be reflected in its solicitation for proposals.

9401.20 DCHA may not attach or pay PBV assistance to shared housing units; units on the grounds of a penal reformatory, medical, mental, or similar public or private institution; nursing homes or facilities providing continuous psychiatric, medical, nursing services, board and care, or intermediate care (except that assistance may be provided in assisted living facilities); units that are owned or controlled by an educational institution or its affiliate and are designated for occupancy by students; manufactured homes; and transitional housing. In addition, DCHA may not attach or pay PBV assistance for a unit occupied by an owner and DCHA may not select or enter into an agreement to enter a HAP contract or HAP contract for

a unit occupied by a family ineligible for participation in the PBV program. A member of a cooperative who owns shares in the project assisted under the PBV program is not considered an owner for purposes of participation in the PBV program. Finally, PBV assistance may not be attached to units for which construction or rehabilitation has started after the proposal submission and prior to the execution of an AHAP.

9401.21 DCHA may not attach or pay PBV assistance to units in any of the following types of subsidized housing:

(a) A public housing unit;

(b) A unit subsidized with any other form of Section 8 assistance;

(c) A unit subsidized with any governmental rent subsidy;

(d) A unit subsidized with any governmental subsidy that covers all or any part of the operating costs of the housing;

(e) A unit subsidized with Section 236 rental assistance payments (except that a PHA may attach assistance to a unit subsidized with Section 236 interest reduction payments);

(f) A Section 202 project for non-elderly with disabilities;

(g) Section 811 project-based supportive housing for persons with disabilities;

(h) Section 202 supportive housing for the elderly;

(i) A Section 101 rent supplement project;

(j) A unit subsidized with any form of tenant-based rental assistance; or

(k) A unit with any other duplicative federal, state, or local housing subsidy, as determined by HUD or DCHA in accordance with HUD requirements.

9401.22 The subsidy layering review is intended to prevent excessive public assistance by combining (layering) housing assistance payment subsidy under the PBV program with other governmental housing assistance from federal, state, or local agencies, including assistance such as tax concessions or tax credits.

9401.23 HUD requires new construction and rehabilitation housing that will include forms of governmental assistance other than PBVs to undergo a subsidy layering review (SLR) prior to entering into an Agreement to Enter into Housing Assistance Payments Contract (AHAP). Subsidy layering requirements do not apply to existing housing, when PBV is the only governmental assistance, or for projects

already subject to a PBV HAP contract, even if the project is recapitalized with outside sources of funding.

9401.24 When a PHA selects a new construction or rehabilitation project, DCHA must require information regarding all HUD and/or other federal, state, or local governmental assistance to be disclosed by the project owner using Form HUD-2880.

9401.25 Either HUD or a HUD-approved housing credit agency (HCA) in DCHA's jurisdiction performs the subsidy layering review. DCHA must request an SLR through their local HUD Field Office or, if eligible, through a participating HCA. If the SLR request is submitted to an approved HCA, and the proposed project-based voucher assistance meets HUD subsidy layering requirements, the HCA must submit a certification to HUD and notify DCHA. DCHA may proceed to execute an AHAP at that time if the environmental approval is received.

9401.26 The HAP contract must contain the owner's certification that the project has not received and will not receive (before or during the term of the HAP contract) any public assistance for acquisition, development, or operation of the housing other than assistance disclosed in the subsidy layering review in accordance with HUD requirements.

9401.27 In general, DCHA may not select a proposal to provide PBV assistance for units in a project or enter into an agreement to enter into a HAP or a HAP contract to provide PBV assistance for units in a project, if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than the greater of twenty-five (25) units or twenty-five percent (25%) of the number of dwelling units (assisted or unassisted) in the project.

9401.28 As of April 18, 2017, units are not counted against the twenty-five percent (25%) percent or 25 (twenty-five) unit per project cap if:

(a) The units are exclusively for elderly families;

(b) The units are for households eligible for supportive services available to all families receiving PBV assistance in the project; or

(c) If the project is located in a census tract with a poverty rate of twenty percent (20%) or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of twenty-five (25) units or forty percent (40%) percent (instead of twenty-five percent (25%) of the units in the project.

9401.29 The Housing Opportunity Through Modernization Act of 2016 (HOTMA) eliminated the project cap exemption for projects that serve disabled families and modified the exception for supportive services.

9401.30 Under the Fostering Stable Housing Opportunities (FSHO) amendments, units exclusively made available to youth receiving FUPY/FYI assistance may be excepted from the project cap for HAP contracts first effective after December 27, 2020. For more information on excepted units for FUPY.

9401.31 Projects where these caps were implemented prior to HOTMA (HAP contracts executed prior to April 18, 2017) or FSHO (contract in effect on or prior to December 27, 2020) may continue to use the former exceptions and may renew their HAP contracts under the old requirements, unless DCHA and owner agree to change the conditions of the HAP contract. However, this change may not be made if it would jeopardize an assisted family's eligibility for continued assistance in the project.

9401.32 As of April 18, 2017, the project must make supportive services available to all families receiving PBV assistance in the project, but the family does not actually have to accept and receive supportive services for the exception to apply to the unit, although the family must be eligible to receive the supportive services. It is not necessary that the services be provided at or by the project but must be reasonably available to families receiving PBV assistance at the project and designed to help families in the project achieve self-sufficiency or live in the community as independently as possible. DCHA may not require participation in the supportive service as a condition of living in the excepted unit, although such services may be offered.

9401.33 Families will not be required to accept and receive supportive services for the exception to apply to the unit, although they will be required to be eligible to receive supportive services. The following types of services will be provided depending on the needs of the family:

(a) Meal service adequate to meet nutritional needs;

(b) Housekeeping aid;

(c) Personal assistance;

(d) Transportation services;

(e) Health-related services;

(f) Case management;

(g) Childcare;

(h) Educational and employment services;

(i) Job training;

(j) Counseling; or

(k) Other services designed to help the recipient live in the community as independently as possible.

9401.34 Subject to approval by the Board of Commissioners, PBVs may be provided for up to one hundred percent (100%) of the units in a qualified property. "Qualified property" is defined as a single-family house or property comprised of units that are specifically for households consisting of elderly families, disabled families, families qualifying for supportive services, to the extent permitted under federal funding restrictions.

9401.35 PBV units that were previously subject to certain federal rent restrictions or receiving another type of long-term housing subsidy provided by HUD are exempt from the project cap. In other words, one hundred percent (100%) of the units in these projects may receive PBV assistance.

9401.36 DCHA may establish local requirements designed to promote PBV assistance in partially assisted projects. A "partially assisted project" is a project in which there are fewer units covered by a HAP contract than residential units.

9401.37 DCHA may establish a per-project cap on the number of units that will receive PBV assistance or other project-based assistance in a multifamily project containing excepted units or in a single-family building. DCHA may also determine not to provide PBV assistance for excepted units, or DCHA may establish a per-project cap of less than twenty-five (25) units or twenty-five percent (25%) of units.

9401.38 DCHA will not impose any further cap on the number of PBV units assisted per project.

9401.39 DCHA may not select a proposal for existing, newly constructed, or rehabilitated PBV housing on a site or enter into an agreement to enter into a HAP contract or HAP contract for units on the site, unless DCHA has determined that PBV assistance for housing at the selected site is consistent with the goal of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities must be consistent with DCHA Plan under 24 CFR § 903 and DCHA's Plan.

9401.40 In addition, prior to selecting a proposal, DCHA must determine that the site is suitable from the standpoint of facilitating and furthering full compliance with the applicable Civil Rights Laws, regulations, and Executive Orders, and that the site meets the HQS site and neighborhood standards at 24 CFR § 982.401(l).

9401.41 It is DCHA's goal to select sites for PBV housing that provide for deconcentrating poverty and expanding housing and economic opportunities. In complying with this goal DCHA will seek to approve sites for PBV housing in census tracts with lower poverty concentrations within its jurisdiction. DCHA may also prioritize sites where DCHA determines that the PBV assistance will complement other local redevelopment activities designed to deconcentrate poverty and expand housing and economic opportunities in census tracts with higher poverty concentrations, such as sites in:

(a) A census tract in which the proposed PBV development will be located in a HUD-designated Enterprise Zone, Economic Community, Choice Neighborhood, or Renewal Community;

(b) A census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition and HOPE VI redevelopment;

(c) A census tract in which the proposed PBV development will be located is undergoing significant revitalization as a result of state, local, or federal dollars invested in the area;

(d) A census tract where new market rate units are being developed where such market rate units will positively impact the poverty rate in the area;

(e) A census tract where there has been an overall decline in the poverty rate within the past five (5) years; or

(f) A census tract where there are meaningful opportunities for educational and economic advancement.

9401.42 DCHA may not enter into an agreement to enter into a HAP contract nor enter into a HAP contract for existing or rehabilitated housing until it has determined that the site complies with the HUD required site and neighborhood standards. The site must:

(a) Be adequate in size, exposure, and contour to accommodate the number and type of units proposed;

(b) Have adequate utilities and streets available to service the site;

(c) Promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;

(d) Be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

(e) Be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

9401.43 In order to be selected for PBV assistance, a site for newly constructed housing must meet the following HUD required site and neighborhood standards:

(a) The site must be adequate in size, exposure, and contour to accommodate the number and type of units proposed;

(b) The site must have adequate utilities and streets available to service the site;

(c) The site must not be located in an area of minority concentration unless DCHA determines that sufficient, comparable opportunities exist for housing for minority families in the income range to be served by the proposed project outside areas of minority concentration or that the project is necessary to meet overriding housing needs that cannot be met in that housing market area;

(d) The site must not be located in a racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area;

(e) The site must promote a greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons;

(f) The neighborhood must not be one that is seriously detrimental to family life or in which substandard dwellings or other undesirable conditions predominate;

(g) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services and other municipal facilities and services equivalent to those found in neighborhoods consisting largely of unassisted similar units; and

(h) Except for housing designed for elderly persons, the housing must be located so that travel time and cost via public transportation or private automobile from the neighborhood to places of employment is not excessive.

9401.44 DCHA activities under the PBV program are subject to HUD environmental regulations in 24 CFR parts 50 and 58. The "responsible entity" is responsible for performing the federal environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.). DCHA may not enter an agreement to enter a HAP contract nor enter into a HAP contract until it has complied with the environmental review requirements.

9401.45 In the case of existing housing, the responsible entity that is responsible for the environmental review under 24 CFR part 58 must determine whether or not PBV assistance is categorically excluded from review under the National Environmental Policy Act and whether or not the assistance is subject to review under the laws and authorities listed in 24 CFR § 58.5.

9401.46 DCHA may not enter into an agreement to enter into a HAP contract or a HAP contract with an owner, and DCHA, the owner, and its contractors may not acquire, rehabilitate, convert, lease, repair, dispose of, demolish, or construct real property or commit or expend program or local funds for PBV activities under this part, until the environmental review is completed.

9401.47 DCHA must supply all available, relevant information necessary for the responsible entity to perform any required environmental review for any site. DCHA must require the owner to carry out mitigating measures required by the responsible entity (or HUD, if applicable) as a result of the environmental review.

9402 DWELLING UNITS

9402.1 This part identifies the special housing quality standards that apply to the PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

9402.2 The HQS for the tenant-based program, including those for special housing types, generally apply to the PBV program. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

9402.3 The physical condition standards at 24 CFR § 5.703 do not apply to the PBV program.

9402.4 The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. §§ 4851-4856), and implementing regulations at 24 CFR Part 35, Subparts A, B, H, and R, and 40 CFR § 745.227, apply to the PBV program.

9402.5 The housing must comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. DCHA must ensure that the percentage of accessible dwelling units complies with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

9402.6 Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR § 100.205, as applicable.

9402.7 DCHA must examine the proposed site before the proposal selection date. If the units to be assisted already exist, DCHA must inspect all the units before the proposal selection date and must determine whether the units substantially comply with HQS. To qualify as existing housing, units must substantially comply with HQS on the proposal selection date. However, DCHA may not execute the HAP contract until the units fully comply with HQS.

9402.8 DCHA must inspect each contract unit before execution of the HAP contract. DCHA may not provide assistance on behalf of the family until the unit fully complies with HQS, unless DCHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions, or if the unit passed an alternative inspection.

9402.9 DCHA will not provide assistance on behalf of the family until the unit fully complies with HQS.

9402.10 Before providing assistance to a new family in a contract unit, DCHA must inspect the unit. DCHA may not provide assistance on behalf of the family until the unit fully complies with HQS.

9402.11 At least once every twenty-four (24) months during the term of the HAP contract, DCHA must inspect a random sample consisting of at least twenty percent (20%) of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement. DCHA also has the option in certain mixed finance properties to rely on alternative inspections conducted at least triennially.

9402.12 DCHA will inspect at least once every twenty-four (24) months a random sample consisting of at least twenty percent (20%) of the contract units in each building to determine if the contract units and the premises are maintained in accordance with HQS.

9402.13 If more than twenty percent (20%) percent of the sample of inspected contract units in a building fail the initial inspection, DCHA must re-inspect one hundred percent (100%) percent of the contract units in the building.

9402.14 DCHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. DCHA must take into account complaints and any other information coming to its attention in scheduling inspections.

9402.15 DCHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

9402.16 In conducting supervisory quality control HQS inspections, DCHA should include a representative sample of both tenant-based and project-based units.

9402.17 In the case of DCHA-owned units, the inspections must be performed by an independent entity designated by DCHA and approved by HUD. The independent entity must furnish a copy of each inspection report to DCHA and to the HUD field office where the project is located. DCHA must take all necessary actions in response to inspection reports from the independent entity, including exercise of contractual remedies for violation of the HAP contract by DCHA-owner.

9402.18 As authorized under its Moving to Work (MTW) status, DCHA may conduct HQS inspections of PHA-owned units or PHA-affiliate units.

9403 REHABILITATED AND NEWLY CONSTRUCTED UNITS

9403.1 There are specific requirements that apply to PBV assistance for newly constructed or rehabilitated housing that do not apply to PBV assistance in existing housing. This part describes the requirements unique to this type of assistance.

9403.2 Housing selected for this type of assistance may not at a later date be selected for PBV assistance as existing housing.

9403.3 In order to offer PBV assistance in rehabilitated or newly constructed units, DCHA must enter into an agreement to enter into HAP contract (Agreement) with the owner of the property. The Agreement must be in the form required by HUD. DCHA may not enter into an Agreement if commencement of construction or rehabilitation has commenced after proposal submission. Construction begins when excavation or site preparation (including clearing of the land) begins for the housing. Rehabilitation begins with the physical commencement of rehabilitation activity on the housing.

9403.4 In the Agreement the owner agrees to develop the PBV contract units to comply with HQS, and DCHA agrees that upon timely completion of such development in accordance with the terms of the Agreement, DCHA will enter into a HAP.

9403.5 At a minimum, the Agreement must describe the following features of the housing to be developed and assisted under the PBV program:

(a) Site and the location of the contract units;

(b) Number of contract units by area (size) and number of bedrooms and bathrooms;

(c) Services, maintenance, or equipment to be supplied by the owner without charges in addition to the rent;

(d) Utilities available to the contract units, including a specification of utility services to be paid by the owner and utility services to be paid by the tenant;

(e) An indication of whether or not the design and construction requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973 apply to units under the Agreement. If applicable, any required work item resulting from these requirements must be included in the description of work to be performed under the Agreement;

(f) Estimated initial rents to owner for the contract units;

(g) Description of the work to be performed under the Agreement. For rehabilitated units, the description must include the rehabilitation work write up and, where determined necessary by DCHA, specifications and plans. For new construction units, the description must include the working drawings and specifications; and

(h) Any additional requirements for quality, architecture, or design over and above HQS.

9403.6 The Agreement must be executed promptly after DCHA's notice of proposal selection to the selected owner. DCHA may not enter into the Agreement if construction or rehabilitation has started after proposal submission. Generally, DCHA may not enter into the Agreement with the owner until the subsidy layering review is completed. Likewise, DCHA may not enter into the Agreement until the environmental review is completed and DCHA has received environmental approval. However, DCHA does not need to conduct a subsidy layering review in the case of a HAP contract for existing housing or if the applicable state or local agency has conducted such a review. Similarly,

environmental reviews are not required for existing structures unless otherwise required by law or regulation.

9403.7 DCHA will enter into the Agreement with the owner promptly upon receiving both environmental approvals, notice that subsidy layering requirements have been met, any financial closing requirements have been met, and before construction or rehabilitation work is started.

9403.8 If an Agreement covers the development of nine or more contract units (whether or not completed in stages), the owner and the owner's contractors and subcontractors must pay Davis-Bacon wages to laborers and mechanics employed in the development of housing. The HUD-prescribed form of the Agreement will include the labor standards clauses required by HUD, such as those involving Davis-Bacon wage rates.

9403.9 The owner, contractors, and subcontractors must also comply with the Contract Work Hours and Safety Standards Act, Department of Labor regulations in 29 CFR part 5, and other applicable federal labor relations laws and regulations. DCHA must monitor compliance with labor standards.

9403.10 The Agreement and HAP contract must include a certification by the owner that the owner and other project principals are not on the U.S. General Services Administration list of parties excluded from federal procurement and non-procurement programs.

9403.11 The owner must also disclose any possible conflict of interest that would be a violation of the Agreement, the HAP contract, or HUD regulations.

9403.12 The Agreement must specify the deadlines for completion of the housing, and the owner must develop and complete the housing in accordance with these deadlines. The Agreement must also specify the deadline for submission by the owner of the required evidence of completion.

9403.13 At a minimum, the owner must submit the following evidence of completion to DCHA in the form and manner required by DCHA:

(a) Owner certification that the work has been completed in accordance with HQS and all requirements of the Agreement; and

(b) Owner certification that the owner has complied with labor standards and equal opportunity requirements in development of the housing.

9403.14 At DCHA's discretion, the Agreement may specify additional documentation that must be submitted by the owner as evidence of housing completion.

9403.15 DCHA will determine the need for the owner to submit additional documentation as evidence of housing completion on a case-by-case basis depending on the nature of the PBV project. DCHA will specify any additional documentation requirements in the Agreement to enter HAP contract.

9403.16 Upon notice from the owner that the housing is completed, DCHA must inspect to determine if the housing has been completed in accordance with the Agreement, including compliance with HQS and any additional requirements imposed under the Agreement. DCHA must also determine if the owner has submitted all required evidence of completion.

(a) If the work has not been completed in accordance with the Agreement, DCHA must not enter the HAP contract.

(b) If DCHA determines the work has been completed in accordance with the Agreement and that the owner has submitted all required evidence of completion, DCHA must submit the HAP contract for execution by the owner and must then execute the HAP contract.

9404 HOUSING ASSISTANCE PAYMENTS CONTRACT (HAP)

9404.1 DCHA must enter into a HAP contract with an owner for units that are receiving PBV assistance. The purpose of the HAP contract is to provide housing assistance payments for eligible families. Housing assistance is paid for contract units leased and occupied by eligible families during the HAP contract term. Except for single-family scattered-site projects, a HAP contract shall cover a single project. If multiple projects exist, each project is covered by a separate HAP contract. The HAP contract must be in the form required by HUD.

9404.2 The HAP contract must specify the following information:

(a) The total number of contract units by number of bedrooms;

(b) The project's name, street address, city or county, state and zip code, block and lot number (if known), and any other information necessary to clearly identify the site and the building;

(c) The number of contract units in each building, the location of each contract unit, the area of each contract unit, and the number of bedrooms and bathrooms in each contract unit;

(d) Services, maintenance, and equipment to be supplied by the owner and included in the rent to owner;

(e) Utilities available to the contract units, including a specification of utility services to be paid by the owner (included in rent) and utility services to be paid by the tenant;

(f) Features provided to comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR part 8;

(g) The HAP contract term;

(h) The number of units in any project that will exceed the 25 percent per project cap, which will be set aside for occupancy by qualifying families (elderly and/or disabled families and families receiving supportive services); and

(i) The initial rent to owner for the first twelve (12) months of the HAP contract term.

9404.3 DCHA may not enter a HAP contract until each contract unit has been inspected and DCHA has determined that the unit complies with the Housing Quality Standards (HQS), unless DCHA has adopted a policy to enter into a HAP contract for units that fail the initial HQS inspection as a result of only non-life-threatening conditions. For existing housing, the HAP contract must be executed promptly after DCHA selects the owner proposal and inspects the housing units. For newly constructed or rehabilitated housing the HAP contract must be executed after DCHA has inspected the completed units and has determined that the units have been completed in accordance with the agreement to enter HAP, and the owner furnishes all required evidence of completion.

(a) For existing housing, the HAP contract will be executed within ten (10) business days of DCHA determining that all units pass HQS.

(b) For rehabilitated or newly constructed housing, the HAP contract will be executed within ten (10) business days of DCHA determining that the units have been completed in accordance with the agreement to enter into HAP, all units meet HQS, and the owner has submitted all required evidence of completion.

9404.4 DCHA may enter a HAP contract with an owner for an initial term of no less than one year and no more than twenty (20) years for each contract unit. The length of the term of the HAP contract for any contract unit may not be less than one year, nor more than twenty (20) years. In the case of DCHA-owned units, the term of the HAP contract must be agreed upon by DCHA and the independent entity approved by HUD.

9404.5 The term of all PBV HAP contracts will be negotiated with the owner on a case-by-case basis.

9404.6 At the time of the initial HAP contract term or any time before expiration of the HAP contract, DCHA may extend the term of the contract for an additional term of up to twenty (20) years if DCHA determines an extension is appropriate to continue providing affordable housing for low-income families. A HAP contract extension may not exceed twenty (20) years. DCHA may provide for multiple extensions; however, in no circumstances may such extensions exceed twenty (20) years, cumulatively. Extensions after the initial extension are allowed at the end of any extension term, provided that not more than twenty-four (24) months prior to the expiration of the previous extension contract DCHA agrees to extend the term, and that such extension is appropriate to continue providing affordable housing for low-income families or to expand housing opportunities. Extensions after the initial extension term shall not begin prior to the expiration date of the previous extension term. Subsequent extensions are subject to the same limitations. All extensions must be on the form and subject to the conditions prescribed by HUD at the time of the extension. In the case of DCHA-owned units, any extension of the term of the HAP contract must be agreed upon by DCHA and the independent entity approved by HUD.

9404.7 When determining whether to extend an expiring PBV contract, DCHA will consider several factors including, but not limited to:

(a) The cost of extending the contract and the amount of available budget authority;

(b) The condition of the contract units;

(c) The owner's record of compliance with obligations under the HAP contract and lease(s);

(d) Whether the location of the units continues to support the goals of deconcentrating poverty and expanding housing opportunities; and

(e) Whether the funding could be used more appropriately for tenant-based assistance.

9404.8 The HAP contract must provide that the term of DCHA's contractual commitment is subject to the availability of sufficient appropriated funding as determined by HUD or by DCHA in accordance with HUD instructions. For these purposes, sufficient funding means the availability of appropriations, and of funding under the ACC from such appropriations, to make full payment of housing assistance payments payable to the owner for any contract year in accordance with the terms of the HAP contract.

9404.9 In times of insufficient funding, HUD requires that DCHA first take all cost-saving measures prior to failing to make payments under existing PBV HAP contracts.

9404.10 If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, DCHA may terminate the HAP contract by notice to the owner. The termination must be implemented in accordance with HUD instructions.

9404.11 If in accordance with program requirements the amount of rent to an owner for any contract unit is reduced below the amount of the rent to owner at the beginning of the HAP contract term, the owner may terminate the HAP contract by giving notice to DCHA. In this case, families living in the contract units must be offered tenant-based assistance.

9404.12 Not less than one year before the HAP contract terminates, or if the owner refuses to renew the HAP contract, the owner must notify DCHA and assisted tenants of the termination. The notice must be provided in the form prescribed by HUD. If the owner does not give timely notice, the owner must permit the tenants in assisted units to remain in their units for the required notice period with no increase in the tenant portion of their rent, and with no eviction as a result of the owner's inability to collect an increased tenant portion of rent. An owner may renew the terminating contract for a period of time sufficient to give tenants one-year advance notice under such terms as HUD may require.

9404.13 Upon termination or expiration of the contract, a family living at the property is entitled to receive a tenant-based voucher. Tenant-based assistance would not begin until the owner’s required notice period ends. DCHA must provide the family with a voucher and the family must also be given the option by DCHA and owner to remain in their unit with HCV tenant-based assistance as long as the unit complies with inspection and rent reasonableness requirements. The family must pay their total tenant payment (TTP) and any additional amount if the gross rent exceeds the applicable payment standard. The family has the right to remain in the project as long as the units are used for rental housing and are otherwise eligible for HCV assistance. The owner may not terminate the tenancy of a family that exercises its right to remain except for serious or repeated lease violations or other good cause. Families that receive a tenant-based voucher at the expiration or termination of the PBV HAP contract are not new admissions to DCHA HCV tenant-based program and are not subject to income eligibility requirements or any other admission requirements. If the family chooses to remain in their unit with tenant-based assistance, the family may do so regardless of whether the family share would initially exceed 40 percent of the family’s adjusted monthly income.

9404.14 DCHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS. If DCHA determines

that a contract does not comply with HQS, DCHA may exercise any of its remedies under the HAP contract, for any or all of the contract units. Available remedies include termination of housing assistance payments, abatement or reduction of housing assistance payments, reduction of contract units, and termination of the HAP contract.

9404.15 DCHA will abate and terminate PBV HAP contracts for non-compliance with HQS in accordance with the policies used in the tenant-based voucher program.

9404.16 At DCHA's discretion and subject to all PBV requirements, the HAP contract may be amended to substitute a different unit with the same number of bedrooms in the same project for a previously covered contract unit. Before any such substitution can take place, DCHA must inspect the proposed unit and determine the reasonable rent for the unit.

9404.17 DCHA and owner may amend the HAP contract to add additional PBV contract units in projects that already have a HAP contract without having to fulfill the selection requirements found at 24 CFR § 983.51(b) for those additional PBV units, regardless of when the HAP contract was signed. The additional PBV units, however, are still subject to the PBV program cap and individual project caps. Prior to attaching additional units without competition, DCHA must submit to the local field office information outlined in FR Notice 1/18/17. DCHA must also detail in the Plan their intent to add PBV units and the rationale for adding units to the specific PBV project.

9404.18 DCHA will add units to the contract on a case-by-case basis to ensure the availability of affordable housing as long as the addition of units does not exceed allowable project caps.

9404.19 The HAP contract year is the period of twelve (12) calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

9404.20 The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year.

9404.21 There is a single annual anniversary and expiration date for all units under a particular HAP contract, even in cases where contract units are placed under the HAP contract in stages (on different dates) or units are added by amendment. The anniversary and expiration dates for all units coincide with the dates for the contract units that were originally placed under contract.

9404.22 When the owner executes the HAP contract s/he always certifies that at such execution and during the term of the HAP contract:

(a) All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;

(b) The owner is providing all services, maintenance, equipment and utilities as agreed to under the HAP contract and the leases;

(c) Each contract unit for which the owner is receiving HAP, is leased to an eligible family referred by DCHA, and the lease is in accordance with the HAP contract and HUD requirements;

(d) To the best of the owner's knowledge the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;

(e) The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;

(f) The amount of the HAP the owner is receiving is correct under the HAP contract;

(g) The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;

(h) Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;

(i) The family does not own or have any interest in the contract unit (does not apply to family's membership in a cooperative); and

(j) Repair work on the project selected as an existing project that is performed after HAP execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

9404.23 The owner is required to maintain and operate the contract units and premises in accordance with HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance, equipment, and utilities specified in the HAP contract with DCHA and in the lease with each assisted family. In addition, maintenance, replacement, and redecoration must be in accordance with the standard practice for the building as established by the owner.

9404.24 DCHA may elect to establish additional requirements for quality, architecture, or design of PBV housing. Any such additional requirements must be specified in

the Agreement to enter a HAP contract and the HAP contract. These requirements must be in addition to, not in place of, compliance with HQS.

9404.25 DCHA will identify the need for any special features on a case-by-case basis depending on the intended occupancy of the PBV project. DCHA will specify any special design standards or additional requirements in the invitation for PBV proposals, the agreement to enter HAP contract, and the HAP contract.

9404.26 At the discretion of DCHA, the HAP contract may provide for vacancy payments to the owner for a PHA-determined period of vacancy extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by DCHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit).

9404.27 DCHA will decide on a case-by-case basis if DCHA will provide vacancy payments to the owner. The HAP contract with the owner will contain any such agreement, including the amount of the vacancy payment and the period for which the owner will qualify for these payments.

9405 SELECTION OF PBV PROGRAM PARTICIPANTS

9405.1 Many of the provisions of the tenant-based voucher regulations also apply to the PBV program. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

9405.2 DCHA may select families for the PBV program from those who are participants in DCHA's tenant-based voucher program and from those who have applied for admission to the voucher program. For voucher participants, eligibility was determined at original admission to the voucher program and does not need to be redetermined at the commencement of PBV assistance. For all others, eligibility for admission must be determined at the commencement of PBV assistance.

9405.3 Applicants for PBV assistance must meet the same eligibility requirements as applicants for the tenant-based voucher program. Applicants must qualify as a family as defined by HUD and DCHA, have income at or below HUD-specified income limits, and qualify on the basis of citizenship or the eligible immigration status of family members. In addition, an applicant family must provide social security information for family members and consent to DCHA's collection and use of family information regarding income, expenses, and family composition. DCHA may also not approve a tenancy if the owner (including a principal or other interested party) of the unit is the parent, child, grandparent, grandchild,

sister, or brother of any member of the family, unless needed as a reasonable accommodation. An applicant family must also meet HUD requirements related to current or past criminal activity.

9405.4 DCHA will determine an applicant family's eligibility for the PBV program in accordance with the policies in §§ 5100 and 9400.

9405.5 An eligible family residing in a proposed PBV contract unit on the date the proposal is selected by DCHA is considered an "in-place family." These families are afforded protection from displacement under the PBV rule. If a unit to be placed under contract (either an existing unit or a unit requiring rehabilitation) is occupied by an eligible family on the date the proposal is selected, the in-place family must be placed on DCHA's waiting list. Once the family's continued eligibility is determined (DCHA may deny assistance to an in-place family for the grounds specified in 24 CFR §§ 982.552 and 982.553), the family must be given an absolute selection preference and DCHA must refer these families to the project owner for an appropriately sized PBV unit in the project. Admission of eligible in-place families is not subject to income targeting requirements.

9405.6 This regulatory protection from displacement does not apply to families that are not eligible to participate in the program on the proposal selection date.

9405.7 DCHA may establish a separate waiting list for PBV units or it may use the same waiting list for both tenant-based and project-based assistance. DCHA may also merge the PBV waiting list with a waiting list for other assisted housing programs offered by DCHA. If DCHA chooses to offer a separate waiting list for PBV assistance, DCHA must offer to place applicants who are listed on the tenant-based waiting list on the waiting list for PBV assistance.

9405.8 DCHA may allow owners of PBV units to establish and maintain site-based waiting lists. Project-based voucher sites using a site-based waiting list may establish a site-specific elderly family preference, to be used on conjunction with any resident rights to return. These include but are not limited to units at the following sites: Kenilworth 166 and Asberry (Barry Farm 1B). Notwithstanding anything to the contrary in this Administrative Plan, the definition of "elderly person" to be used at the Kenilworth 166 and Asberry (Barry Farm 1B) sites shall be, pending HUD's approval of DCHA's FY 2024 Annual Plan, a person who is at least fifty-five (55) years of age. Apart from project-specific PBV waiting lists, DCHA will use one waiting list for both the tenant-based and project-based voucher programs.

9405.9 Applicants who will occupy units with PBV assistance must be selected from DCHA's waiting list. DCHA may establish selection criteria or preferences for occupancy of particular PBV units. DCHA may place families referred by the PBV owner on its PBV waiting list.

9405.10 Under the authority granted to DCHA under its Moving to Work (MTW) status, public housing residents/applicants requiring accessible units may be offered an appropriate PBV unit.

9405.11 At least seventy-five percent (75%) percent of the families admitted to DCHA's tenant-based and project-based voucher programs during DCHA fiscal year from the waiting list must be extremely low-income families. The income targeting requirement applies to the total of admissions to both programs.

9405.12 When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, DCHA must first refer families who require such features to the owner.

9405.13 Under the authority granted to DCHA under its Moving to Work (MTW) status, public housing residents/applicants requiring accessible units may be offered an appropriate PBV unit.

9405.14 DCHA may use the same selection preferences that are used for the tenant-based voucher program, establish selection criteria or preferences for the PBV program, or for occupancy of particular PBV developments or units. DCHA must provide an absolute selection preference for eligible in-place families.

9405.15 DCHA may establish a selection preference for families who qualify for voluntary services, including disability-specific services, offered in conjunction with assisted units, if that preference is consistent with DCHA plan. DCHA may not, however, grant a preference to a person with a specific disability.

9405.16 In advertising such a project, the owner may advertise the project as offering services for a particular type of disability; however, the project must be open to all otherwise eligible disabled persons who may benefit from services provided in the project. In these projects, disabled residents may not be required to accept the services offered as a condition of occupancy.

9405.17 If DCHA has projects with "excepted units" for elderly families or supportive services, DCHA must give preference to such families when referring families to these units.

9405.18 DCHA will provide a selection preference when required by the regulation (e.g., eligible in-place families, impaired persons for accessible units). DCHA will not offer any additional preferences for the PBV program or for particular PBV projects or units.

9405.19 DCHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

(a) Refuse to list the applicant on the waiting list for tenant-based voucher assistance;

(b) Deny any admission preference for which the applicant qualifies;

(c) Change the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under DCHA's selection policy; and

(d) Remove the applicant from the tenant-based voucher waiting list.

9405.20 If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

9405.21 When a family accepts an offer for PBV assistance, DCHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, DCHA must provide a briefing packet that explains how DCHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

9405.22 If an applicant family's head or spouse is disabled, DCHA must assure effective communication, in accordance with 24 CFR § 8.6, in conducting the oral briefing and in providing the written information packet. In addition, DCHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

9405.23 DCHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Title VI of the Civil Rights Act of 1964 and Executive Order 13166.

9405.24 The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

9405.25 During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by DCHA from DCHA's waiting list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on DCHA's subsidy standards.

9405.26 The owner must promptly notify DCHA of any vacancy or expected vacancy in a contract unit. After receiving such notice, DCHA must make every reasonable effort to promptly refer enough families for the owner to fill such vacancies.

DCHA and the owner must make reasonable efforts to minimize the likelihood and length of any vacancy.

9405.27 The owner must notify DCHA in writing electronically within five business days of learning about any vacancy or expected vacancy. DCHA will make every reasonable effort to refer families to the owner within fourteen (14) business days of receiving such notice from the owner.

9405.28 If any contract units have been vacant for one hundred twenty (120) or more days since owner notice of the vacancy, DCHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (according to the bedroom size) that have been vacant for this period.

9405.29 If any contract units have been vacant for one hundred twenty (120) days, DCHA may give notice to the owner that the HAP contract will be amended to reduce the number of contract units that have been vacant for this period. DCHA will provide prompt written notice to the owner. The amendment to the HAP contract will be effective the 1st day of the month following the date of DCHA's notice.

9405.30 DCHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. However, DCHA may opt to screen applicants for family behavior or suitability for tenancy and may deny applicants based on such screening.

9405.31 DCHA will not conduct screening to determine a PBV applicant family's suitability for tenancy.

9405.32 DCHA must provide the owner with an applicant family's current and prior address (as shown in PHA records) and the name and address (if known by DCHA) of the family's current landlord and any prior landlords.

9405.33 In addition, DCHA may offer the owner other information DCHA may have about a family, including information about the tenancy history of family members or about drug trafficking and criminal activity by family members. DCHA must provide applicant families a description of DCHA policy on providing information to owners, and DCHA must give the same types of information to all owners.

9405.34 DCHA may not disclose to the owner any confidential information provided in response to a request for documentation of domestic violence, dating violence, sexual assault, or stalking except at the written request or with the written consent of the individual providing the documentation [24 CFR § 5.2007(a)(4)].

9405.35 DCHA will inform owners of their responsibility to screen prospective tenants and will provide owners with the required known name and address information,

at the time of the turnover HQS inspection or before. DCHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

9405.36 The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

(a) Payment of rent and utility bills;

(b) Caring for a unit and premises;

(c) Respecting the rights of other residents to the peaceful enjoyment of their housing;

(d) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and

(e) Compliance with other essential conditions of tenancy.

9406 OCCUPANCY

9406.1 After an applicant has been selected from the waiting list, determined eligible by DCHA, referred to an owner and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

9406.2 The tenant must have legal capacity to enter a lease under state and local law. "Legal capacity" means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

9406.3 The tenant and the owner must enter into a written lease agreement that is signed by both parties.

(a) If an owner uses a standard lease form for rental units to unassisted tenants in the locality or premises, the same lease must be used for assisted tenants, except that the lease must include a HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

(b) If the owner does not use a standard lease form for rental to unassisted tenants, the owner may use another form of lease, such as a PHA model lease.

(c) DCHA may review the owner's lease form to determine if the lease complies with state and local law. If DCHA determines that the lease does not comply with state or local law, DCHA may decline to approve the tenancy.

(d) DCHA will not review the owner's lease for compliance with state or local law.

9406.4 The lease for a PBV unit must specify all the following information:

(a) The names of the owner and the tenant;

(b) The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);

(c) The term of the lease (initial term and any provision for renewal);

(d) The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;

(e) A specification of the services, maintenance, equipment, and utilities that will be provide by the owner; and

(f) The amount of any charges for food, furniture, or supportive services.

9406.5 The tenancy addendum in the lease must state:

(a) The program tenancy requirements;

(b) The composition of the household as approved by DCHA (the names of family members and any DCHA-approved live-in aide); and

(c) All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

9406.6 The initial lease term must be for at least one (1) year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g. month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

(a) The owner terminates the lease for good cause;

(b) The tenant terminates the lease;

(c) The owner and tenant agree to terminate the lease;

(d) DCHA terminates the HAP contract; or

(e) DCHA terminates assistance for the family.

9406.7 If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give DCHA a copy of all changes.

9406.8 The owner must notify DCHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by DCHA and in accordance with the terms of the lease relating to its amendment. DCHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of the change.

9406.9 With two (2) exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program. In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

9406.10 The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR § 981.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

9406.11 Housing assistance payments shall continue until the tenant rent equals the rent to owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within one hundred eighty (180) days following the date of the last housing assistance payment by DCHA. After the one hundred eighty (180) day period, the unit shall be removed from the HAP contract pursuant to 24 CFR § 983.211.

9406.12 Under the authority granted to DCHA under its Moving to Work status, if the amount of assistance provided by DCHA is reduced to zero, the family's assistance automatically terminates twelve months after the last HAP payment. If a participating family receiving zero assistance experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify DCHA of the change and request an interim reexamination before the expiration of the one year period.

9406.13 The owner may collect a security deposit from the tenant. DCHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted tenants.

9406.14 DCHA will allow the owner to collect a security deposit amount the owner determines is appropriate.

9406.15 When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

9406.16 The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

9406.17 If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. DCHA has no liability or responsibility for payment of any amount owed by the family to the owner.

9406.18 If DCHA determines that a family is occupying a wrong size unit, based on DCHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, DCHA must promptly notify the family and the owner of this determination, and DCHA must offer the family the opportunity to receive continued housing assistance in another unit.

9406.19 DCHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within fourteen (14) business days of DCHA's determination. DCHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

(a) PBV assistance in the same building or project;

(b) PBV assistance in another project; and

(c) Tenant-based voucher assistance.

9406.20 If DCHA offers the family a tenant-based voucher, DCHA must terminate the housing assistance payments for a wrong-sized or accessible unit at the earlier of the expiration of the term of the family's voucher (including any extension granted by DCHA) or the date upon which the family vacates the unit. If the family does not move out of the wrong-sized unit or accessible unit by the

expiration of the term of the family's voucher, DCHA must remove the unit from the HAP contract.

9406.21 If DCHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by DCHA, or both, DCHA must terminate the housing assistance payments for the unit at the expiration of a reasonable period as determined by DCHA and remove the unit from the HAP contract.

9406.22 When DCHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given thirty (30) days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this thirty (30) day time frame, DCHA will terminate the housing assistance payments at the expiration of this thirty (30) day period. DCHA may make exceptions to this thirty (30) day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

9406.23 The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to DCHA. If the family wishes to move with continued tenant-based assistance, the family must contact DCHA to request the rental assistance prior to providing notice to terminate the lease.

(a) If the family terminates the lease in accordance with these requirements, DCHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If voucher or other comparable tenant-based assistance is not immediately available upon termination of the family's lease in the PBV unit, DCHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

(b) If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

9406.24 Except where special consideration is needed for the project-based voucher program, DCHA will follow VAWA policies as outlined in this Plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA.

9406.25 HUD requires that DCHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

(a) When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, DCHA will provide several options for continued assistance.

(b) DCHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where DCHA has PBV units. DCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

(c) If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in DCHA's public housing program. Such a decision will be made by DCHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program.

(d) If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, DCHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where DCHA has PBV units. DCHA will expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

(e) If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to DCHA's public housing program.

9406.26 As of April 17, 2018, DCHA may not pay housing assistance under a PBV HAP contract for more than the greater of twenty-five (25) units or twenty-five percent (25%) of the number of dwelling units in a project unless:

(a) The units are exclusively for elderly families; or

(b) The units are for households eligible for supportive services available to all families receiving PBV assistance in the project.

9406.27 If the project is located in a census tract with a poverty rate of twenty percent (20%) or less, as determined in the most recent American Community Survey Five-Year estimates, the project cap is the greater of twenty-five (25) units or forty percent (40%) (instead of twenty-five percent (25%)) of the units in the project.

9406.28 If a family at the time of initial tenancy is receiving and while the resident of an excepted unit has received Family Self-Sufficiency (FSS) supportive services or any other service as defined by DCHA and successfully completes the FSS contract of participation or the supportive services requirement, the unit continues to count as an excepted unit for as long as the family resides in the unit. However, if the FSS family fails to successfully complete the FSS contract of participation or supportive services objective and consequently is no longer eligible for the supportive services, the family must vacate the unit within a reasonable period of time established by DCHA, and DCHA shall cease paying HAP on behalf of the family.

9406.29 Further, when a family (or remaining members of a family) residing in an excepted unit no longer meets the criteria for a "qualifying family" because the family is no longer an elderly family due to a change in family composition, DCHA has the discretion to allow the family to remain in the excepted unit. If DCHA does not exercise this discretion, the family must vacate the unit within a reasonable period established by DCHA, and DCHA must cease paying housing assistance payments on behalf of the non-qualifying family.

9406.30 Individuals in units with supportive services who choose to no longer participate in a service or who no longer qualify for services they qualified for at the time of initial occupancy cannot subsequently be denied continued housing opportunity because of this changed circumstance. DCHA or owner cannot determine that a participant's needs exceed the level of care offered by qualifying services or require that individuals be transitioned to different projects based on service needs.

9406.31 If the family fails to vacate the unit within the established time, the unit must be removed from the HAP contract unless the project is partially assisted, and it is possible for the HAP contract to be amended to substitute a different unit in the building in accordance with program requirements; or the owner terminates the lease and evicts the family. The housing assistance payments for a family residing in an excepted unit that is not in compliance with its family obligations to comply with supportive services requirements must be terminated by DCHA.

9406.32 DCHA may allow a family that initially qualified for occupancy of an excepted unit based on elderly family status to continue to reside in a unit, where through circumstances beyond the control of the family (e.g., death of the elderly family member or long-term or permanent hospitalization or nursing care), the elderly family member no longer resides in the unit. In this case, the unit may continue to be counted as an excepted unit for as long as the family resides in that unit. Once the family vacates the unit, to continue as an excepted unit under the HAP contract, the unit must be made available to and occupied by a qualified family.

9406.33 DCHA will allow families who initially qualified to live in an excepted unit to remain when circumstances change due to circumstances beyond the remaining family members' control.

9407 DETERMINING RENT TO OWNER

9407.1 The amount of the initial rent to an owner of units receiving PBV assistance is established at the beginning of the HAP contract term. Although for rehabilitated or newly constructed housing, the agreement to enter into HAP Contract (Agreement) states the estimated amount of the initial rent to owner, the actual amount of the initial rent to owner is established at the beginning of the HAP contract term.

9407.2 During the term of the HAP contract, the rent to owner is redetermined at the owner's request in accordance with program requirements, and at such time that there is a ten percent or greater decrease in the published FMR.

9407.3 Except for certain tax credit units (discussed below), the rent to owner must not exceed the lowest of the following amounts:

(a) An amount determined by DCHA, not to exceed one hundred ten percent (110%) of the applicable fair market rent (or any HUD-approved exception payment standard) for the unit bedroom size minus any utility allowance;

(b) The reasonable rent; or

(c) The rent requested by the owner.

9407.4 For certain tax credit units, the rent limits are determined differently than for other PBV units. Different limits apply to contract units that meet all of the following criteria:

(a) The contract unit receives a low-income housing tax credit under the Internal Revenue Code of 1986;

(b) The contract unit is not located in a qualified census tract;

(c) There are comparable tax credit units of the same bedroom size as the contract unit in the same project, and the comparable tax credit units do not have any form of rental assistance other than the tax credit; and

(d) The tax credit rent exceeds one hundred ten percent (110%) of the fair market rent or any approved exception payment standard;

9407.5 For contract units that meet all these criteria, the rent to owner must not exceed the lowest of:

(a) The tax credit rent minus any utility allowance;

(b) The reasonable rent; or

(c) The rent requested by the owner.

9407.6 A qualified census tract is any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least fifty percent (50%) percent of households have an income of less than sixty percent (60%) of Area Median Gross Income (AMGI), or where the poverty rate is at least twenty-five percent (25%) and where the census tract is designated as a qualified census tract by HUD.

9407.7 Tax credit rent is the rent charged for comparable units of the same bedroom size in the project that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

9407.8 DCHA must determine reasonable rent in accordable with 24 CFR § 983.303. The rent to owner for each contract unit may at no time exceed the reasonable rent, except in cases where DCHA has elected within the HAP contract not to reduce rents below the initial rent to owner and, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent. However, the rent to owner must be reduced in the following cases:

(a) To correct errors in calculations in accordance with HUD requirements;

(b) If additional housing assistance has been combined with PBV assistance after the execution of the initial HAP contract and a rent decrease is required pursuant to 24 CFR § 983.55; or

(c) If a decrease in rent to owner is required based on changes in the allocation of the responsibility for utilities between owner and tenant.

9407.9 If DCHA has not elected within the HAP contract to establish the initial rent to owner as the rent floor, the rent to owner shall not at any time exceed the reasonable rent.

9407.10 DCHA may elect within the HAP contract not to reduce rents below the initial level, with the exception of circumstances listed in 24 CFR § 983.302(c)(2) on a case by case basis. If, upon redetermination of the rent to owner, the reasonable rent would result in a rent below the initial rent, DCHA will use the higher initial rent to owner amount.

9407.11 When determining the initial rent to owner, DCHA must use the most recently published FMR in effect and the utility allowance schedule in effect at execution of the HAP contract. When redetermining the rent to owner, DCHA must use the most recently published FMR and the utility allowance schedule in effect at the time of redetermination. At its discretion, DCHA may for initial rent, use the amounts in effect at any time during the thirty (30) day period immediately before the beginning date of the HAP contract, or for redeterminations of rent, the thirty (30) day period immediately before the redetermination date.

9407.12 Any HUD-approved exception payment standard amount under the tenant-based voucher program also applies to the project-based voucher program. HUD will not approve a different exception payment standard amount for use in the PBV program.

9407.13 Likewise, DCHA may not establish or apply different utility allowance amounts for the PBV program. The same utility allowance schedule applies to both the tenant-based and project-based voucher programs.

9407.14 Upon written request by the owner, DCHA will consider using the FMR or utility allowances in effect during the thirty (30) day period before the start date of the HAP, or redetermination of rent. The owner must explain the need to use the previous FMRs or utility allowances and include documentation in support of the request. DCHA will review and make a decision based on the circumstances and merit of each request. In addition to considering a written request from an owner, DCHA may decide to use the FMR or utility allowances in effect during the thirty (30) day period before the start date of the HAP, or redetermination of rent, if DCHA determines it is necessary due to PHA budgetary constraints.

9407.15 While small area FMRs (SAFMRs) do not apply to PBV projects, PHAs that operate a tenant-based program under SAFMRs may apply SAFMRs to all future PBV HAP contracts. If DCHA adopts this policy, it must apply to all future PBV projects and DCHA's entire jurisdiction. DCHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if DCHA subsequently changes its policy.

9407.16 Further, DCHA may apply SAFMRs to current PBV projects where the notice of owner selection was made on or before the effective date of PHA implementation, provided the owner is willing to mutually agree to doing so and the application is prospective. DCHA and owner may not subsequently choose to revert back to use of the FMRs once the SAFMRs have been adopted, even if DCHA subsequently changes its policy. If rents increase as a result of the use of SAFMRs, the rent increase may not be effective until the first anniversary of the HAP contract.

9407.17 DCHA will not apply SAFMRs to DCHA's PBV program.

9407.18 DCHA must redetermine the rent to owner upon the owner's request or when there is a ten percent (10%) or greater decrease in the published FMR.

9407.19 If an owner wishes to request an increase in the rent to owner from DCHA, it must be requested at the annual anniversary of the HAP contract. The request must be in writing and in the form and manner required by DCHA. DCHA may only make rent increases in accordance with the rent limits described previously. There are no provisions in the PBV program for special adjustments (e.g., adjustments that reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from substantial general increases in real property taxes, utility rates, or similar costs).

(a) An owner's request for a rent increase must be submitted to DCHA sixty (60) days prior to the anniversary date of the HAP contract and must include the new rent amount the owner is proposing.

(b) DCHA will not approve any increase of rent to owner for any unit within the development unless all inspected units comply with HQS.

9407.20 DCHA may not approve and the owner may not receive any increase of rent to owner until and unless the owner has complied with requirements of the HAP contract, including compliance with HQS. The owner may not receive any retroactive increase of rent for any period of noncompliance.

9407.21 If there is a decrease in the rent to owner, as established in accordance with program requirements such as a change in the FMR or exception payment standard, or reasonable rent amount, the rent to owner must be decreased regardless of whether the owner requested a rent adjustment, except where DCHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

9407.22 The rent to owner is redetermined by written notice by DCHA to the owner specifying the amount of the redetermined rent. DCHA notice of rent adjustment constitutes an amendment of the rent to owner specified in the HAP contract. The adjusted amount of rent to owner applies for the period of twelve (12) calendar months from the annual anniversary of the HAP contract.

9407.23 DCHA will provide the owner with at least thirty (30) days written notice of any change in the amount of rent to owner.

9407.24 For DCHA-owned PBV units, the initial rent to owner and the annual redetermination of rent at the anniversary of the HAP contract are determined by the independent entity approved by HUD. DCHA must use the rent to owner established by the independent entity.

9407.25 At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by DCHA, except where DCHA has elected within the HAP contract to not reduce rents below the initial rent under the initial HAP contract.

9407.26 DCHA must redetermine the reasonable rent for a unit receiving PBV assistance whenever any of the following occur:

(a) There is a ten percent (10%) or greater decrease in the published FMR in effect sixty (60) days before the contract anniversary (for the unit sizes specified in the HAP contract) as compared with the FMR that was in effect one year before the contract anniversary date;

(b) DCHA approves a change in the allocation of responsibility for utilities between the owner and the tenant;

(c) The HAP contract is amended to substitute a different contract unit in the same building or project; or

(d) There is any other change that may substantially affect the reasonable rent.

9407.27 The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, DCHA must consider factors that affect market rent. Such factors include the location, quality, size, type, and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

9407.28 For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by DCHA. The comparability analysis may be performed by DCHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

9407.29 For DCHA-owned units, the amount of the reasonable rent must be determined by an independent agency approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for DCHA-owned units to DCHA and to the HUD field office where the project is located.

9407.30 By accepting each monthly housing assistance payment, the owner certifies that the rent to owner is not more than rent charged by the owner for other comparable unassisted units in the premises. At any time, DCHA may require the owner to submit information on rents charged by the owner for other units in the premises or elsewhere.

9407.31 In addition to the rent limits discussed above, other restrictions may limit the amount of rent to owner in a PBV unit. In addition, certain types of subsidized housing are not even eligible to receive PBV assistance.

9407.32 To comply with HUD subsidy layering requirements, at the discretion of HUD or its designee, a PHA shall reduce the rent to owner because of other governmental subsidies, including tax credits or tax exemptions, grants, or other subsidized funding.

(a) For units receiving assistance under the HOME program, rents may not exceed rent limits as required by that program.

(b) For units in any of the following types of federally subsidized projects, the rent to owner may not exceed the subsidized rent (basic rent) or tax credit rent as determined in accordance with requirements for the applicable federal program:

(1) An insured or non-insured Section 236 project;

(2) A formerly insured or non-insured Section 236 project that continues to receive Interest Reduction Payment following a decoupling action;

(3) A Section 221(d)(3) below market interest rate (BMIR) project;

(4) A Section 515 project of the Rural Housing Service; and

(5) Any other type of federally subsidized project specified by HUD.

9407.33 Rent to owner may not exceed any limitation required to comply with HUD subsidy layering requirements.

9407.34 In addition to the rent limits set by PBV program regulations, the amount of rent to owner may also be subject to rent control or other limits under local, state, or federal law.

9408 PAYMENTS TO OWNER

9408.1 During the term of the HAP contract, DCHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During

the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and DCHA agree on a later date.

9408.2 Except for discretionary vacancy payments, DCHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

9408.3 The amount of the housing assistance payment by DCHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

9408.4 In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

9408.5 If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if DCHA determines that the vacancy is the owner's fault.

9408.6 If DCHA determines that the owner is responsible for a vacancy and, as a result, is not entitled to the keep the housing assistance payment, DCHA will notify the landlord of the amount of housing assistance payment that the owner must repay. DCHA will require the owner to repay the amount owed to DCHA.

9408.7 At the discretion of DCHA, the HAP contract may provide for vacancy payments to the owner. DCHA may only make vacancy payments if:

(a) The owner gives DCHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);

(b) The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

(c) The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

(d) The owner provides any additional information required and requested by DCHA to verify that the owner is entitled to the vacancy payment.

9408.8 The owner must submit a request for vacancy payments in the form and manner required by DCHA and must provide any information or substantiation required by DCHA to determine the amount of any vacancy payment.

(a) If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified DCHA of the vacancy.

(b) In order for a vacancy payment request to be considered, it must be made within ten (10) business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and DCHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by DCHA within ten (10) business days of DCHA's request, no vacancy payments will be made.

9408.9 The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by DCHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in DCHA notice to the family and owner.

9408.10 The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by DCHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent payment from the tenant more than the tenant rent as determined by DCHA. The owner must immediately return any excess payment to the tenant.

9408.11 The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by DCHA.

9408.12 Likewise, DCHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. DCHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. DCHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

9408.13 If the amount of the utility allowance exceeds the total tenant payment, DCHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

9408.14 DCHA may pay the utility reimbursement directly to the family or to the utility supplier on behalf of the family. If DCHA chooses to pay the utility supplier

directly, DCHA must notify the family of the amount paid to the utility supplier. DCHA will make utility reimbursements to the family.

9408.15 With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

9408.16 In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

9408.17 The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

New Chapter 100, PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM, of Title 14 DCMR, HOUSING, is added to read as follows:

CHAPTER 100

PROJECT BASED VOUCHERS (PBV) UNDER THE RENTAL ASSISTANCE DEMONSTRATION (RAD) PROGRAM

10000 GENERAL REQUIREMENTS

10000.1 The Rental Assistance Demonstration (RAD) program was authorized in 2012 in order to assess the effectiveness of converting public housing, moderate rehabilitation properties, and units under the rent supplement and rental assistance payments programs to long-term, project-based Section 8 rental assistance. The program's four primary objectives are to:

(a) Preserve and improve public and other assisted housing;

(b) Standardize the administration of the plethora of federally subsidized housing programs and rules. The conversions are intended to promote operating efficiency by using a Section 8 project-based assistance model that has proven successful and effective for over 30 years. In other words, RAD aligns eligible properties more closely with other affordable housing programs;

(c) Attract private market capital for property renovations. Through the use of this model, properties may be able to leverage private debt and equity to make capital repairs; and

(d) Increase tenant mobility opportunities.

10000.2 DCHA, like other PHAs, may apply to HUD to convert some or all of their public housing units to long-term, project-based Section 8 HAP contracts under either:

(a) Project-based rental assistance (PBRA) under HUD's Office of Multifamily Housing Programs; or

(b) Project-based vouchers (PBVs) under HUD's Office of Public and Indian Housing (PIH).

10000.3 This chapter will focus on public housing conversions to the PBV program under RAD. In order to distinguish between requirements for public housing conversion under RAD and PBV units under the standard PBV program, we will refer to the standard PBV program and the RAD PBV program.

10000.4 [RESERVED]

10000.5 Any non-RAD PBV units located in the covered project are subject to the same waivers and alternative requirements noted in Notice PIH 2019-23 (issued September 5, 2019) and in this Chapter.

10000.6 Otherwise, all regulatory and statutory requirements for the standard PBV program in 24 CFR Part 983 and Section 8(o)(13) of the Housing Act of 1937, and all applicable standing and subsequent Office of Public and Indian Housing (PIH) notices and guidance, including related handbooks, apply to RAD PBV. This includes environmental review, Davis-Bacon, and fair housing requirements.

10000.7 Requirements specific to the RAD program may be found in the following:

(a) Generally, public housing projects converting assistance under RAD are bound by the terms of the notice in effect at the time of closing.

(1) Notice PIH 2019-23 was immediately applicable at the time of closing to all projects converting assistance (notwithstanding execution of a commitment for conversion). Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period;

(2) Notice PIH 2012-32, REV-3 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published

January 12, 2017. Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which were effective after a 30-day comment period; and

(3) Notice PIH 2012-32, REV-2 was applicable to projects that were seeking conversion of assistance through RAD, including those where a CHAP had already been issued when it was published June 15, 2015. Except with respect to changes in the project eligibility and selection criteria, not included in this policy, which are effective after a 30-day comment period;

(b) RAD Quick Reference Guide for Public Housing Converting to PBV Assistance (6/20);

(c) RAD Welcome Guide for New Awardees: RAD 1st Component (3/15);

(d) Notice PIH 2016-17, Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions. This Notice applies to all projects that have applied for RAD conversion but have not yet converted as of November 10, 2016;

(e) Notice PIH 2014-17, Relocation Requirements under the RAD Program, Public Housing in the First Component. This notice may apply to projects that have converted to RAD prior to November 10, 2016, AND who have requested and received approval from HUD to be governed by this notice. See PIH Notice 2016-17, Section 1, Paragraph 1.3 for applicability;

(f) The policies in this chapter follow Notice PIH 2016-17. If your project falls under PIH 2014-17, applicable policies may be found in Section 18-I.D; and

(g) RAD FAQs (http://www.radresource.net/search.cfm).

DCHA's RAD Projects:

RAD		
Project	**Closing Date**	**RAD Notice**
Colorado Road/Columbia Road	3/14/18	2/17/17
Fairlawn Marshall Apartments	7/16/18	
Matthews Memorial Terrace	7/16/18	
Montana Terrace	Summer 2023	8/21/20
Elvans Road	Summer 2023	8/21/20
Lincoln Road	Summer 2023	8/21/20

The Villager	Summer 2023	8/21/20
Ontario Road	Summer 2023	8/21/20
Wheeler Creek	Fall/Winter 2023	4/13/21
Judiciary House	December 2023	7/6/20
Henson Ridge	FY2023	TBD
Kelly Miller	FY2023	TBD
Potomac Gardens - Family and Senior Mid-Rise	Summer 2024	TBD
Greenleaf Senior	FY2024	TBD
LeDroit Senior	FY2024	TBD
James Apartments	FY2024	TBD
Horizon House	FY2024	TBD
Capper Senior I	FY2024	TBD
Langston Terrace	FY2025	TBD
Langston Additions	FY2025	TBD
Claridge Towers	FY2028	TBD
Potomac Gardens - 3-Story Family Low-Rise	TBD	TBD
The Bixby	TBD	TBD
Highland Dwellings	TBD	TBD
Capitol Gateway	TBD	TBD
Nannie Helen Burroughs	TBD	TBD
Faircloth to RAD via Initiative 25-Local Blended Subsidy		
Project	**Closing Date**	**RAD Notice**
Kenilworth 166	March 2024	TBD
Barry Farm 108	June 2025	TBD
Park Morton - Phase I	December 2025	TBD
Sursum Corda Turnkey & Sibley Townhomes	TBD	TBD

10000.8 MTW agencies can apply activities impacting the PBV program that are approved in the MTW Plan to properties converting under RAD, provided they do not conflict with RAD requirements.

10000.9 Except as otherwise noted in this chapter, DCHA policies related to tenant-based assistance also apply to RAD PBV assistance. The provisions of the tenant-based voucher regulations that do not apply to the PBV program are listed at 24 CFR 983.2.

10000.10 Except as otherwise noted in this chapter, or unless specifically prohibited by RAD PBV program regulations, DCHA policies for the PBV program contained in this Plan also apply to the RAD PBV program and its participants. This chapter is intended to address requirements specific to the RAD PBV program only. See

Exhibit 18-1 for information on projects to which DCHA has attached RAD PBV assistance.

10000.11 For projects that apply for conversion of assistance under the First Objective of RAD and will convert November 10, 2016 or later, the following applies:

(a) In some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another. RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed. Any non-RAD PBV units located in the same project are also subject to the right to return;

(b) Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements, and other requirements which may be applicable such as Section 104(d) of the Housing and Community Development Act of 1974, as amended. Sample informing notices are provided in Appendices 2–5 of Notice PIH 2014-17. A written relocation plan is required if the RAD conversion involves permanent relocation (including a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than a year. While DCHA is not required to have a written relocation plan for temporary relocation lasting one year or less, HUD strongly encourages PHAs to prepare one. Appendix II of Notice PIH 2016-17 contains recommended contents for a relocation plan;

(c) In addition, DCHA must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. The obligation due to relocating residents under RAD are broader than URA relocation assistance and payments;

(d) Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to either:

(1) a unit at the development once rehabilitation or construction is completed, provided the resident's household is not under-housed; or

(2) a unit in the development which provides the same major features as the resident's unit in the development prior to the implementation of the RAD conversion;

(e) Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete;

(f) If DCHA's proposed plans for conversion would preclude a resident from returning to the development, the resident must be given an opportunity to comment and/or object to such plans. DCHA must alter the project plans to accommodate the resident's right to return to the development if the resident would be precluded from returning to the development;

(g) Examples of project plans that may preclude a resident from returning to the development include, but are not limited to:

(1) Changes in the development's bedroom distribution that decrease the size of the units, resulting in the resident being under-housed;

(2) The resident cannot be accommodated in the remaining assisted units due to a reduction in the number of assisted units at the development;

(3) Income limit eligibility requirements associated with the LIHTC program or another program; and

(4) Failure to provide a reasonable accommodation, in violation of applicable law, where reasonable accommodation may include installation of accessibility features that are needed by the resident;

(h) Residents of a development undergoing conversion that would be precluded from returning to the development may voluntarily accept DCHA's or owner's offer to permanently relocate to alternative housing, and thereby waive their right to return to the development after rehabilitation or construction is completed. In this event, DCHA must secure the resident's written consent to a voluntary permanent relocation in lieu of returning to the development. DCHA is prohibited from employing any tactics to pressure residents into relinquishing their right to return or accepting other housing options. Additionally, DCHA may not terminate a resident's lease if DCHA fails to obtain the resident's consent and the resident seeks to exercise the right to return;

(i) In the case of multi-phase RAD transactions, the resident has a right to return to the development or to other converted phases of the development that are available for occupancy at the time the resident is eligible to exercise their right of return. Generally, the resident's right to return must be accommodated within the development associated with the resident's

original unit, however, DCHA may treat multiple converted developments on the same site as one for purposes of right to return. Should DCHA seek to have the resident exercise the right to return at a future phase, DCHA must secure the resident's consent in writing; and

(j) Alternative housing options may involve a variety of housing options, including but not limited to:

(1) Transfers to public housing;

(2) Admission to other affordable housing properties subject to the applicable program rules;

(3) Housing choice voucher (HCV) assistance;

(4) Homeownership programs subject to the applicable program rules; and

(5) Other options identified by DCHA.

10000.12 For projects that applied for conversion prior to November 10, 2016, the following applies for some developments, in-place residents may need to be relocated as a result of properties undergoing repairs, being demolished and rebuilt, or when assistance is transferred from one site to another.

(a) RAD program rules prohibit the permanent, involuntary relocation of residents as a result of conversion. Residents that are temporarily relocated retain the right to return to the project once it has been completed.

(b) Relocation assistance provided to residents will vary depending on the length of time relocation is required. Residents must be properly notified in advance of relocation requirements in accordance with RAD program rules and Uniform Relocation Act (URA) requirements. DCHA is not required to have a written relocation plan.

(c) In addition, DCHA must undertake a planning process that complies with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), although not all relocations under RAD will trigger requirements under URA. URA statute and implementing regulations may be found at 49 CFR Part 24.

(d) Any residents that may need to be temporarily relocated to facilitate rehabilitation or construction will have a right to return to an assisted unit at the development once rehabilitation or construction is completed. Where the transfer of assistance to a new site is warranted and approved, residents of the converting development will have the right to reside in an

assisted unit at the new site once rehabilitation or construction is complete. Residents of a development undergoing conversion of assistance may voluntarily accept DCHA's or owner's offer to permanently relocate to another assisted unit, and thereby waive their right to return to the development after rehabilitation or construction is completed.

10000.13 RAD conversions are governed by the same civil rights authorities that govern HUD-assisted activities in general. DCHA must comply with all applicable fair housing and civil rights laws, including but not limited to the Fair Housing Act, Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973, when conducting relocation planning and providing relocation assistance.

10001 PBV PROJECT SELECTION

10001.1 Unlike in the standard PBV program, projects selected for assistance under RAD PBV are selected in accordance with the provisions in Notice PIH 2019-23. Therefore, 24 CFR 983.51 does not apply.

10001.2 For projects governed by Notice PIH 2019-23, the following language applies:

(a) Under the PBV program, the contract administrator and the owner listed on the contract cannot be the same legal entity (i.e., DCHA cannot execute a contract with itself). To avoid this situation, DCHA may either:

(1) Transfer the ownership of the project to a nonprofit affiliate or instrumentality of DCHA (including to a "single-purpose entity" that owns nothing other than the property, which will typically be a requirement of a lender or investor), or

(2) DCHA can form a related entity that is responsible for management and leasing and can serve as the owner for purposes of the Section 8 HAP contract; in this scenario, the HAP is then executed between DCHA (as the contract administrator) and DCHA's related entity (as the owner for HAP contract purposes). Note that in the second scenario, both DCHA and the entity serving as the owner for HAP contract purposes will be required to sign the RAD Use Agreement;

(b) Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. HUD may also allow ownership of the project to be transferred to a tax credit entity controlled by a for-profit entity to facilitate the use of tax credits for the project, but only if HUD determines that DCHA or a nonprofit entity preserves an interest in the profit. The requirement for a public or

nonprofit entity, or preservation of an interest by a PHA or nonprofit in a property owned by a tax credit entity controlled by a for-profit entity, is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate:

(1) Holds a fee simple interest in the property;

(2) Is the lessor under a ground lease with the property owner;

(3) Has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units,

(4) Owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable;

(5) Owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD;

(6) Owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or

(7) Demonstrates other ownership and control arrangements approved by HUD; and

(c) Control may be established through the terms of the project owner's governing documents or through a Control Agreement, provided that in either case amendment of the terms of control requires consent from HUD.

10001.3 For projects subject to the requirements of Notice PIH 2012-32, REV-3, the following language applies:

(a) Except where permitted to facilitate the use of low-income housing tax credits, during both the initial term and renewal terms of the HAP contract, ownership must be by a public or nonprofit entity. The requirement for a public or nonprofit entity is satisfied if a public or nonprofit entity (or entities), directly or through a wholly owned affiliate:

(1) Holds a fee simple interest in the property;

(2) Is the lessor under a ground lease with the property owner;

(3) Has the direct or indirect legal authority to direct the financial and legal interest of the property owner with respect to the RAD units;

(4) Owns 51 percent or more of the general partner interests in a limited partnership or 51 percent or more of the managing member interests in a limited liability company with all powers of a general partner or managing member, as applicable;

(5) Owns a lesser percentage of the general partner or managing member interests and holds certain control rights as approved by HUD;

(6) Owns 51 percent or more of all ownership interests in a limited partnership or limited liability company and holds certain control rights as approved by HUD; or

(7) Has other ownership and control arrangements approved by HUD.

(b) If low-income housing tax credits are used, HUD may allow ownership of the property to be transferred to a tax credit entity controlled by a for-profit entity if HUD determines that DCHA preserves its interest in the property. Preservation of DCHA interest in the property includes but is not limited to the following:

(1) DCHA, or an affiliate under its sole control, is the general partner or managing member;

(2) DCHA retains fee ownership and leases the real estate to the tax credit entity pursuant to a long-term ground lease;

(3) DCHA retains control over leasing the property and determining program eligibility;

(4) DCHA enters into a control agreement by which DCHA retains consent rights over certain acts of the project owner and retains certain rights over the project; or

(5) Other means that HUD finds acceptable.

10001.4 For projects that converted assistance prior to the implementation of Notice PIH 2012-32, REV-3, the following language applies:

(a) During both the initial term and renewal terms of the HAP contract, ownership must be either of the following:

(1) A public or nonprofit entity that has legal title to the property. The entity must have the legal authority to direct the financial, legal, beneficial, and other interests of the property; or

(2) A private entity, if the property has low-income tax credits. DCHA must maintain control via a ground lease.

10001.5 If the project is DCHA-owned, rent-setting and inspection functions set out in 24 CFR 983.59 must be conducted by an independent entity approved by HUD.

10001.6 The definition of *ownership or control* provided under Notice PIH 2019-23 (listed above) is used specifically to determine whether a PHA retains control over a project for purposes of HUD's requirement for ownership or control of the covered project under RAD. For purposes of determining whether an independent entity will perform certain functions for the project, the definition of *PHA-owned* under Notice PIH 2017-21 is used. This is the same definition used for standard PBV units. In some cases, a project may meet the RAD definition of *ownership or control* but may not be considered PHA-owned for purposes of requiring an independent entity.

10001.7 The independent entity that performs the program services may be the unit of general local government for DCHA jurisdiction (unless DCHA is itself the unit of general local government or an agency of such government), or another HUD-approved public or private independent entity.

10001.8 DCHA may compensate the independent entity from PHA ongoing administrative fee income (including amounts credited to the administrative fee reserve). DCHA may not use other program receipts to compensate the independent entity for its services. DCHA, and the independent entity, may not charge the family any fee for the services provided by the independent entity.

10001.9 If units converted to PBV under RAD are PHA-owned housing, DCHA will use an entity approved by HUD for rent setting activities. Under the authority granted to DCHA in its Moving to Work status, DCHA conducts its own HQS inspections.

10001.10 For projects governed by Notice PIH 2019-23, the following language applies:

(a) In the case of a PHA that will no longer have ACC units as a result of the pending or simultaneous closing, or have less than 50 units remaining and have initiated procedures to dispose of their final ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project or projects though the conversion. However, DCHA must estimate and plan for outstanding liabilities and costs and must follow Notice PIH 2016-23 or a successor notice regarding the

administrative activities required to terminate the ACC if it has no plans to develop additional public housing;

(b) In the case where DCHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review; and

(c) Following execution of the HAP contract, DCHA is authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, DCHA may not contribute public housing program funds to the covered project unless those funds have been identified in the RCC and converted at closing for Section 8 RAD purposes.

10001.11 For projects governed by Notice PIH 2012-32, REV-3, the following language applies:

(a) In the case when DCHA is converting all of its ACC units, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; DCHA may convey all program funds to the covered projects. To cover the cost of administrative activities required to terminate the ACC, once it no longer has units under the ACC and has no plans to develop additional public housing, DCHA may:

(1) Designate that a reserve associated with the project be available to fund any public housing closeout costs (such as an operating deficit reserve or a specific PHA closeout reserve). Any funds not needed for public housing closeout costs would remain in such reserve or may be transferred to another reserve associated with the project (such as the replacement reserve). Thereafter, these funds may be used at the project pursuant to the authorized use of the applicable reserve; or

(2) Retain funds under the public housing program for this purpose. However, HUD will recapture any public housing funds that DCHA does not expend for closeout costs;

(b) In the case where DCHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy

layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory; and

(c) Following execution of the HAP contract, PHAs are authorized to use operating and capital funds to make HAP payments for the remainder of the first calendar year in which the HAP contract is effective. Otherwise, a PHA may not contribute public housing program funds to the covered project unless such funding has been identified in the approved financing plan and included in the approved "sources and uses" attached to the RCC.

10001.12 For projects governed by the requirements of Notice PIH 2012-32, REV-2, the following language applies:

(a) In the case when DCHA is converting all of its ACC units on a project, there is no restriction on the amount of public housing funds that may be contributed to the covered project at closing; DCHA may convey all program funds to the covered project. HUD will recapture any public housing funds that a PHA has not expended once it no longer has units under ACC. In the case where DCHA will continue to maintain other units in its inventory under a public housing ACC, a contribution of operating funds to the covered project that exceeds the average amount the project has held in operating reserves over the past three years will trigger a subsidy layering review under 24 CFR 4.13. Similarly, any contribution of capital funds, including Replacement Housing Factor (RHF) or Demolition Disposition Transitional Funding (DDTF), will trigger a subsidy layering review. Notwithstanding the subsidy layering review, PHAs should be mindful of how the capital funds or operating reserves used in the financing of its RAD properties may impact the physical and financial health of properties that will remain in its public housing inventory.

10001.13 Covered projects do not count against the maximum amount of assistance a PHA may utilize for the PBV program, which under the standard PBV program is set at 20 percent of the authorized units allocated to a PHA under the HCV program. To implement this provision, HUD is waiving Section 8(o)(13)(B) of the 1937 Act as well as 24 CFR 983.6.

10001.14 Projects that are governed by REV-2 of Notice PIH 2012-32, the cap on the number of PBV units in the project is increased to 50 percent. In these projects, however, provided units met certain exception criteria, DCHA may have converted a larger number of units to RAD PBV. For projects governed by the

requirements of Notice PIH 2012-32, REV-2 **only**, the following language applies:

(a) In general, DCHA may not provide PBV assistance for units in a project if the total number of dwelling units in the project that will receive PBV assistance during the term of the PBV HAP contract is more than 50 percent of the number of dwelling units (assisted or unassisted) in the project. However, PHAs may exceed the 50 percent limitation when units in the project are occupied by elderly and/or disabled families or families that will receive supportive services. These units are known as "excepted units" and do not count toward the project cap;

(b) For projects governed by the requirements of Notice PIH 2012-32, REV-2 choosing to include excepted units, additional policy decisions may be required; and

(c) For projects governed by Notice PIH 2012-32, REV-2, DCHA may provide RAD PBV assistance for excepted units.

10001.15 Site selection requirements set forth in 24 CFR 983.57 apply to RAD PBV, except for 983.57(b)(1) and (c)(2). To facilitate the uniform treatment of residents and units, any non-RAD PBV units located in the same project are subject to the terms of this provision.

10001.16 HUD will conduct a front-end civil rights review of DCHA's proposed site in certain circumstances. For RAD PBV conversions that involve new construction located in an area of minority concentration (whether on the existing public housing site or on a new site) HUD will determine whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

10001.17 DCHA must ensure that its RAD PBV conversion, including any associated new construction, is consistent with its certification to affirmatively further fair housing and complies with civil rights laws.

10001.18 HUD cannot approve an applicant's financing plan submission unless and until the required environmental review has been completed for the applicant's proposed conversion project and found to meet environmental review requirements.

10002 DWELLING UNITS

10002.1 This part identifies the special housing quality standards that apply to the RAD PBV program, housing accessibility for persons with disabilities, and special procedures for conducting housing quality standards inspections.

10002.2 The housing quality standards (HQS) for the tenant-based program generally apply to the PBV program except when conflicting with this Chapter. HQS requirements for shared housing, manufactured home space rental, and the homeownership option do not apply because these housing types are not assisted under the PBV program.

10002.3 Uniform physical condition standards (UPCS) at 24 CFR 5.703 do not apply to the PBV program.

10002.4 The lead-based paint requirements for the tenant-based voucher program do not apply to the PBV program. Instead, The Lead-based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at 24 CFR part 35, subparts A, B, H, and R, and 40 CFR 745.227, apply to the PBV program.

10002.5 Federal accessibility requirements apply to all conversions, whether they entail new construction, alternations, or existing facilities. The housing must comply with program accessibility requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at 24 CFR part 8. DCHA must ensure that the percentage of accessible dwelling units complies with the requirements of Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by HUD's regulations at 24 CFR 8, subpart C.

10002.6 Housing first occupied after March 13, 1991, must comply with design and construction requirements of the Fair Housing Amendments Act of 1988 and implementing regulations at 24 CFR 100.205, as applicable. (24 CFR 983.102)

10002.7 Under standard PBV regulations at 24 CFR 983.103(b), a PHA may not enter into a HAP contract until DCHA has determined all units comply with HQS. It is the responsibility of the contract administrator to perform this initial inspection (unless units are PHA-owned). In order to accommodate projects in which repairs are conducted, however, HUD has waived this requirement when units are undergoing rehabilitation. In this case, units must meet HQS by the date indicated in the RAD Conversion Commitment (RCC).

10002.8 Before aiding a new family in a contract unit, DCHA must inspect the unit. DCHA may not aid on behalf of the family until the unit fully complies with HQS.

10002.9 At least once every twenty-four (24) months during the term of the HAP contract, DCHA must inspect a random sample consisting of at least twenty (20) percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with HQS. Turnover inspections are not counted toward meeting this inspection requirement.

(a) If more than twenty (20) percent of the sample of inspected contract units in a building fail the initial inspection, DCHA must re-inspect one hundred (100) percent of the contract units in the building.

10002.10 DCHA must inspect contract units whenever needed to determine that the contract units comply with HQS and that the owner is providing maintenance, utilities, and other services in accordance with the HAP contract. DCHA must take into account complaints and any other information coming to its attention in scheduling inspections.

10002.11 DCHA must conduct follow-up inspections needed to determine if the owner (or, if applicable, the family) has corrected an HQS violation, and must conduct inspections to determine the basis for exercise of contractual and other remedies for owner or family violation of HQS.

10002.12 In conducting supervisory quality control HQS inspections, DCHA should include a representative sample of both tenant-based and project-based units.

10002.13 In the case of DCHA-owned units, all required inspections must be performed by an independent entity designated by DCHA and approved by HUD. The independent entity must furnish a copy of each inspection report to DCHA and to the HUD field office where the project is located. DCHA must take all necessary actions in response to inspection reports from the independent agency, including exercise of contractual remedies for violation of the HAP contract by DCHA-owner.

10003 HOUSING ASSISTANCE PAYMENTS (HAP) CONTRACT

10003.1 Public housing projects converting under RAD do not employ the PBV Agreement to Enter into a Housing Assistance Payments (AHAP) contract. Instead, following the execution of all requirements contained in the Commitment to Enter into a HAP (CHAP) contract and the RAD Conversion Commitment (RCC), a project is converted immediately to the RAD PBV HAP contract following the closing of any construction financing. Owners of public housing projects converted to PBV assistance via RAD enter into a HAP contract with DCHA that will administer the PBV assistance. Units assisted under a RAD PBV HAP contract must be subject to long-term, renewable use and affordability restrictions.

10003.2 The RAD PBV program uses the PBV HAP contract for new construction or rehabilitated housing (Form HUD-52530A), as modified by the RAD rider (Form HUD-52621). For closings on or after January 1, 2018, HUD incorporated the RAD rider directly into the standard PBV HAP contract. For closing that occurred prior to January 1, 2018, the RAD rider must be attached to the PBV HAP contract.

10003.3 The distinction between "existing housing" and "rehabilitated and newly constructed housing" is overridden by RAD requirements. The project must also have an initial RAD use agreement. All public housing RAD conversion properties financed with LIHTC are also required to include an LIHTC rider.

10003.4 RAD PBV projects do not employ an Agreement to Enter into a Housing Assistance Payments (AHAP) contract like in the standard PBV program. Rather, when the conditions of the CHAP and the RCC are met and the conversion has closed, DCHA executes the HAP contract. Project owners may select the effective date of the HAP contract as the first day of either of the two months following the completed closing.

10003.5 The initial term of the HAP contract may not be for less than 15 years and may be for a term of up to 20 years upon request of the owner and with approval of the administering voucher agency. Upon expiration of the initial term of the contract, and upon each renewal term of the contract, the owner must accept each offer to renew the contract, for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to DCHA and HUD approval, at another site through a future transfer of assistance. Contracts are subject to the terms and conditions applicable at the time of each offer and further subject to the availability of appropriations for each year of each such renewal.

10003.6 For public housing conversions to PBV, there will be no agreement to enter into a Housing Assistance Payments (AHAP) contract. Therefore, all regulatory references to the Agreement (AHAP), including regulations under 24 CFR Part 983 Subpart D, are waived. The definitions for proposal selection date, new construction, rehabilitation, and existing housing are not applicable.

10003.7 By statue, upon contact expiration, the agency administering the vouchers will offer, and DCHA will accept, renewal of the contract for the prescribed number and mix of units, either on the site of the project subject to the expiring contract or, upon request of the project owner and subject to PHA and HUD approval, at another site through a future transfer of assistance. The contract is subject to the terms and conditions applicable at the time of renewal and the availability of appropriations each year for such renewal. Consequently 24 CFR 983.205(b), governing DCHA discretion to renew the contract, will not apply.

10003.8 In the event that the HAP contract is removed due to breach, non-compliance, or insufficiency of appropriations, for all units previously covered under the HAP contract, new tenants must have incomes at or below 80 percent of the area median income at the time of admission and rents may not exceed 30 percent of 80 percent of median income for an appropriate size unit for the remainder of the term of the RAD use agreement.

10003.9 DCHA may not make any HAP payment to the owner for a contract unit during any period in which the unit does not comply with HQS.

10003.10 If DCHA determines that a contract unit does not comply with HQS, DCHA may exercise any of its remedies under the HAP contract, for any or all of the contract units.

10003.11 DCHA will abate and terminate PBV HAP contracts for noncompliance with HQS in accordance with Chapter 56 of this Title.

10003.12 Upon request of the owner to the voucher agency that will administer the project, HUD will permit assistance to float among units within the project that are the same bedroom size. The unit to which assistance is floated must be comparable to the unit being replaced in quality and amenities.

10003.13 DCHA may float assistance among unoccupied units within the project. Tracking of the number and type of units at the property, as well as identification of comparable units when assistance is floated, will be maintained by each property.

10003.14 Project owners are required to make available for occupancy by eligible tenants the number of assisted units under the terms of the HAP contract.

10003.15 DCHA may not reduce the number of assisted units without written HUD approval.

10003.16 If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, DCHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, DCHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207, or where the development has "floating" units.

10003.17 The HAP contract year is the period of 12 calendar months preceding each annual anniversary of the HAP contract during the HAP contract term. The initial contract year is calculated from the first day of the first calendar month of the HAP contract term.

10003.18 The annual anniversary of the HAP contract is the first day of the first calendar month after the end of the preceding contract year. There is a single annual anniversary date for all units under a particular HAP contract.

10003.19 When the owner executes the HAP contract, they always certify that at such execution and during the term of the HAP contract:

(a) All contract units are in good condition and the owner is maintaining the premises and contract units in accordance with HQS;

(b) The owner is providing all services, maintenance, equipment, and utilities as agreed to under the HAP contract and the leases;

(c) Each contract unit for which the owner is receiving HAP is leased to an eligible family referred by DCHA, and the lease is in accordance with the HAP contract and HUD requirements;

(d) To the best of the owner's knowledge, the family resides in the contract unit for which the owner is receiving HAP, and the unit is the family's only residence;

(e) The owner (including a principal or other interested party) is not the spouse, parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit;

(f) The amount of the HAP the owner is receiving is correct under the HAP contract;

(g) The rent for contract units does not exceed rents charged by the owner for comparable unassisted units;

(h) Except for HAP and tenant rent, the owner has not received and will not receive any other payment or consideration for rental of the contract unit;

(i) The family does not own or have any interest in the contract unit (this does not apply to the family's membership in a cooperative); and

(j) Repair work on the project selected as an existing project that is performed after HAP contract execution within such post-execution period as specified by HUD may constitute development activity, and if determined to be development activity, the repair work undertaken shall be in compliance with Davis-Bacon wage requirements.

10003.20 At the discretion of DCHA, the HAP contract may provide for vacancy payments to the owner for period of vacancy determined by DCHA extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month. The amount of the vacancy payment will be determined by DCHA and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner, including amounts available from the tenant's security deposit.

10003.21 DCHA may provide vacancy payments to the owner. The HAP contract with the owner will contain any amount of the vacancy payment and the period for which the owner will qualify for these payments.

10004 SELECTION OF PBV PROGRAM PARTICIPANTS

10004.1 Many of the provisions of the tenant-based voucher regulations [24 CFR 982] also apply to the PBV program except when conflicting with this Chapter. This includes requirements related to determining eligibility and selecting applicants from the waiting list. Even with these similarities, there are requirements that are unique to the PBV program. This part describes the requirements and policies related to eligibility and admission to the PBV program.

10004.2 Current households cannot be excluded from occupancy at the covered project based on any rescreening, income eligibility, or income targeting provisions. Consequently, current households will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion. Post-conversion, the tenure of all residents of the covered project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified by Notice PIH 2019-23 (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family. Existing residents at the time of conversion may not be rescreened for citizenship status or have their social security numbers reverified.

10004.3 Further, to facilitate the right to return to the assisted property, this provision must apply to current public housing residents of the converting project that will reside in non-RAD PBV units placed in a project that contain RAD PBV units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR 983 for non-RAD PBV. Any non-RAD PBV units located in the same project are also subject to the right to return.

10004.4 For the RAD PBV program, *in-place family* means a family who lived in a pre-conversion property at the time assistance was converted from public housing to PBV under RAD.

10004.5 [RESERVED]

10004.6 DCHA will determine an applicant family's eligibility for the RAD PBV program in accordance with Chapter 51 of this Title.

10004.7 [RESERVED]

10004.8 DCHA will establish and manage separate waiting lists for individual projects or buildings that are receiving RAD PBV assistance.

(a) For any applicants on the public housing waiting list that are likely to be ineligible for admission to a covered project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, DCHA will consider transferring such household, consistent with program requirements for administration of waiting lists, to DCHA's remaining public housing waiting lists or to another voucher waiting list, in addition to transferring such household to the waiting list for the covered project.

(b) To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait lists to which their application was transferred in accordance with the date and time of their application to the original waiting list.

(c) DCHA will maintain the project-specific waiting list in accordance with all applicable civil rights and fair housing regulations found at 24 CFR 903.7(b)(2)(ii)-(iv). DCHA will provide applicants full information about each development, including an estimate of the wait time, location, occupancy, number and size of accessible units, and amenities like day care, security, transportation, and training programs at each development with a site-based waiting list. The system for selection will be consistent with all applicable civil rights and fair housing laws and regulations and may not conflict with any imposed or pending court order, settlement agreement, or complaint brought by HUD.

(d) DCHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with §§10005.41-42.

10004.9 After conversion to RAD PBV, applicants who will occupy units with RAD PBV assistance must be selected from DCHA's waiting list. DCHA may establish selection criteria or preferences for occupancy of particular PBV units.

10004.10 At least 75 percent of the families admitted to DCHA's tenant-based and project-based voucher programs during DCHA fiscal year from the waiting list must be extremely low income families. The income targeting requirement applies to the total of admissions to both programs.

10004.11 Families in place at the time of the conversion are exempt from income targeting requirements. New admissions follow standard PBV requirements. Any non-RAD PBV units located in the same project are also subject to these requirements.

10004.12 When selecting families to occupy PBV units that have special accessibility features for persons with disabilities, DCHA must first refer families who require such features to the owner.

10004.13 [RESERVED]

10004.14 DCHA will not offer any preferences for the RAD PBV program. However, DCHA will give priority to participants moving under a VAWA emergency transfer from one PBV development to another in accordance with § 10005.

10004.15 DCHA is prohibited from taking any of the following actions against a family who has applied for, received, or refused an offer of PBV assistance:

(a) Refusing to list the applicant on the waiting list for tenant-based voucher assistance;

(b) Denying any admission preference for which the applicant qualifies;

(c) Changing the applicant's place on the waiting list based on preference, date, and time of application, or other factors affecting selection under DCHA's selection policy; or

(d) Removing the applicant from the tenant-based voucher waiting list.

10004.16 If a PBV owner rejects a family for admission to the owner's units, such rejection may not affect the family's position on the tenant-based voucher waiting list.

10004.17 When a family accepts an offer for PBV assistance, DCHA must give the family an oral briefing. The briefing must include information on how the program works and the responsibilities of the family and owner. In addition to the oral briefing, DCHA must provide a briefing packet that explains how DCHA determines the total tenant payment for a family, the family obligations under the program, and applicable fair housing information.

10004.18 If an applicant family's head or spouse is disabled, DCHA must assure effective communication, in accordance with 24 CFR 8.6, in conducting the oral briefing and in providing the written information packet. In addition, DCHA must have a mechanism for referring a family that includes a member with a mobility impairment to an appropriate accessible PBV unit.

10004.19 DCHA should take reasonable steps to assure meaningful access by persons with limited English proficiency in accordance with Chapter 51 of this Title.

10004.20 The owner is responsible for developing written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to fulfill their obligations under the lease. An owner must promptly notify in writing any rejected applicant of the grounds for any rejection.

10004.21 During the term of the HAP contract, the owner must lease contract units to eligible families that are selected and referred by DCHA from DCHA's waiting

list. The contract unit leased to the family must be the appropriate size unit for the size of the family, based on DCHA's subsidy standards.

10004.22 [RESERVED]

10004.23 The owner must notify DCHA in writing electronically within five business days of learning about any vacancy or expected vacancy. DCHA will make every reasonable effort to refer families to the owner within 14 business days of receiving such notice from the owner.

10004.24 DCHA is not responsible or liable to the owner or any other person for the family's behavior or suitability for tenancy. DCHA will not conduct screening to determine a PBV applicant family's suitability for tenancy. DCHA shall only screen for eligibility.

10004.25 DCHA will inform owners of their responsibility to screen prospective tenants, and will provide owners with the required known name and address information, at the time of the turnover HQS inspection or before. DCHA will not provide any additional information to the owner, such as tenancy history, criminal history, etc.

10004.26 The owner is responsible for screening and selection of the family to occupy the owner's unit. When screening families the owner may consider a family's background with respect to the following factors:

(a) Payment of rent and utility bills;

(b) Caring for a unit and premises;

(c) Respecting the rights of other residents to the peaceful enjoyment of their housing;

(d) Drug-related criminal activity or other criminal activity that is a threat to the health, safety, or property of others; and

(e) Compliance with other essential conditions of tenancy.

10005 OCCUPANCY

10005.1 After an applicant has been selected from the waiting list, determined eligible by DCHA, referred to an owner, and determined suitable by the owner, the family will sign the lease and occupancy of the unit will begin.

10005.2 The tenant must have legal capacity to enter into a lease under District of Columbia Law. *Legal capacity* means that the tenant is bound by the terms of the lease and may enforce the terms of the lease against the owner.

10005.3 The tenant and the owner must enter into a written lease agreement that is signed by both parties. The tenancy addendum must include, word-for-word, all provisions required by HUD.

10005.4 The lease for a PBV unit must specify all of the following information:

(a) The names of the owner and the tenant;

(b) The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);

(c) The term of the lease (initial term and any provision for renewal);

(d) The amount of the tenant rent to owner, which is subject to change during the term of the lease in accordance with HUD requirements;

(e) A specification of the services, maintenance, equipment, and utilities that will be provided by the owner;

(f) The amount of any charges for food, furniture, or supportive services; and

(g) For any family admitted following conversion, the lease must specify what will happen if the family elects to remain in its unit after increasing its income such that it requires zero HAP. Specifically, the lease must make clear how the tenant rent will be calculated, and it must address the transition to a new lease. DCHA must include resident procedural rights for termination notification and grievance procedures in the owner's lease. These requirements are not part of the regular PBV program but are required under RAD.

10005.5 The tenancy addendum in the lease must state:

(a) The program tenancy requirements; and

(b) The composition of the household as approved by DCHA (the names of family members and any PHA-approved live-in aide).

10005.6 All provisions in the HUD-required tenancy addendum must be included in the lease. The terms of the tenancy addendum prevail over other provisions of the lease.

10005.7 Leases for residents who will remain in place (i.e., who will not be relocated solely because of conversion) must have an effective date that coincides with—and must be signed on or before—the effective date of the RAD PBV HAP contract.

10005.8 The initial lease term must be for at least one year. The lease must provide for automatic renewal after the initial term of the lease in either successive definitive terms (e.g., month-to-month or year-to-year) or an automatic indefinite extension of the lease term. For automatic indefinite extension of the lease term, the lease terminates if any of the following occur:

(a) The owner terminates the lease for good cause;

(b) The tenant terminates the lease;

(c) The owner and tenant agree to terminate the lease;

(d) DCHA terminates the HAP contract; or

(e) DCHA terminates assistance for the family.

10005.9 If the tenant and owner agree to any change in the lease, the change must be in writing, and the owner must immediately give DCHA a copy of all changes.

10005.10 The owner must notify DCHA in advance of any proposed change in the lease regarding the allocation of tenant and owner responsibilities for utilities. Such changes may only be made if approved by DCHA and in accordance with the terms of the lease relating to its amendment. DCHA must redetermine reasonable rent, in accordance with program requirements, based on any change in the allocation of the responsibility for utilities between the owner and the tenant. The redetermined reasonable rent will be used in calculation of the rent to owner from the effective date of change.

10005.11 With two exceptions, the owner of a PBV unit may terminate tenancy for the same reasons an owner may in the tenant-based voucher program (see Chapter 76 and 24 CFR 982.310). In the PBV program, terminating tenancy for "good cause" does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.

10005.12 Projects converting from public housing to PBV under RAD have additional procedural rights that do not apply to the standard PBV program. These procedural rights must be included in the owner's lease as well as DCHA's Plan. In addition to the regulations at 24 CFR 983.257 related to project owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease, which may not be less than:

(a) A reasonable period of time, but not to exceed 30 days:

(1) If the health or safety of other tenants, PHA employees, or persons residing in the immediate vicinity of the premises is threatened; or

(2) In the event of any drug-related or violent criminal activity or any felony conviction;

(b) Not less than 14 days in the case of nonpayment of rent; and

(c) Not less than 30 days in any other case, except that if a state or local law provides for a shorter period of time, such shorter period will apply.

10005.13 These provisions apply to non-RAD PBV units located in the project as well.

10005.14 The lease may specify a maximum period of family absence from the unit that may be shorter than the maximum period permitted by PHA policy. According to program requirements, the family's assistance must be terminated if they are absent from the unit for more than 180 consecutive days. PHA termination of assistance actions due to family absence from the unit are subject to 24 CFR 982.312, except that the unit is not terminated from the HAP contract if the family is absent for longer than the maximum period permitted.

10005.15 Current residents living in the property prior to conversion are placed on and remain under the HAP contract when TTP equals or exceeds gross rent. In this case, until such time as the family's TTP falls below the gross rent, the family will pay the owner the lesser of their TTP minus the utility allowance or any applicable maximum rent under the LIHTC program. The family will continue to pay this amount until/if circumstances change, and HAP is paid on their behalf. In other words, assistance may subsequently be reinstated if the tenant becomes eligible for assistance. In such cases, the resident is still considered a program participant. All of the family obligations and protections under RAD and standard PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP contract. Any non-RAD PBV units located in the same project are also subject to these requirements.

10005.16 Unless a waiver is requested and approved, following conversion, 24 CFR 983.53(d) applies, and any new admission referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program. DCHA may request a waiver from HUD in order to admit otherwise eligible families whose TTP exceeds gross rent and to allow the units those families occupy to remain under the HAP contract even if DCHA has not paid HAP for the family in 180 days.

10005.17 Further, for any new families admitted after the conversion, assistance will be terminated 180 days after the last housing assistance payment on their behalf. The cessation of housing assistance payments does not affect the family's other rights

under its lease, nor does it preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within the 180-day window. If a family's assistance is terminated as a result of their zero HAP status, DCHA must remove the unit from the HAP contract. If the project is fully assisted, DCHA must reinstate the unit after the family has vacated the property. If the project is partially assisted, DCHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR 983.207.

10005.18 Per the RAD Use Agreement, the owner may charge the family a rent that does not exceed 30 percent of 80 percent of the area median income. If a unit is removed from the RAD PBV HAP contract, then the lease terminates automatically, as stated in the tenancy addendum, as though the RAD PBV HAP contract had been terminated. The tenant must be offered a new lease, which must reflect the new tenant rent. A tenant in this circumstance is no longer a program participant and therefore no longer benefits from any of the rights or protections specific to RAD, or to the PBV program. Should the family subsequently lose employment, the owner may choose to reduce the family's rent, but if the family wishes to be admitted to the HCV/PBV program, then it must be admitted through the waiting list like any other applicant.

(a) DCHA will not request a waiver from HUD to allow families whose TTP initially exceeds gross rent to occupy units.

(b) Under the authority granted to DCHA under its Moving to Work status, if the amount of assistance provided by DCHA is reduced to zero, the family's assistance terminates automatically twelve months after the last HAP payment.

(c) If a participating family who was admitted after the RAD conversion receive zero assistance and subsequently experiences a change in circumstances that would result in a HAP payment to the owner, the family must notify DCHA of the change and request an interim reexamination before the expiration of the one year period.

10005.19 Owners are permitted to recognize security deposit amounts that have been previously provided by tenants who are in-place at the time of the RAD conversion. If a tenant residing in a converting project has not previously provided a security deposit, then the owner may collect a security deposit at the time of initial lease execution. Otherwise, the security deposit requirements for standard PBV apply.

10005.20 The owner may collect a security deposit from the tenant. DCHA will allow the owner to collect a security deposit amount the owner determines is appropriate and such that it does not exceed limit under District of Columbia law.

10005.21 When the tenant moves out of a contract unit, the owner, subject to state and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit, or other amounts owed by the tenant under the lease.

10005.22 The owner must give the tenant a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the owner, the owner must promptly refund the full amount of the balance to the tenant.

10005.23 If the security deposit does not cover the amount owed by the tenant under the lease, the owner may seek to collect the balance from the tenant. DCHA has no liability or responsibility for payment of any amount owed by the family to the owner.

10005.24 Current PH FSS participants will continue to participate in DCHA's FSS program, and PHAs will be allowed to use any PH FSS funds granted previously or pursuant to the current fiscal year (FY) PH FSS notice of funding availability (NOFA) to serve those FSS participants who live in units converted to RAD and who will as a result be moving to the HCV FSS program. A PHA must convert the PH FSS program participants at the covered project to their HCV FSS program.

10005.25 Residents who were converted from the PH FSS program to the HCV FSS program through RAD may not be terminated from the HCV FSS program or have HCV assistance withheld due to the participant's failure to comply with the contract of participation. Consequently, 24 CFR 984.303(b)(5)(iii) does not apply to FSS participants in converted properties.

10005.26 At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If DCHA continues to run an FSS program that serves PH and/or HCV participants, DCHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding.

10005.27 Current Resident Opportunities and Self-Sufficiency–Service Coordinators (ROSS–SC) program grantees will be able to finish out their current ROSS–SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future public housing ROSS–SC grants.

10005.28 At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a nonprofit or local resident association and this consequence of a RAD conversion may impact those entities.

10005.29 Any non-RAD PBV units located in the same project are also subject to these requirements.

10005.30 Residents of covered projects converting assistance to PBVs will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.

10005.31 All in-place tenants at the time of conversion are eligible to remain in the project. Over-housed families should be moved into appropriately sized units if such units are available in the new or rehabbed project. If appropriately sized units are not available, the existing tenants may continue to be over-housed until an appropriately sized unit becomes available or until the tenant leaves the project. Once the unit turns over, it must be leased to an appropriately sized family. Any non-RAD PBV units located in the same project are also subject to these requirements.

10005.32 Following conversion, the standard PBV regulations apply. If DCHA determines that a family is occupying a wrong-size unit, based on DCHA's subsidy standards, or a unit with accessibility features that the family does not require, and the unit is needed by a family that does require the features, DCHA must promptly notify the family and the owner of this determination, and DCHA must offer the family the opportunity to receive continued housing assistance in another unit.

10005.33 DCHA will notify the family and the owner of the family's need to move based on the occupancy of a wrong-size or accessible unit within 14 business days of DCHA's determination. DCHA will offer the family the following types of continued assistance in the following order, based on the availability of assistance:

(a) PBV assistance in the same building or project; or

(b) PBV assistance in another project.

10005.34 If DCHA offers the family a tenant-based voucher, DCHA must terminate the housing assistance payments for a wrong-size or accessible unit at the earlier of the expiration of the term of the family's voucher, including any extension granted by DCHA, or the date upon which the family vacates the unit. If the family does not move out of the wrong-size unit or accessible unit by the expiration of the term of the family's voucher, DCHA must remove the unit from the HAP contract.

10005.35 If DCHA offers the family another form of assistance that is not a tenant-based voucher, and the family does not accept the offer, does not move out of the PBV unit within a reasonable time as determined by DCHA, or both, DCHA must terminate the housing assistance payments for the unit at the expiration of a

reasonable period as determined by DCHA and remove the unit from the HAP contract.

(a) When DCHA offers a family another form of assistance that is not a tenant-based voucher, the family will be given 30 days from the date of the offer to accept the offer and move out of the PBV unit. If the family does not move out within this 30-day time frame, DCHA will terminate the housing assistance payments at the expiration of this 30-day period.

(b) DCHA may make exceptions to this 30-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

10005.36 The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to DCHA.

10005.37 Under RAD PBV, the choice mobility option provides families with the opportunity to move with continued assistance any time after 12 months of occupancy. All residents in converted properties should be aware of their housing mobility rights and of their options in a range of neighborhoods.

(a) To ensure that residents are fully aware of and understand their rights under choice mobility, DCHA will inform families of their rights under the choice mobility option and the benefits to moving to lower poverty areas, and provide a summary of the steps necessary to exercise this option, at the time the family signs the lease for the RAD PBV unit and during their annual recertification.

(b) Information on choice mobility will be made accessible to persons with disabilities, ensuring any information, electronic or otherwise, is accessible for persons with vision, hearing, and other disabilities. This information will also be made available in accordance with Limited English Proficiency (LEP) requirements, including document translation and user of interpretation services as described in Chapter 50 of this Title.

10005.38 If the family wishes to move with continued tenant-based assistance under choice mobility, the family must contact DCHA to request rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with lease requirements, DCHA is required to offer the family the opportunity for continued tenant-based assistance, in the form of a voucher or other comparable tenant-based rental assistance. If a voucher or other comparable tenant-based assistance is not immediately available, DCHA must give the family priority to receive the next available opportunity for continued tenant-based assistance.

10005.39 Families are eligible to move with continued assistance under choice mobility after 12 months of occupancy. If the family terminates the assisted lease before the end of the first year, the family relinquishes the opportunity for continued tenant-based assistance.

(a) Prior to providing notice to the owner to terminate the lease, the family may submit a written request to DCHA for a choice mobility voucher at any time after completing the 12-month occupancy requirement.

(b) The family will remain eligible to request a choice mobility voucher as long as they continue living at the same covered project. If a family moves from one covered project to another covered project prior to completing their 12-month occupancy requirement, their 12-month clock will reset. The family must wait 12 months from the date of move to the new property before they may request another choice mobility voucher. If a family transfers to a different unit within the same covered project, the 12-month clock does not reset.

(c) DCHA will maintain a combined, agency-wide waiting list for all standard PBV and RAD PBV families wishing to exercise mobility after one year of tenancy. This list will be maintained separately from the tenant-based HCV list. Families on the choice mobility waiting list will be given priority over families on the tenant-based waiting list. The choice mobility waiting list will be organized by date and time of the family's written request to exercise choice mobility. The list will also identify whether families live in standard or RAD PBV units.

(d) DCHA will not subject RAD PBV families applying for choice mobility vouchers to any additional rescreening requirements in order to receive a tenant-based voucher.

(e) Families exercising choice mobility will not be required to vacate their units before a lease has been entered into using their tenant-based voucher. At the time DCHA issues a choice mobility voucher, DCHA will notify the family of their right to remain in their unit if they are unable find a rental unit using the tenant-based voucher.

10005.40 If because of RAD, the total number of PBV units (including RAD PBV units) administered by DCHA exceeds 20 percent of DCHA's authorized units under its HCV ACC with HUD, DCHA may establish a turnover cap. DCHA is not required to provide more than three-quarters of its turnover vouchers in any single year to the residents of covered projects. If DCHA chooses to establish a turnover cap and the cap is implemented, DCHA must create and maintain a waiting list in the order requests from eligible households were received.

(a) At such point that, as a result of RAD, the total number of PBV units (including RAD PBV units) administered by DCHA exceeds 20 percent of DCHA's authorized units under its HCV ACC with HUD, DCHA will establish a choice mobility cap. In this case, DCHA will not provide more than three-quarters of its turnover vouchers in a single year to residents of covered projects.

(b) Families who requested a choice mobility voucher and are denied due to the cap will be given priority the following year when choice mobility vouchers are again issued since the choice mobility list will be organized by the date and time of the family's request.

10005.41 Except where special consideration is needed for the project-based voucher program, DCHA will follow VAWA policies as outlined in Chapter 91 of this Plan, including using the Emergency Transfer Plan as the basis for PBV transfers under VAWA.

10005.42 HUD requires that DCHA include policies that address when a victim has been living in a unit for less than a year or when a victim seeks to move sooner than a tenant-based voucher is available.

(a) When the victim of domestic violence, dating violence, sexual assault, or stalking has lived in the unit for less than one year, DCHA will provide several options for continued assistance.

(b) DCHA will first try to transfer the participant to another PBV unit in the same development or transfer to a different development where DCHA has PBV units. DCHA will expedite the administrative processes in this case to conduct the transfer as quickly as possible. If assistance is transferred to another development, DCHA will give priority to the participant on the other development's waiting list.

(c) If no units are available for an internal transfer to a PBV development or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to either tenant-based rental assistance (HCV) or assistance in DCHA's public housing program. Such a decision will be made by DCHA based on the availability of tenant-based vouchers and/or vacancies in public housing units. Such families must be selected from the waiting list for the applicable program.

(d) If a victim wishes to move after a year of occupancy in the unit, but no tenant-based vouchers are available, DCHA will offer the participant an internal transfer to another PBV unit in the same development or a transfer to a different development where DCHA has PBV units. DCHA will

expedite the administrative processes in this case in an effort to conduct the transfer as quickly as possible.

(e) If no units are available for an internal transfer, or if there is reasonable cause to believe that such a transfer would put the victim in jeopardy, the participant may receive continued assistance through an external transfer to DCHA's public housing program. DCHA has adopted a waiting list preference for victims of domestic violence, dating violence, sexual assault, and stalking as part of the public housing ACOP in order to expedite this process.

10005.43 A family living in a unit converted from public housing to RAD PBV may retain its certification date. Unless a family's annual reexamination is due at the same time as the effective date of the RAD PBV HAP contract, DCHA does not need to recertify tenants at the point of conversion. For each family residing in a unit undergoing conversion of assistance under RAD, the administering PHA will have to submit a form HUD-50058 reflecting the family's admission to the voucher program. The effective date of the new admission will be the same as the effective date of the RAD PBV HAP contract. The form should include the same information previously found on the public housing form 50058, including the next annual reexamination date.

10005.44 Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR 5.617. Upon the expiration of the EID for such families, the rent adjustment will not be subject to rent phase-in; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time. Any non-RAD PBV units located in the same project are also subject to these requirements.

10005.45 Under the HCV program, the EID exclusion is limited to only persons with disabilities [24 CFR 5.617(b)]. In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in Section 5.617(b) limiting EID to only persons with disabilities is waived. The waiver and resulting alternative requirement only applies to tenants receiving the EID at the time of conversion. No other tenant, such as tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion (e.g., due to loss of employment), tenants that move into the property following conversion, etc., is covered by this waiver.

10005.46 HUD is incorporating additional termination notification requirements for public housing projects that convert assistance under RAD to PBV and to non-RAD PBV units located in the same project beyond those for the standard PBV program. In addition to the regulations at 24 CFR 983.257 related to owner termination of tenancy and eviction (which MTW agencies may not alter), the

termination procedure for RAD conversions to PBV requires that PHAs provide adequate written notice of termination of the lease, which is:

(a) A reasonable period of time, but not to exceed 30 days:

(1) If the health or safety of other tenants, project owner employees, or persons residing in the immediate vicinity of the premises is threatened; or

(2) In the event of any drug-related or violent criminal activity or any felony conviction.

(b) Not less than 14 days in the case of nonpayment of rent; and

(c) Not less than 30 days in any other case, except that if a state or local law provides for a shorter period, such shorter period will apply.

10005.47 In addition to reasons for an informal hearing listed at 24 CFR 982.555(a)(1)(i)–(v) (See Chapter 91. Informal Hearings for Participants), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to an owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.

(a) For any hearing required under 24 CFR 982.555(a)(1)(i)–(v), the contract administrator will perform the hearing in accordance with Chapter 16 Part III: Informal Reviews and Hearings, as is the current standard in the program.

(b) For any additional hearings required under RAD, DCHA (as owner) will perform the hearing.

10005.48 An informal hearing will not be required for class grievances or for disputes between residents not involving DCHA (as owner) or contract administrator. This hearing requirement does not apply to and is not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and DCHA (as owner) or contract administrator.

10005.49 The owner must give residents notice of their ability to request an informal hearing as outlined in 24 CFR 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR 982.555(a)(1)(i)–(v). (See Chapter 91)

10005.50 The owner must provide an opportunity for an informal hearing before an eviction.

10006 DETERMINING CONTRACT RENT

10006.1 RAD conversions are intended to be cost-neutral, and therefore, should not exceed current public housing funding as adjusted for unit size. Since public housing units do not currently have contract rents, HUD provides an estimate of current contract rents for each DCHA's public housing units based on current funding as adjusted by bedroom size. Current funding includes operating subsidy, tenant rents, capital funds, replacement housing factor funds (RHF), and demolition disposition transitional funding (DDTF). The funding may limit the amount of initial rent for a property. A detailed explanation of the determination of current funding may be found in Attachment 1C of Notice PIH 2019-23. Once the current funding amount is calculated, the amount is adjusted by bedroom size to determine the current funding rent. HUD uses the same bedroom adjustment factors as in the metropolitan FMR schedules where the project is located.

10006.2 PHAs may adjust subsidy (and contract rents) across multiple projects as long as DCHA does not exceed the aggregate subsidy for all of the projects DCHA has submitted for conversion under RAD.

10006.3 Notwithstanding HUD's calculation of the initial contract rent based on the project's subsidy under the public housing program and any modifications made to the initial contact rent, the initial rents are set at the lower of:

(a) An amount determined by DCHA, not to exceed 110 percent of the fair market rent (FMR) or DCHA's exception payment standard approved by HUD, or the alternate rent cap in a PHA's MTW agreement minus any utility allowance;

(b) The reasonable rent; or

(c) The rent requested by the owner.

10006.4 The owner will request a contract rent adjustment from DCHA who administers the contract within 120 days, but no less than 60 days, prior to the HAP contract anniversary date by submitting a completed OCAF rent adjustment worksheet (Form HUD-9624).

10006.5 The independent entity will validate the data on the form and determine whether the rent exceeds the reasonable rent charged for comparable unassisted units in the private market, in accordance with 24 CFR 983.303.

10006.6 If rents would be unreasonable following application of the requested OCAF, then the rent will only be increased up to the reasonable rent. The independent entity will notify DCHA who administers the contract in writing of the results of its review of the rent adjustment request. DCHA who administers the contract will

retain a copy of the worksheet and any other records necessary to demonstrate how the OCAF was used to make rent adjustments for audit purposes.

10006.7 The approved rent adjustment will go into effect via written notice from DCHA that administers the project to the owner. This notice will constitute an amendment to the rents specified on Exhibit A of the RAD PBV HAP contract. The new rents to the owner will take effect on the date of the contract anniversary.

10006.8 Rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

10006.9 When contract rent amounts are set initially, the amount does not include a utility allowance. In general, the utility allowances that are used on the initial HAP contract at closing are the public housing utility allowances that are in effect prior to conversion. The HAP must be updated prior to conversion to reflect current public housing utility allowances. At its discretion, a PHA may use the FMRs and utility allowances in effect during the 30-day period immediately before the beginning date of the HAP contract.

10006.10 After conversion, DCHA that administers the contract must maintain the utility allowance schedule. DCHA may either maintain a utility allowance schedule for tenant-paid utilities in accordance with standard PBV and HCV utility allowance regulations at 24 CFR 983.301(f)(2)(ii) and 24 CFR 982.517, respectively, or DCHA may instead apply site-specific utility allowances. HUD waived the requirement for the standard PBV program that the HCV utility allowance be used. If a site-specific utility allowance is used, the utility allowance is applicable to non-RAD PBV units in the project and is calculated consistent with Notice H 2015-04.

10006.11 Each family transitions to the new utility allowance at their first recertification following conversion. DCHA will determine on a case-by-case basis whether to use the HCV utility allowance schedule for a RAD PBV development or whether a site-specific utility allowance will be used.

10006.12 At the time the initial rent is established and all times during the term of the HAP contract, the rent to owner for a contract unit may not exceed the reasonable rent for the unit as determined by DCHA, except rents must not be reduced below the initial rent except to correct errors, for additional subsidy to the property, or to realign utility responsibilities.

10006.13 The reasonable rent of a unit receiving PBV assistance must be determined by comparison to rent for other comparable unassisted units. When making this determination, DCHA must consider factors that affect market rent. Such factors include the location, quality, size, type and age of the unit, as well as the amenities, housing services maintenance, and utilities to be provided by the owner.

10006.14 For each unit, the comparability analysis must use at least three comparable units in the private unassisted market. This may include units in the premises or project that is receiving project-based assistance. The analysis must show how the reasonable rent was determined, including major differences between the contract units and comparable unassisted units, and must be retained by DCHA. The comparability analysis may be performed by PHA staff or by another qualified person or entity. Those who conduct these analyses or are involved in determining the housing assistance payment based on the analyses may not have any direct or indirect interest in the property.

10006.15 For PHA-owned units, the amount of the reasonable rent must be determined by an independent entity approved by HUD in accordance with PBV program requirements. The independent entity must provide a copy of the determination of reasonable rent for PHA-owned units to DCHA and to the HUD field office where the project is located.

10007 PAYMENTS TO OWNER

10007.1 During the term of the HAP contract, DCHA must make housing assistance payments to the owner in accordance with the terms of the HAP contract. During the term of the HAP contract, payments must be made for each month that a contract unit complies with HQS and is leased to and occupied by an eligible family. The housing assistance payment must be paid to the owner on or about the first day of the month for which payment is due, unless the owner and DCHA agree on a later date.

10007.2 Except for discretionary vacancy payments, DCHA may not make any housing assistance payment to the owner for any month after the month when the family moves out of the unit (even if household goods or property are left in the unit).

10007.3 The amount of the housing assistance payment by DCHA is the rent to owner minus the tenant rent (total tenant payment minus the utility allowance).

10007.4 In order to receive housing assistance payments, the owner must comply with all provisions of the HAP contract. Unless the owner complies with all provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.

10007.5 If an assisted family moves out of the unit, the owner may keep the housing assistance payment for the calendar month when the family moves out. However, the owner may not keep the payment if DCHA determines that the vacancy is the owner's fault.

10007.6 If DCHA determines that the owner is responsible for a vacancy and as a result is not entitled to the keep the housing assistance payment, DCHA will notify the

landlord of the amount of housing assistance payment that the owner must repay. DCHA will require the owner to repay the amount owed in accordance with Chapter 91.

10007.7 At the discretion of DCHA, the HAP contract may provide for vacancy payments to the owner. DCHA may only make vacancy payments if:

(a) The owner gives DCHA prompt, written notice certifying that the family has vacated the unit and identifies the date when the family moved out (to the best of the owner's knowledge);

(b) The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;

(c) The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

(d) The owner provides any additional information required and requested by DCHA to verify that the owner is entitled to the vacancy payment.

10007.8 The owner must submit a request for vacancy payments in the form and manner required by DCHA and must provide any information or substantiation required by DCHA to determine the amount of any vacancy payment.

10007.9 If an owner's HAP contract calls for vacancy payments to be made, and the owner wishes to receive vacancy payments, the owner must have properly notified DCHA of the vacancy in accordance with the policy in §§ 10004.20-23 regarding filling vacancies. In order for a vacancy payment request to be considered, it must be made within 10 business days of the end of the period for which the owner is requesting the vacancy payment. The request must include the required owner certifications and DCHA may require the owner to provide documentation to support the request. If the owner does not provide the information requested by DCHA within 10 business days of DCHA's request, no vacancy payments will be made.

10007.10 The tenant rent is the portion of the rent to owner paid by the family. The amount of tenant rent is determined by DCHA in accordance with HUD requirements. Any changes in the amount of tenant rent will be effective on the date stated in DCHA notice to the family and owner.

10007.11 The family is responsible for paying the tenant rent (total tenant payment minus the utility allowance). The amount of the tenant rent determined by DCHA is the maximum amount the owner may charge the family for rental of a contract unit. The tenant rent covers all housing services, maintenance, equipment, and utilities to be provided by the owner. The owner may not demand or accept any rent

payment from the tenant in excess of the tenant rent as determined by DCHA. The owner must immediately return any excess payment to the tenant.

10007.12 For the initial certification, DCHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate HAP and tenant rent for the PBV program. DCHA will use this amount until the effective date of the earlier of the family's first regular or interim recertification following the conversion. At that point, DCHA will use the family's TTP based on the recertification and the applicable utility allowance (HCV or RAD PBV site-based, as applicable) to determine PBV HAP and tenant rent. Any non-RAD PBV units located in the same project are subject to the same requirements.

10007.13 The family is not responsible for the portion of rent to owner that is covered by the housing assistance payment and the owner may not terminate the tenancy of an assisted family for nonpayment by DCHA.

10007.14 Likewise, DCHA is responsible only for making the housing assistance payment to the owner in accordance with the HAP contract. DCHA is not responsible for paying tenant rent, or any other claim by the owner, including damage to the unit. DCHA may not use housing assistance payments or other program funds (including administrative fee reserves) to pay any part of the tenant rent or other claim by the owner.

10007.15 If the amount of the utility allowance exceeds the total tenant payment, DCHA must pay the amount of such excess to the tenant as a reimbursement for tenant-paid utilities, and the tenant rent to the owner must be zero.

10007.16 DCHA will make utility reimbursements directly to the family.

10007.17 For in-place tenants, if the amount the tenant would pay for rent and utilities (TTP) would increase by more than the greater of 10 percent or $25 purely as a result of conversion, the rent increase will be phased in over three years. For families who were on EID at the time of conversion to RAD PBV, upon the expiration of the EID, the rent adjustment is not subject to rent phase-in.

10007.18 DCHA must communicate this policy in writing to affected residents. Any non-RAD PBV units located in the same covered project are subject to the terms of the phase-in provisions.

10007.19 DCHA will use the family's public housing tenant rent (reflected on line 10f of the family's most recent 50058) at the date of conversion to calculate the family's tenant rent in PBV.

(a) DCHA will implement a five-year phase-in for in-place families whose TTP increases by more than the greater of 10 percent or $25 purely as a result of the conversion as follows:

(1) Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion: 20 percent of difference between the most recently paid TTP or flat rent and the standard TTP;

(2) Year 2: Year 2 any recertification (interim or annual) prior to Year 3 AR: 25 percent of the difference between the most recently paid TTP and the calculated PBV TTP;

(3) Year 3: Year 3 any recertification (interim or annual) prior to Year 4 AR: 33 percent of the difference between the most recently paid TTP and the calculated PBV TTP;

(4) Year 4: Year 4 any recertification (interim or annual) prior to Year 5 AR: 50 percent of the difference between the most recently paid TTP and the calculated PBV TTP; and

(5) Year 5 Annual recertification and all subsequent recertifications: Full calculated TTP.

(b) Once the standard TTP is equal to or less than the previous TTP, the phase-in ends, and tenants will pay full TTP from that point forward.

(c) If the family's income falls during the phase-in period such that the currently calculated PBV TTP falls below the amount that would otherwise be the phased-in rent, the family pays the currently calculated PBV TTP and the phase-in ends.

(d) DCHA will communicate DCHA's phase-in policy in writing to the family at the time DCHA first determines that the family qualifies for a rent phase-in.

(e) Any non-RAD PBV units located in the same project are also subject to rent phase-in requirements.

10007.20 With the exception of PBV assistance in assisted living developments, the owner may not require the tenant to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

10007.21 In assisted living developments receiving PBV assistance, the owner may charge for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the

calculation of the reasonable rent. However, non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.

10007.22 The owner may not charge extra amounts for items customarily included in rent in the locality or provided at no additional cost to unsubsidized tenants in the premises.

New Chapter 101, SPECIAL PURPOSE VOUCHERS, of Title 14 DCMR, HOUSING, is added to read as follows:

CHAPTER 101

SPECIAL PURPOSE VOUCHERS

10100 FAMILY UNIFICATION PROGRAM (FUP)

10100.1 The Family Unification Program (FUP) was authorized by Congress in 1990 to help preserve and reunify families. PHAs that administer the program provide vouchers to two different populations—FUP families and FUP youth.

10100.2 Families eligible for FUP are families for whom the lack of adequate housing is a primary factor in:

(a) The imminent placement of the family's child or children in out-of-home care; or

(b) The delay in the discharge of the child or children to the family from out-of-home care.

10100.3 There is no time limitation on FUP family vouchers, and the family retains their voucher as long as they are HCV-eligible. There is no requirement for the provision of supportive services for FUP family vouchers.

10100.4 Youth eligible for FUP are those who:

(a) Are at least 18 years old and not more than 24 years of age;

(b) Have 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 at age 16 and older; and

(c) Are homeless or at risk of becoming homeless.

10100.5 FUP youth vouchers are limited by statute to a period between 36 and 60 months of housing assistance. Supportive services must also be provided to FUP-eligible

youth by the Public Child Welfare Agency (PCWA) or by another agency or organization under contract with the PCWA for the period defined in the notice or Notice of Funding Availability/Opportunity (NOFA/O) for which funding was made available.

10100.6 PHAs that wish to administer FUP vouchers must apply to HUD by submitting an application under an active Notice of Funding Opportunity (NOFO). While the FUP program is administered in accordance with HCV regulations, the FUP NOFOs issued by HUD provide specific program information and requirements.

10100.7 In order to administer the program, DCHA must also form a partnership with a local PCWA who is responsible for determining the family or youth meets FUP eligibility requirements and referring them to DCHA. Once the referral is received, DCHA is responsible for placing the FUP family or youth on DCHA's waiting list and determining whether they are eligible to receive assistance under DCHA's HCV program.

10100.8 [RESERVED]

10100.9 DCHA has not designated any specific number or percentage of FUP vouchers for youths or families. DCHA will serve all referrals that meet program eligibility requirements, up to DCHA's FUP voucher allocation.

10100.10 Families and youth do not apply directly to DCHA for FUP vouchers. They are instead referred by a PCWA with whom DCHA has entered into a Memorandum of Understanding (MOU). The partnering PCWA initially determines whether the family or youth meets the FUP program eligibility requirements listed in 19-I.C. and 19-I.D. and then refers those families or youths to DCHA.

10100.11 HUD strongly encourages PHAs and PCWAs to make decisions collaboratively on the administration of the program and to maintain open and continuous communication. The PCWA must have a system for identifying FUP-eligible youth within the agency's caseload and for reviewing referrals from a Continuum of Care (COC) if applicable.

10100.12 DCHA has entered into an MOU with the District of Columbia Child and Family Services Agency (CFSA).

10100.13 The PCWA must provide supportive services for the period of time defined in the notice or NOFA/O for which the funding was made available to all FUP-eligible youth regardless of their age. The MOU between DCHA and the PCWA should identify the period of time in which supportive services will be provided.

10100.14 The PCWA will provide supportive services for all FUP youth for a period of 36 months.

10100.15 Supportive services may be provided to FUP-eligible youth by the PCWA or by another agency or organization under agreement or contract with the PCWA, including DCHA. The organization providing the services and resources must be identified in the MOU. The following services must be offered:

(a) Basic life skills information or counseling on money management, use of credit, housekeeping, proper nutrition or meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);

(b) Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance or referrals for assistance on security deposits, utility hook-up fees, and utility deposits;

(c) Providing such assurances to owners of rental property as are reasonable and necessary to assist a FUP-eligible youth to rent a unit with a FUP voucher;

(d) Job preparation and attainment counseling (where to look and how to apply, dress, grooming, relationships with supervisory personnel, etc.);

(e) Educational and career advancement counseling regarding attainment of general equivalency diploma (GED), or attendance or financing of education at a technical school, trade school, or college, including successful work ethic and attitude models; and

(f) In Addition to the services required in (a)-(e), additional supportive services may be offered.

10100.16 A FUP-eligible youth cannot be required to participate in these services as condition of receipt of the FUP voucher.

10100.17 FUP family assistance is reserved for eligible families that the PCWA has certified are a family for whom a lack of adequate housing is a primary factor in:

(a) The imminent placement of the family's child or children in out-of-home care, or

(b) The delay in the discharge of the child or children to the family from out-of-home care.

10100.18 *Lack of adequate housing* means the family meets any one of the following conditions:

(a) Living in substandard housing, which refers to a unit that meets any one of the following conditions:

(1) Does not have operable indoor plumbing;

(2) Does not have a usable flush toilet inside the unit for the exclusive use of a family or youth;

(3) Does not have a usable bathtub or shower inside the unit for the exclusive use of a family or youth;

(4) Does not have electricity, or has inadequate or unsafe electrical service;

(5) Does not have a safe or adequate source of heat;

(6) Should, but does not, have a kitchen;

(7) Has been declared unfit for habitation by an agency or unit of government, or in its present condition otherwise endangers the health, safety, or well-being of the family or youth; or

(8) Has one or more critical defects, or a combination of intermediate defects in sufficient number or to the extent that it requires considerable repair or rebuilding. The defects may result from original construction, from continued neglect or lack of repair, or from serious damage to the structure;

(b) Being homeless as defined in 24 CFR 578.3;

(c) Living in a unit where the presence of a household member with certain characteristics (i.e., conviction for certain criminal activities) would result in the imminent placement of the family's child or children in out-of-home care, or the delay in the discharge of the child or children to the family from out-of-home care;

(d) Living in housing not accessible to the family's disabled child or children due to the nature of the disability; or

(e) Living in an overcrowded unit, which is defined as living in a unit where one of the following conditions has been met:

(1) The family is separated from its child or children and the parents are living in an otherwise standard housing unit, but, after the family is reunited, the parents' housing unit would be overcrowded for the entire family and would be considered substandard; or

(2) The family is living with its child or children in a unit that is overcrowded for the entire family and this overcrowded condition may result, in addition to other factors, in the imminent placement of its child or children in out-of-home care.

(3) For purposes of this definition, the determination as to whether the unit is overcrowded is made in accordance with DCHA subsidy standards in Chapter 53 of this Title.

10100.19 Since HUD does not define *imminent placement*, the partnering PCWA may use its discretion to determine whether the potential out of home placement of the family's child or children is imminent [FUP FAQs].

10100.20 While FUP family vouchers operate as regular HCVs after the family is referred from the PCWA, there are several aspects of the FUP youth vouchers that make them distinct from the FUP family vouchers and from regular HCVs.

10100.21 A FUP-eligible youth is a youth the PCWA has certified:

(a) Is at least 18 years old and not more than 24 years of age (has not yet reached their 25th birthday); The FUP youth must be no more than 24 years old at the time the PCWA certifies them as eligible and at the time of HAP contract execution;

(b) 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; Foster care placement can include, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes in accordance with 24 CFR 5.576;

(c) Is homeless or at risk of becoming homeless at age 16 or older; *At risk of being homeless* is fully defined at 24 CFR 576.2.

(1) This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution).

(2) Therefore, youth being discharged from an institution may be eligible for a FUP voucher [FUP FAQs];

(d) Has an annual income at or below 30 percent of area median income; and

(e) Does not have sufficient resources or support networks (e.g., family, friends, faith-based or other social networks) immediately available to

prevent them from moving to a supervised publicly or privately operated shelter designed to provide temporary living arrangements.

10100.22 Although there is no time limit on FUP family vouchers, FUP youth vouchers are limited by statute. Unless the FUP youth meets an exception outlined below, after 36 months of assistance, the FUP youth voucher must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the 36-month limitation.

10100.23 If the FUP youth does meet the requirements outlined below, the statutory limit on FUP assistance is a total of 60 months of FUP voucher assistance [FR Notice 1/24/22].

10100.24 FUP youth who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

10100.25 While FUP youth cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FUP youth must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

10100.26 A FUP youth will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in DCHA's FSS program if they certify that they meet one of the exceptions below:

(a) The FUP youth is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

(1) As defined under the Code of the District of Columbia 21-2401.2, DCHA defines *incapacitated person* as an adult for whom a guardian has been appointed.

(2) DCHA will apply this exception in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

(3) The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

(4) The child or incapacitated person is not required to reside in the household in order for the youth to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part-time may qualify the youth for this exception;

(b) The FUP youth is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

(1) DCHA will define *regular and active participation* in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with the statutory requirements.

(2) The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit; or

(c) The FUP youth is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

(1) DCHA will apply this requirement in a manner that provides extensions of FUP youth assistance to the broadest population possible consistent with statutory requirements.

(2) The FUP youth will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FUP youth must submit.

10100.27 A FUP youth that meets one of the above exceptions must still be offered an opportunity to enroll in DCHA's FSS program (if it is available to them) and receive any supportive services available to FUP youth. A FUP youth may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

10100.28 If a PHA that carries out an FSS program is unable to offer a FUP youth an FSS slot during their first 36 months of receiving FUP youth assistance, the youth is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

(a) The youth was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

(1) DCHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples of a recognized postsecondary credential include, but are not limited to, an associate degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment;

(b) The youth was enrolled in an *institution of higher education*, as such term is defined in Section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under Sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

(1) Youth must be enrolled in educational activities on at least a half-time basis, as defined by the institution that they attend. However, DCHA may make exceptions to this requirement if the youth is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where the youth is enrolled;

(c) The youth was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The term *career pathway* means a combination of rigorous and high-quality education, training, and other services that:

(1) Aligns with the skill needs of industries in the economy of the state or regional economy involved;

(2) Prepares an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the Act of August 16, 1937 (commonly known as the "National Apprenticeship Act"; 50 Stat. 664, chapter 663; 29 U.S.C. 50 et seq.) (referred to individually in this Act as an *apprenticeship*, except in Section 3226 of this title);

(3) Includes counseling to support an individual in achieving the individual's education and career goals;

(4) Includes, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster;

(5) Organizes education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable;

(6) Enables an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential; and

(7) Helps an individual enter or advance within a specific occupation or occupational cluster; or

(d) The youth was employed.

(1) DCHA will consider the youth to be employed if they work a minimum of 20 hours per week. DCHA may make exceptions to this requirement if the youth's hours are reduced due to circumstances beyond their control or the youth must temporarily reduce their work hours due to a verified family emergency.

10100.29 If the FUP youth has not been provided an opportunity to enroll in the FSS program during the first 24 months of FUP assistance, DCHA will remind the youth at their second regular reexam of the education, workforce development, and employment requirements described above.

10100.30 If an FSS slot becomes available between the 36-month and 48-month mark:

(a) DCHA must offer the slot to a FUP youth who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the youth previously declined an FSS slot because they met one of the statutory exceptions);

(b) DCHA must work with the youth to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the youth is engaged in and any statutory exceptions that apply to the youth, as well as the remaining time on their voucher; and

(c) If the FUP youth accepts the FSS slot, DCHA must work with the youth to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

10100.31 If the FUP youth is offered an FSS slot prior to the 36-month mark, the youth:

(a) Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).

(b) Will not be considered to have been "unable to enroll" in the FSS program as described above, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

10100.32 If an FSS enrollment slot becomes available between the 48 and 60-month marks, DCHA will not offer the FSS slot to a FUP youth, since the youth will have already received their second and final extension.

10100.33 At the 36-month and 48-month reexamination, DCHA must extend FUP youth assistance if the youth is participating in and in compliance with the FSS program as long as the youth is still eligible for the HCV program.

10100.34 In any case, the FUP youth cannot receive more than a total of 60 months of FUP youth voucher assistance, even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

10100.35 If a PHA does not carry out an FSS program or the FUP youth has been unable to enroll in the program during the first 36 months of receiving FUP assistance, the FUP youth is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the youth engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-

month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the youth may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

10100.36 In order to provide an extension of assistance, DCHA must verify compliance with the above requirements in this Chapter at the end of the 36-month time period and the 48-month time periods.

(a) DCHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FUP youth's scheduled annual reexamination. DCHA will not verify compliance at the end of the 60-month time period.

(b) DCHA will provide each FUP youth on DCHA's program with a written notification informing them that they may receive an extension of their FUP assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, DCHA will provide this notification in a format accessible to FUP youth with disabilities and in a translated format for FUP youth with limited English proficiency in accordance with Chapter 50 of this Title.

(c) DCHA will use the following verification methods to verify a FUP youth's eligibility for voucher extensions:

(1) To verify compliance with the FSS requirement, DCHA will examine its records to confirm, or obtain confirmation from DCHA's FSS program staff, that the FUP youth participant is in compliance with FSS program requirements and has not been terminated from the FSS program;

(2) To meet the education, workforce development, or employment requirement, DCHA will verify that the FUP youth was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of 36-month or 48-month time period, as applicable;

(3) Due to the timing of when DCHA verifies compliance and conducts the annual reexamination, the FUP youth may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases,

the FUP/FYI youth will still be considered to have met the requirements; and

(4) In order for the FUP youth to meet one of the statutory exceptions described above, the youth must submit a certification to DCHA that they meet one of these exceptions. This certification is the only documentation that the FUP youth must submit in order to demonstrate that they meet one of the statutory exceptions.

10100.37 A FUP youth who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FUP youth may demonstrate that they meet a different condition in order to receive an extension of their assistance.

10100.38 If DCHA determines that the youth meets one of the statutory conditions, DCHA would then conduct an annual reexamination. If the annual reexamination determines that the youth is still eligible for the HCV program, DCHA must provide the FUP youth the extension of voucher assistance.

10100.39 Failure of the FUP youth to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FUP assistance prior to the annual reexam.

10100.40 If the FUP youth does not meet any of the conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FUP youth voucher must be terminated once the youth reaches this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the youth entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the youth, not the number of months that the youth is in the FUP youth program. Prior to termination, DCHA must offer the FUP youth the opportunity to request an informal hearing, in accordance with Chapter 91.

10100.41 The PCWA must establish and implement a system to identify FUP-eligible families and youths within the agency's caseload and make referrals to DCHA. The PCWA must certify that the FUP applicants they refer to DCHA meet FUP eligibility requirements. DCHA is not required to maintain full documentation that demonstrates the family's or youth's FUP eligibility as determined by the PCWA but should keep the referral or certification from the PCWA.

(a) As part of the MOU, DCHA and PCWA have identified staff positions to serve as lead FUP liaisons. These positions will be responsible for transmission and acceptance of FUP referrals. The PCWA must commit

sufficient staff and resources to ensure eligible families and youths are identified and determined eligible in a timely manner.

(b) When FUP vouchers are available, DCHA liaison responsible for acceptance of referrals will contact the PCWA FUP liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison will provide DCHA with a list of eligible referrals including the name, address, and contact phone number for each adult individual who is being referred; a completed release form for each adult family member; and a written certification for each referral indicating the youth or family is FUP-eligible.

(c) DCHA will maintain a copy of the referral or certification from the PCWA in the participant's file along with other eligibility paperwork.

10100.42 A PHA must serve any referrals (youths or families) that meet all program eligibility requirements. If a PHA determines that it has received a sufficient number of referrals from the PCWA so that DCHA will be able to lease all FUP vouchers awarded, DCHA may request that the PCWA suspend transmission of referrals. If DCHA determines that additional referrals will be needed after it has made such a request, DCHA may request that the PCWA resume transmission of referrals.

10100.43 A family that is already participating in the regular HCV program cannot be transferred to a FUP voucher.

10100.44 Once a referral is made, DCHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on DCHA's HCV waiting list. Applicants already on DCHA's HCV waiting list retain the order of their position on the list. Applicants not already on DCHA's HCV waiting list must be placed on the HCV waiting list.

10100.45 If DCHA's HCV waiting list is closed, DCHA must open its HCV waiting list in order to accept new FUP applicants. If necessary, DCHA may open its waiting list solely for FUP applicants, but this information must be included in DCHA's notice of opening its waiting list (see Chapter 52 of this Title, Opening and Closing the Waiting List).

10100.46 Within 10 business days of receiving the referral from the PCWA, DCHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

(a) Referrals who are already on the list will retain their position and the list will be notated to indicate the family or youth is FUP-eligible.

(b) For those referrals not already on the waiting list, DCHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, DCHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FUP-eligible.

10100.47 DCHA selects FUP-eligible families or youths based on DCHA's regular HCV waiting list selection policies in Chapter 52 of this Title, including any preferences that may apply.

10100.48 Once a FUP-eligible family or youth is selected from the HCV waiting list, DCHA must determine whether the family or youth meets HCV program eligibility requirements. Applicants must be eligible under both FUP family or youth eligibility requirements, as applicable, and HCV eligibility requirements as outlined in Chapter 51 of this Title.

10100.49 The PCWA may, but is not obligated to, provide information to DCHA on the family's criminal history.

(a) Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to DCHA.

(b) DCHA will consider the information in making its eligibility determination in accordance with DCHA's policies on eligibility in accordance with Chapter 51 of this Title.

10100.50 For FUP family vouchers, the family must remain FUP-eligible through lease-up.

(a) If, after a family is referred by the PCWA but prior to issuing a family FUP voucher, DCHA discovers that the lack of adequate housing is no longer a primary factor for the family not reunifying, the FUP voucher may not be issued to the family.

(b) Similarly, if the FUP voucher has already been issued before DCHA discovers that the reunification will not happen, but the family has not yet leased up under the voucher, DCHA must not execute the HAP contract, as the family is no longer FUP-eligible.

10100.51 FUP-eligible youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a FUP youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FUP youth voucher.

(a) Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 51 or any eligibility criteria listed in this section

will be notified by DCHA in writing following policies in Chapter 51, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

10100.52 Once DCHA determines that the family or youth meets HCV eligibility requirements, the family or youth will be issued a FUP voucher in accordance with PHA policies.

10100.53 During the family briefing, DCHA must inform the FUP youth of:

(a) The extension of assistance provisions and requirements;

(b) The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided DCHA has an FSS program); and

(c) Supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FUP youth assistance.

(1) Eligible applicants will be notified by DCHA in writing following policies in Chapter 51 of this Title. FUP families will attend a standard HCV briefing in accordance with Chapter 53 of this Title. FUP youth will be briefed individually. DCHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 53 but will also provide an explanation of the required items listed above, as well as discussing supportive services offered by the PCWA.

(2) For both FUP youth and FUP families, vouchers will be issued in accordance with PHA policies in Chapter 53 of this Title, except that DCHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in the policy in 14 DCMR § 5300.

(d) Once the family or youth locate a unit, DCHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and DCHA's policies (including, but not limited to: HQS inspection, determination of rent reasonableness, etc.).

10100.54 With the exception of terminations of assistance for FUP youth after the statutorily required time period, terminations of FUP assistance are handled in the same way as the regular HCV program. Termination of a FUP voucher must be consistent with regulations for termination in 24 CFR Part 982, Subpart L and be in compliance with Chapter 76.

10100.55 If the person who qualifies for the FUP voucher passes away, the family retains the FUP voucher. In the case of a FUP-youth voucher, assistance will terminate after the statutorily required time period, even if the FUP-eligible youth is no longer included in the household.

10100.56 If the person who qualifies for the FUP voucher moves, the remaining family members may keep the FUP voucher based on DCHA policy on remain members of the household after family breakup (see Chapter 51).

10100.57 If parents lose their parental rights or are separated from their children after voucher lease-up (or their children reach adulthood), the family is still eligible to keep their FUP assistance, as the regulations do not permit HCV termination for a family losing parental rights or the children reaching adulthood. However, DCHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household.

(a) Depending on the availability of housing choice vouchers and FUP vouchers, DCHA may transfer the assistance of a FUP family voucher holder to regular HCV assistance if there are no longer children in the household and there is no prospect of any minor child being returned to the household.

(b) If DCHA intends to transfer the assistance of the FUP family voucher holder to regular HCV assistance but has no regular HCV vouchers available at the time this determination is made, including if no vouchers are available due to lack of funding, DCHA will issue the family the next available regular HCV voucher after those being issued to families residing in PBV units claiming Choice Mobility.

10100.58 A PHA cannot terminate a FUP youth's assistance for noncompliance with PCWA case management, nor may DCHA terminate assistance for a FUP youth for not accepting services from the PCWA.

10100.59 DCHA may not transfer the assistance of a FUP youth voucher holder to regular HCV assistance upon the expiration of the statutorily required time period. However, DCHA may issue a regular HCV to FUP youth if they were selected from the waiting list in accordance with PHA policies. DCHA will not provide a selection preference on DCHA's HCV waiting list for FUP youth who are terminated due to the time limit on assistance.

10100.60 Upon the expiration of the statutorily required time period, a FUP youth voucher holder who has children and who lacks adequate housing may qualify for a FUP family voucher provided they are referred by the PCWA as an eligible family and meet the eligibility requirements for DCHA's HCV program.

10100.61 Portability for a FUP family or youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for a FUP family or youth for reasons other than those specified in the HCV program regulations.

10100.62 A FUP family or youth does not have to port to a jurisdiction that administers FUP.

10100.63 If the receiving PHA administers the FUP voucher on behalf of the initial PHA, the voucher is still considered a FUP voucher regardless of whether the receiving PHA has a FUP program.

10100.64 If the receiving PHA absorbs the voucher, the receiving PHA may absorb the incoming port into its FUP program (if it has one) or into its regular HCV program (if the receiving PHA has vouchers available to do so) and the family or youth become regular HCV participants. In either case, when the receiving PHA absorbs the voucher, a FUP voucher becomes available to the initial PHA.

10100.65 If the voucher is a FUP youth voucher and remains such upon lease-up in the receiving PHA's jurisdiction, termination of assistance must still take place once the youth has received assistance for the statutorily required time period. If the receiving PHA is administering the FUP youth voucher on behalf of the initial PHA, the two PHAs must work together to initiate termination upon expiration of the statutorily required time period.

10100.66 DCHA will not project-base FUP vouchers. All FUP vouchers will be used to provide tenant-based assistance.

10101 FOSTER YOUTH TO INDEPENDENCE INITIATIVE

10101.1 The Foster Youth to Independence (FYI) initiative was announced in 2019. The FYI initiative allows PHAs who partner with a Public Child Welfare Agency (PCWA) to request targeted HCVs to serve eligible youth with a history of child welfare involvement that are homeless or at risk of being homeless. Rental assistance and supportive services are provided to qualified youth for a period of between 36 and 60 months.

10101.2 Funding is available either competitively through an FYI NOFA or noncompetitively on a rolling basis in accordance with the application requirements outlined in Notice PIH 2020-28 or Notice PIH 2021-26, as applicable. Under the noncompetitive process, PHAs are limited to 25 vouchers in a fiscal year with the ability to request additional vouchers for those PHAs with 90 percent or greater utilization or utilization of its FUP and/or FYI vouchers, as applicable. For competitive awards, the number of vouchers is dependent on PHA program size and need.

10101.3 DCHA must enter into a partnership agreement with a PCWA in DCHA's jurisdiction in the form of a Memorandum of Understanding (MOU) or letter of intent. DCHA will implement a Foster Youth to Independence (FYI) program in partnership with the Child and Family Services Agency (CFSA).

10101.4 The PCWA is responsible for:

(a) Identifying FYI-eligible youth;

(b) Developing a system of prioritization based on the level of need of the youth and the appropriateness of intervention;

(c) Providing a written certification to DCHA that the youth is eligible; and

(d) Providing or securing supportive services for 36 months.

10101.5 In addition to the PCWA, DCHA will implement the FYI program in partnership with District of Columbia Continuum of Care (CoC).

10101.6 The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. As determined by the PCWA, eligible youth:

(a) Are at least 18 years of age and not more than 24 years of age (have not yet reached their 25th birthday); Youth must be no more than 24 years of age at the time the PCWA certifies them as eligible and at the time of HAP contract execution;

(b) Have 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; Placements can include, but are not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, childcare institutions, and pre-adoptive homes in accordance with 24 CFR 576; and

(c) Are homeless or at risk of becoming homeless at age 16 and older; *At risk of being homeless* is fully defined at 24 CFR 576.2. This includes a person that is exiting a publicly funded institution, or system of care (such as a healthcare facility, a mental health facility, foster care or other youth facility, or correction program or institution). Therefore, youth being discharged from an institution may be eligible for an FYI voucher [FYI FAQs].

10101.7 Eligibility is not limited to single persons. For example, pregnant and/or parenting youth are eligible to receive assistance assuming they otherwise meet eligibility requirements.

10101.8 Supportive services may be provided by DCHA, PCWA or a third party. The PCWA must provide or secure a commitment to provide supportive services for participating youth for the period of time defined in the NOFA/O for which the funding was made available. At a minimum, the following supportive services must be offered:

(a) Basic life skills information/counseling on money management, use of credit, housekeeping, proper nutrition/meal preparation, and access to health care (e.g., doctors, medication, and mental and behavioral health services);

(b) Counseling on compliance with rental lease requirements and with HCV program participant requirements, including assistance/referrals for assistance on security deposits, utility hook-up fees, and utility deposits;

(c) Providing such assurances to owners of rental property as are reasonable and necessary to assist eligible youth to rent a unit with a voucher;

(d) Job preparation and attainment counseling (where to look/how to apply, dress, grooming, relationships with supervisory personnel, etc.); and

(e) Educational and career advancement counseling regarding attainment of general equivalency diploma (GED) or attendance/financing of education at a technical school, trade school, or college, including successful work ethic and attitude models.

(f) Additional supportive services may be offered.

10101.9 Since participation in supportive services is optional, but strongly encouraged, an FYI participant may decline supportive service.

10101.10 The PCWA is responsible for certifying that the youth has prior qualifying foster care involvement. Once the PCWA sends DCHA the referral certifying the youth is program-eligible, DCHA determines HCV eligibility.

10101.11 The PCWA must have a system for identifying eligible youth within the agency's caseload and reviewing referrals from other partners, as applicable. The PCWA must also have a system for prioritization of referrals to ensure that youth are prioritized for an FYI voucher based upon their level of need and appropriateness of the intervention.

10101.12 Referrals may come from other organizations in the community who work with the population, but the PCWA must certify that the youth meets eligibility requirements, unless the PCWA has vested another organization with this authority.

10101.13 DCHA is not required to maintain full documentation that demonstrates the youth's eligibility as determined by the PCWA but should keep the referral or certification from the PCWA. The PCWA is not required to provide DCHA with HCV eligibility documents.

(a) DCHA and PCWA have identified staff positions to serve as lead FYI liaisons. These positions will be responsible for transmission and acceptance of referrals. The PCWA must commit sufficient staff and resources to ensure eligible youths are identified, prioritized, and determined eligible in a timely manner.

(b) When vouchers are available, DCHA liaison responsible for acceptance of referrals will contact the PCWA liaison via email indicating the number of vouchers available and requesting an appropriate number of referrals. No more than 10 business days from the date the PCWA receives this notification, the PCWA liaison must provide DCHA with a list of eligible referrals, a completed release form, and a written certification for each referral indicating the referral is eligible. The list will include the name, address, and contact phone number for each adult individual who is being referred.

(c) DCHA will maintain a copy of each certification from the PCWA in the participant's file along with other eligibility paperwork.

10101.14 DCHA must use the HCV waiting list for the FYI program. Youth already on the HCV program may not be transferred to an FYI voucher since they are not homeless or at-risk of homelessness.

10101.15 Once a referral is made, DCHA must compare the list of PCWA referrals to its HCV waiting list to determine if any applicants on the PCWA's referral list are already on DCHA's HCV waiting list. Applicants already on DCHA's HCV waiting list retain the order of their position on the list. Applicants not already on DCHA's HCV waiting list must be placed on the HCV waiting list.

10101.16 If DCHA's HCV waiting list is closed, DCHA must open its HCV waiting list in order to accept new referrals. DCHA may reopen the waiting list to accept an FYI eligible youth without opening the waiting list for other applicants; however, the requirements at 24 CFR 982.206 for giving public notice when opening and closing the waiting list apply in accordance with Chapter 52 of this Title.

10101.17 Within 10 business days of receiving the referral from the PCWA, DCHA will review the HCV waiting list and will send the PCWA a list confirming whether or not referrals are on the waiting list.

(a) Referrals who are already on the list will retain their position and the list will be notated to indicate the applicant is FYI-eligible.

(b) For those referrals not already on the waiting list, DCHA will work with the PCWA to ensure they receive and successfully complete a pre-application or application, as applicable. Once the pre-application or application has been completed, DCHA will place the referral on the HCV waiting list with the date and time of the original referral and an indication that the referral is FYI-eligible.

10101.18 DCHA selects eligible youths based on DCHA's regular HCV waiting list selection policies in Chapter 52, including any preferences that may apply.

10101.19 Once an eligible youth is selected from the HCV waiting list, DCHA must determine whether the youth meets HCV program eligibility requirements. Applicants must be eligible under both FYI eligibility requirements and HCV eligibility requirements as outlined in Chapter 3 of this policy.

10101.20 The PCWA may, but is not obligated to, provide information to DCHA on the youth's criminal history.

(a) Subject to privacy laws, the PCWA will provide any available information regarding the applicant's criminal history to DCHA.

(b) DCHA will consider the information in making its eligibility determination in accordance with DCHA's policies in Chapter 3, Part III.

10101.21 Youth must be no more than 24 years old both at the time of PCWA certification and at the time of the HAP execution. If a youth is 24 at the time of PCWA certification but will turn 25 before the HAP contract is executed, the youth is no longer eligible for a FYI voucher.

10101.22 Any applicant that does not meet the eligibility criteria for the HCV program listed in Chapter 51 or any eligibility criteria listed in this section will be notified by DCHA in writing following policies in Chapter 51, including stating the reasons the applicant was found ineligible and providing an opportunity for an informal review.

10101.23 Once DCHA determines that the family or youth meets HCV eligibility requirements, the youth will be issued an FYI voucher in accordance with PHA policies.

10101.24 During the family briefing, PHAs must inform the FYI voucher holder of:

(a) The extension of assistance provisions and requirements;

(b) The availability of the FSS program and offer them an FSS slot, if available, or offer to place them on the FSS waiting list (provided DCHA has an FSS program); and

(c) The supportive services available to them, the existence of any other programs or services, and their eligibility for such programs and services. However, participation in supportive services cannot be required as a condition of receiving FYI assistance.

10101.25 Eligible applicants will be notified by DCHA in writing following policies in Chapter 51 of this Title. FYI youth will be briefed individually. DCHA will provide all aspects of the written and oral briefing as outlined in Part I of Chapter 53. Vouchers will be issued in accordance with DCHA policies in Chapter 53, except that DCHA will consider one additional 30-day extension beyond the first automatic extension for any reason, not just those listed in Chapter 53.

10101.26 Once the youth locates a unit, DCHA conducts all other processes relating to voucher issuance and administration per HCV program regulations and DCHA policy in Chapter 57.

10101.27 Should a youth fail to use the voucher, DCHA may issue the voucher to another eligible youth if one has been identified.

10101.28 For PHAs awarded FYI Tenant Protection Vouchers (TPVs) under Notice PIH 2019-20 where the recipient of the FYI TPV leaves the program, DCHA may request an FYI voucher under the requirements of Notice PIH 2021-26.

10101.29 For PHAs awarded FYI vouchers under Notices PIH 2020-28 and PIH 2021-26, where the recipient of the FYI voucher leaves the program, DCHA must continue to use the FYI voucher for eligible youth upon turnover. Where there are more eligible youth than available FYI turnover vouchers, DCHA may request an FYI voucher under the requirements of Notice PIH 2021-26. If another eligible youth is not available, DCHA must notify HUD, and HUD will reduce DCHA's HCV assistance to account for the removal of the FYI assistance from DCHA's HCV baseline.

10101.30 Vouchers are limited by statute to a total of between 36 months and 60 months of housing assistance. At the end of the statutory time period, assistance must be terminated. However, any period of time for which no subsidy (HAP) is being paid on behalf of the youth does not count toward the limitation. It is not permissible to reissue another FYI TPV to the same youth upon expiration of their FYI assistance.

10101.31 Participants do not "age out" of the program. A participant may continue with the program until they have received the period of assistance for which they are eligible. Age limits are only applied for entry into the program.

10101.32 FYI voucher holders who first leased or lease a unit after December 27, 2020, may be eligible for an extension of assistance up to 24 months beyond the 36-month time limit (for a total of 60 months of assistance).

10101.33 While FYI voucher holders cannot be required to participate in the Family Self-Sufficiency (FSS) program as a condition of receipt of assistance, an eligible youth who participates in the FSS program and is in compliance with the applicable terms and conditions of the program is entitled to receive assistance for up to an additional 24 months. A FYI voucher holders must accept an FSS slot if it is offered to them prior to the 36-month mark in order to receive an extension of assistance (unless the youth meets one of the statutory exceptions described below).

10101.34 FYI voucher holders will be entitled to receive an extension of assistance for up to 24 months beyond the 36-month time limit without participating in DCHA's FSS program if they certify that they meet one of the exceptions below:

(a) The FYI voucher holder is a parent or other household member responsible for the care of a dependent child under the age of six or for the care of an incapacitated person.

(1) As defined under the Code of the District of Columbia 21-2401.2, DCHA defines *incapacitated person* as an adult for whom a guardian has been appointed.

(2) DCHA will apply this exception in a manner that provides extensions of FYI assistance to the broadest population possible consistent with the statutory requirements.

(3) The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

(4) The child or incapacitated person is not required to reside in the household in order for the FYI voucher holder to certify they meet this exception. For example, a child in a joint custody arrangement under the age of six who resides in the household only part time may qualify the FYI voucher holder for this exception;

(b) The FYI voucher holder is a person who is regularly and actively participating in a drug addiction or alcohol treatment and rehabilitation program.

(1) DCHA will define *regular and active participation* in a manner that provides extensions of FYI voucher holder assistance to the

broadest population possible consistent with the statutory requirements.

(2) The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit; or

(c) The FYI voucher holder is a person who is incapable of complying with the requirement to participate in a FSS program as described above or engage in education, workforce development, or employment activities as described below, as applicable, due to a documented medical condition.

(1) DCHA will apply this requirement in a manner that provides extensions of FYI voucher holder assistance to the broadest population possible consistent with statutory requirements.

(2) The FYI voucher holder will be required to self-certify that they meet this exception on a PHA-provided form. This certification is the only documentation that the FYI voucher holder must submit.

10101.35 An FYI voucher holder that meets one of the above exceptions must still be offered an opportunity to enroll in DCHA's FSS program (if it is available to them) and receive any supportive services available to FYI voucher holders. An FYI voucher holder may choose to participate in an FSS program or engage in education, workforce development, or employment activities, even if they meet one of the above statutory exceptions.

10101.36 If a PHA that carries out an FSS program is unable to offer a FYI voucher holder an FSS slot during their first 36 months of receiving FYI assistance, the FYI voucher holder is considered to have been "unable to enroll" in the program and may have their voucher extended by meeting the education, workforce development, or employment criteria described below:

(a) The FYI voucher holder was engaged in obtaining a recognized postsecondary credential or a secondary school diploma or its recognized equivalent.

(1) DCHA will use the definitions of *recognized postsecondary credential* and *secondary school diploma or its recognized equivalent* under the Workforce Innovation and Opportunity Act (WIOA). WIOA defines a *recognized postsecondary credential* as a credential consisting of an industry-recognized certificate or certification, a certificate of completion of an apprenticeship, a license recognized by the state involved or federal government, or an associate or baccalaureate degree (29 U.S.C. 3102). Examples

of a recognized postsecondary credential include, but are not limited to, an associate's degree, bachelor's degree, occupational licensure, or occupational certification (see U.S. Department of Labor, Training and Employment Guidance Letter No. 10–16, Change 1). For the purpose of WIOA, the U.S. Department of Labor defines a *secondary school diploma or its recognized equivalent* as a secondary school diploma (or alternate diploma) that is recognized by a state and that is included for accountability purposes under the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). A secondary school equivalency certification signifies that a student has completed the requirement for a high school education. Examples of a secondary school diploma or its recognized equivalent include, but are not limited to, obtaining certification of attaining passing scores on a state-recognized high school equivalency test, earning a secondary school diploma or state-recognized equivalent, or obtaining certification of passing a state-recognized competency-based assessment;

(b) The FYI voucher holder was enrolled in an *institution of higher education*, as such term is defined in Section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) or an institution that meets the definition of a *proprietary institution of higher education* or a *postsecondary vocational institution* under Sections 102(b)(1) and (c)(1) of the Higher Education Act of 1965 (20 U.S.C. 1002(b)(1) and (c)(1)), respectively.

(1) The FYI voucher holder must be enrolled in education activities on at least a half-time basis, as defined by the institution which they attend. However, DCHA may make exceptions to this requirement if the FYI voucher holder is unable to enroll in a sufficient number of classes due to a lack of course offerings by the educational institution where they are enrolled;

(c) The FYI voucher holder was participating in a career pathway, as such term is defined in Section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102); or

(d) The FYI voucher holder was employed.

(1) DCHA will consider the FYI voucher holder to be employed if they work a minimum of 20 hours per week. DCHA may make exceptions to this requirement if the FYI voucher holder's hours are reduced due to circumstances beyond their control or the FYI voucher holder must temporarily reduce their work hours due to a verified family emergency.

10101.37 If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, HUD encourages DCHA to remind the FYI voucher holder at the 24-month reexamination of the education, workforce development, and employment requirements described above so that they have enough time to meet these requirements prior to the expiration of the 36-month time period for FYI assistance. If the FYI voucher holder has not been provided an opportunity to enroll in the FSS program during the first 24 months of FYI assistance, DCHA will remind the FYI voucher holder at their second regular reexam of the education, workforce development, and employment requirements described above.

10101.38 If an FSS slot becomes available between the 36-month and 48-month mark:

(a) DCHA must offer the slot to an FYI voucher holder who had their voucher extended based on meeting the education, workforce development, or employment requirement listed above, or one of the statutory exceptions listed above (even if the FYI voucher holder previously declined an FSS slot because they met one of the statutory exceptions);

(b) DCHA must work with the FYI voucher holder to determine whether enrollment in FSS is feasible and in their best interest given any education, workforce development, or employment activities that the FYI voucher holder is engaged in and any statutory exceptions that apply to the FYI voucher holder, as well as the remaining time on their voucher; and

(c) If the FYI voucher holder accepts the FSS slot, DCHA must work with them to establish Contract of Participation goals and an Individual Training and Services Plan (ITSP) that can be accomplished within the time period left on the voucher.

10101.39 If the FYI voucher holder is offered an FSS slot prior to the 36-month mark, the FYI voucher holder:

(a) Will be required to enroll in the FSS program in order to receive an extension of assistance at the end of the 36-month time period (unless they meet one of the statutory exceptions described above).

(b) Will not be considered to have been "unable to enroll" in the FSS program, and as a result, will not be eligible to receive an extension of assistance based on meeting the education, workforce development, or employment requirements described above.

10101.40 DCHA may, but is not required, to offer an FYI voucher holder an FSS slot that becomes available between the 48-month mark and the 60-month mark, since the FYI voucher holder will have already received their second and final extension. If

an FSS slot becomes available between the 48 and 60-month marks, DCHA will not offer the FSS slot to an FYI voucher holder.

10101.41 At the 36-month and 48-month reexamination, DCHA must extend FYI assistance if the FYI voucher holder is participating in and in compliance with the FSS program as long as the FYI voucher holder is still eligible for the HCV program.

10101.42 In any case, the FYI voucher holder cannot receive more than a total of 60 months of FYI assistance even if the FSS Contract of Participation time period extends beyond the voucher 60-month mark.

10101.43 If a PHA does not carry out an FSS program or the FYI voucher holder has been unable to enroll in the program during the first 36 months of receiving FYI assistance, the FYI voucher holder is entitled to receive an extension of assistance for up to two successive 12-month periods beyond the 36-month time limit provided that the FYI voucher holder engaged in at least one of the education, workforce development, or employment activities described above for not less than nine months of the 12-month period preceding each extension. In order to meet the nine months out of the preceding 12 months requirement, the FYI voucher holder may have engaged in one of the education, workforce development, or employment activities described above or a combination of these activities.

10101.44 In order to provide an extension of assistance, DCHA must verify compliance with the above requirements at the end of the 36-month time period and the 48-month time periods. DCHA does not need to verify compliance with these requirements at the end of the 60-month time period since the maximum length of assistance is 60 months.

10101.45 To verify compliance with the education, workforce development, or employment requirement or one of the statutory exceptions, DCHA must provide the FYI voucher holder written notification informing them that they may receive an extension of their FYI assistance and providing instructions on how the FYI voucher holder may demonstrate that they meet one of these conditions. This notification must be provided sufficiently in advance of the end of the 36-month or 48-month time periods, as applicable, to allow the FYI voucher holder to demonstrate that they meet the education, workforce development, or employment requirement, or one of the statutory exceptions, and for DCHA to conduct an annual reexamination prior to the expiration of the FYI assistance.

(a) DCHA will verify compliance with the education, workforce development, or employment requirement, or one of the statutory exceptions, at the end of the 36-month and 48-month time periods prior to the FYI voucher holder's scheduled annual reexamination. DCHA will not verify compliance at the end of the 60-month time period.

(b) DCHA will provide each FYI voucher holder on DCHA's program with a written notification informing them that they may receive an extension of their FYI assistance if they meet conditions outlined in this chapter and providing them with instructions on how they may demonstrate compliance at least 60 days prior to their scheduled annual reexam date. When necessary, DCHA will provide this notification in a format accessible to FYI voucher holders with disabilities and in a translated format for FYI voucher holders with limited English proficiency in accordance with Chapter 50.

(c) DCHA will use the following verification methods to verify an FYI voucher holder's eligibility for voucher extensions:

(1) To verify compliance with the FSS requirement, DCHA will examine its records to confirm, or obtain confirmation from DCHA's FSS program staff, that the FYI participant is in compliance with FSS program requirements and has not been terminated from the FSS program;

(2) To meet the education, workforce development, or employment requirement, DCHA will verify that the FYI voucher holder was engaged in at least one education, workforce development, or employment activity for at least nine months of the 12-month period immediately preceding the end of the 36-month or 48-month time period, as applicable. Due to the timing of when DCHA verifies compliance and conducts the annual reexamination, the FYI voucher holder may have not yet met the nine-month requirement but may be able to demonstrate that they will meet the nine-month requirement as of the end of the 36-month or 48-month time period. In such cases, the FYI voucher holder will still be considered to have met the requirements; and

(3) In order for the FYI voucher holder to meet one of the statutory exceptions described above, the FYI voucher holder must submit a certification to DCHA that they meet one of these exceptions. This certification is the only documentation that the FYI voucher holder must submit in order to demonstrate that they meet one of the statutory exceptions.

10101.46 An FYI voucher holder who received an extension of voucher assistance at the end of the 36-month time period based on meeting one of the conditions described in this chapter does not have to meet the same conditions when they reach the end of the 48-month time period. The FYI voucher holder may demonstrate that they meet a different condition in order to receive an extension of their assistance.

10101.47 If DCHA determines that the FYI voucher holder meets one of the statutory conditions, DCHA would then conduct an annual reexamination. If the annual reexamination determines that the FYI voucher holder is still eligible for the HCV program, DCHA must provide the FYI voucher holder the extension of voucher assistance.

10101.48 Failure of the FYI voucher holder to meet one of the above conditions will only impact their ability to receive subsequent extensions of assistance. It will not serve as a basis for terminating the FYI assistance prior to the annual reexam.

10101.49 If the FYI voucher holder does not meet any of the statutory conditions described in in this chapter, the youth is subject to the statutory time limit of 36 months or the time limit of any extension that the youth has already received, and the FYI voucher must be terminated once they reach this time limit. The calculation of the time limit begins from the date the first HAP contract is signed (for tenant-based vouchers) or from the date the FYI voucher holder entered into the initial lease agreement (for project-based vouchers). The number of months is calculated based on the number of months that HAP subsidy is being paid on behalf of the FYI voucher holder, not the number of months that they are in the FYI program. Prior to termination, DCHA must offer the FYI voucher holder the opportunity to request an informal hearing, in accordance with Chapter 91.

10101.50 Termination of a FYI voucher is handled in the same way as with any HCV; therefore, termination of a FYI voucher must be consistent with HCV regulations at 24 CFR Part 982, Subpart L and PHA policies in Chapter 76. Given the statutory time limit that requires FYI vouchers to sunset, a DCHA must terminate the youth's assistance once the limit on assistance has expired.

10101.51 A PHA cannot terminate a FYI youth's assistance for noncompliance with PCWA case management, nor may DCHA terminate assistance for a FYI youth for not accepting services from the PCWA.

10101.52 DCHA may not transfer the assistance of FYI voucher holders to regular HCV assistance upon the expiration of the limit on assistance. However, DCHA may issue a regular HCV to FYI voucher holders if they were selected from the waiting list in accordance with PHA policies. DCHA may also adopt a waiting list preference for FYI voucher holders who are being terminated for this reason. DCHA will not provide a selection preference on DCHA's HCV waiting list for FYI voucher holders who are terminated due to the time limit on assistance.

10101.53 Portability for an FYI youth is handled in the same way as for a regular HCV family. A PHA may not restrict or deny portability for an FYI youth for reasons other than those specified in the HCV program regulations.

10101.54 An FYI youth does not have to port to a jurisdiction that administers FYI vouchers.

10101.55 If the receiving PHA absorbs the voucher, DCHA may absorb the youth into its regular HCV program if it has vouchers available to do so. If the receiving PHA absorbs the youth into its regular HCV program, that youth becomes a regular HCV participant with none of the limitations of an FYI voucher.

10101.56 The initial and receiving PHA must work together to initiate termination of assistance upon expiration of the time limit on assistance.

10101.57 DCHA may project-base certain FYI vouchers without HUD approval in accordance with all applicable PBV regulations and PHA policies in Chapter 17. This includes FYI vouchers awarded under Notices PIH 2020-28 and PIH 2021-26. Assistance awarded under Notice PIH 2019-20 is prohibited from being project-based. DCHA will not project-base FYI vouchers. All FYI vouchers will be used to provide tenant-based assistance.

10102 VETERANS AFFAIRS SUPPORTIVE HOUSING (VASH) PROGRAM

10102.1 Since 2008, HCV program funding has provided rental assistance under a supportive housing program for homeless veterans. The Veterans Affairs Supportive Housing (VASH) program combines HCV rental assistance with case management and clinical services provided by the Department of Veterans Affairs (VA) at VA medical centers (VAMCs) and Community-Based Outpatient Clinics (CBOCs), or through a designated service provider (DSP) as approved by the VA Secretary. Eligible families are homeless veterans and their families that agree to participate in VA case management and are referred to the VAMC's partner PHA for HCV assistance. The VAMC or DSP's responsibilities include:

(a) Screening homeless veterans to determine whether they meet VASH program participation criteria;

(b) Referring homeless veterans to DCHA; The term *homeless veteran* means a veteran who is homeless (as that term is defined in subsection (a) or (b) of Section 103 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302)). See 38 U.S.C. 2002;

(c) Providing appropriate treatment and supportive services to potential VASH participants, if needed, prior to DCHA issuance of a voucher;

(d) Providing housing search assistance to VASH participants;

(e) Identifying the social service and medical needs of VASH participants, and providing or ensuring the provision of regular ongoing case management, outpatient health services, hospitalization, and other supportive services as needed throughout the veterans' participation period; and

(f) Maintaining records and providing information for evaluation purposes, as required by HUD and the VA.

10102.2 VASH vouchers are awarded noncompetitively based on geographic need and PHA administrative performance. Eligible PHAs must be located within the jurisdiction of a VAMC and in an area of high need based on data compiled by HUD and the VA. When Congress funds a new allocation of VASH vouchers, HUD invites eligible PHAs to apply for a specified number of vouchers.

10102.3 Generally, the HUD-VASH program is administered in accordance with regular HCV program requirements. However, HUD is authorized to waive or specify alternative requirements to allow PHAs to effectively deliver and administer VASH assistance. Alternative requirements are established in the HUD-VASH Operating Requirements, which were originally published in the Federal Register on May 6, 2008, and updated September 27, 2021. Unless expressly waived by HUD, all regulatory requirements and HUD directives regarding the HCV program are applicable to VASH vouchers, including the use of all HUD-required contracts and other forms, and all civil rights and fair housing requirements. In addition, DCHA may request additional statutory or regulatory waivers that it determines are necessary for the effective delivery and administration of the program.

10102.4 The VASH program is administered in accordance with applicable Fair Housing requirements since civil rights requirements cannot be waived under the program. These include applicable authorities under 24 CFR 5.105(a) and 24 CFR 982.53 including, but not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title VI of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Age Discrimination Act and all DCHA policies as outlined in Chapter 50 & Chapter 74 of this Title.

10102.5 When HUD-VASH recipients include veterans with disabilities or family members with disabilities, reasonable accommodation requirements in Part II of Chapter 2 of this policy apply.

10102.6 VAMC case managers will screen all families in accordance with VA screening criteria and refer eligible families to DCHA for determination of program eligibility and voucher issuance. DCHA has no role in determining or verifying the veteran's eligibility under VA screening criteria, including determining the veteran's homelessness status. DCHA must accept referrals from the partnering VAMC and must maintain written documentation of referrals in VASH tenant files. Upon turnover, VASH vouchers must be issued to eligible veteran families as identified by the VAMC.

(a) In order to expedite the screening process, DCHA will provide all forms and a list of documents required for the VASH application to the VAMC.

Case managers will work with veterans to fill out the forms and compile all documents prior to meeting with DCHA and submitting an application. When feasible, the VAMC case manager should email or fax copies of all documents to DCHA prior to the meeting in order to allow DCHA time to review them and start a file for the veteran.

(b) After the VAMC has given DCHA a complete referral, DCHA will perform an eligibility screening within five business days of receipt of a VAMC referral.

10102.7 Eligible participants are homeless veterans and their families who agree to participate in case management from the VAMC.

(a) A *VASH Veteran* or *veteran family* refers to either a single veteran or a veteran with a household composed of two or more related persons. It also includes one or more eligible persons living with the veteran who are determined to be important to the veteran's care or well-being.

(b) A veteran for the purpose of VASH is a person whose length of service meets statutory requirements, and who served in the active military, naval, or air service, was discharged or released under conditions other than dishonorable, and is eligible for VA health care.

10102.8 Under VASH, PHAs do not have authority to determine family eligibility in accordance with HCV program rules and PHA policies. The only reasons for denial of assistance by DCHA are failure to meet the income eligibility requirements and/or that a family member is subject to a lifetime registration requirement under a state sex offender registration program. Under portability, the receiving PHA must also comply with these VASH screening requirements.

10102.9 When verifying Social Security numbers (SSNs) for homeless veterans and their family members, an original document issued by a federal or state government agency, which contains the name and SSN of the individual along with other identifying information of the individual, is acceptable in accordance with Chapter 55 of this Title.

10102.10 In the case of the homeless veteran, DCHA must accept the Certificate of Release or Discharge from Active Duty (DD-214) or the VA-verified Application for Health Benefits (10-10EZ) as verification of SSN and cannot require the veteran to provide a Social Security card. A VA-issued identification card may also be used to verify the SSN of a homeless veteran.

10102.11 The DD-214 or 10-10EZ must be accepted as proof of age in lieu of birth certificates or other PHA-required documentation as outlined in Chapter 55 of this Title. A VA-issued identification card may also be used to verify the age of a homeless veteran.

10102.12 A VA-issued identification card must be accepted in lieu of another type of government-issued photo identification. These cards also serve as verification of SSNs and date of birth.

10102.13 DCHA must determine income eligibility for VASH families in accordance with 24 CFR 982.201 and policies in Chapter 51. If the family is over-income based on the most recently published income limits for the family size, the family will be ineligible for HCV assistance.

10102.14 While income-targeting does not apply to VASH vouchers, DCHA may include the admission of extremely low-income VASH families in its income targeting numbers for the fiscal year in which these families are admitted.

10102.15 While income-targeting requirements will not be considered by DCHA when families are referred by the partnering VAMC, DCHA will include any extremely low-income VASH families that are admitted in its income targeting numbers for the fiscal year in which these families are admitted.

10102.16 DCHA may not screen any potentially eligible family members or deny assistance for any grounds permitted under 24 CFR 982.552 and 982.553 with one exception: DCHAs is still required to prohibit admission if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program. Accordingly, with the exception of denial for registration as a lifetime sex offender under state law and PHA policies on how sex offender screenings will be conducted, DCHA policies in 14 DCMR §5115 do not apply to VASH. The prohibition against screening families for anything other than lifetime sex offender status applies to all family members, not just the veteran.

10102.17 If a family member is subject to lifetime registration under a state sex offender registration program, the remaining family members may be served if the family agrees to remove the sex offender from its family composition. This is true unless the family member subject to lifetime registration under a state sex offender registration program is the homeless veteran, in which case the family would be denied admission to the program.

10102.18 Once a veteran is referred by the VAMC, DCHA must either issue a voucher or deny assistance. If DCHA denies assistance, it must provide the family with prompt notice of the decision and a brief statement of the reason for denial in accordance with 14 DCMR §5115. Like in the standard HCV program, the family must be provided with the opportunity for an informal review in accordance with policies in 14 DCMR §5115. In addition, a copy of the denial notice must be sent to the VAMC case manager.

10102.19 When adding a family member after the family has been admitted to the program, DCHA policies 14 DCMR §5115 apply. Other than the birth, adoption, or court-awarded custody of a child, DCHA must approve additional family members and will apply its regular screening criteria in doing so.

10102.20 If the homeless veteran dies while the family is being assisted, the voucher would remain with the remaining members of the tenant family. DCHA may use one of its own regular vouchers, if available, to continue assisting this family and free up a VASH voucher for another VASH-eligible family. If a regular voucher is not available, the family would continue utilizing the VASH voucher. Once the VASH voucher turns over, however, it must go to a homeless veteran family.

10102.21 In the case of divorce or separation, since the set-aside of VASH vouchers is for veterans, the voucher must remain with the veteran. This overrides DCHA's policies in Chapter 51 on how to determine who remains in the program if a family breaks up.

10102.22 DCHA does not have the authority to maintain a waiting list or apply local preferences for HUD–VASH vouchers. Policies in Chapter 52 relating to applicant selection from the waiting list, local preferences, special admissions, cross-listing, and opening and closing the waiting list do not apply to VASH vouchers.

10102.23 To assist VASH participants in finding affordable housing, especially in competitive markets, HUD allows PHAs to establish a HUD-VASH exception payment standard. PHAs may go up to but no higher than 120 percent of the published area-wide fair market rent (FMR) or small area fair market rent (SAFMR) specifically for VASH families. PHAs who want to establish a VASH exception payment standard over 120 percent must still request a waiver from HUD through the regular waiver process outlined in Notice PIH 2018-16.

10102.24 Unlike the standard HCV program which requires an initial voucher term of at least 60 days, VASH vouchers must have an initial search term of at least 120 days. PHA policies on extensions as outlined in Chapter 53 will apply.

10102.25 All VASH vouchers will have an initial term of 180 calendar days. The family must submit a Request for Tenancy Approval and proposed lease within the 180-day period unless DCHA grants an extension.

10102.26 DCHA must track issuance of HCVs for families referred by the VAMC or DSP in PIC as required in Notice PIH 2011-53.

10102.27 Unlike in the standard HCV program, VASH voucher holders may enter into an initial lease that is for less than 12 months. Accordingly, DCHA policy in Chapter 57, Term of Assisted Tenancy, does not apply.

10102.28 Unlike in the standard HCV program, VASH families are permitted to live on the grounds of a VA facility in units developed to house homeless veterans. This applies to both tenant-based assistance and PBV. Therefore, 24 CFR 982.352(a)(5) and 983.53(a)(2), which prohibit units on the physical grounds of a medical, mental, or similar public or private institution, do not apply to VASH for this purpose only. Accordingly, PHA policy in Chapter 57, Ineligible Units, does not apply for this purpose only.

10102.29 To expedite the leasing process, PHAs may pre-inspect available units that veterans may be interested in leasing in order to maintain a pool of eligible units. If a VASH family selects a unit that passed an HQS inspection (without intervening occupancy) within 45 days of the date of the Request for Tenancy Approval (Form HUD-52517), the unit may be approved if it meets all other conditions under 24 CFR 982.305. However, the veteran must be free to select their unit and cannot be steered to these units.

10102.30 To expedite the leasing process, DCHA may pre-inspect available units that veterans may be interested in leasing to maintain a pool of eligible units. If a VASH family selects a unit that passed a HQS pre-inspection (without intervening occupancy) within 45 days of the date of the RTA, the unit may be approved provided that it meets all other conditions under 24 CFR 982.305. The veteran will be free to select their unit.

10102.31 When a pre-inspected unit is not selected, DCHA will make every effort to fast-track the inspection process, including adjusting the normal inspection schedule for both initial and any required reinspections.

10102.32 Portability policies under VASH depend on whether the family wants to move within or outside of the initial VA facility's catchment area (the area in which the VAMC or DSP operates). In all cases, the initial VA facility must be consulted prior to the move and provide written confirmation that case management will continue to be provided in the family's new location. VASH participant families may only reside in jurisdictions that are accessible to case management services, as determined by case managers at the partnering VAMC or DSP.

10102.33 Under VASH, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied. As a result, DCHA policies in Chapter 58 about nonresident applicants do not apply.

10102.34 If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

10102.35 A VASH family can move within the VAMC's catchment area as long as case management can still be provided, as determined by the VA. If the initial PHA's

partnering VAMC will still provide the case management services, the receiving PHA must process the move in accordance with portability procedures:

(a) If the receiving PHA has been awarded VASH vouchers, it can choose to either bill the initial PHA or absorb the family if it has a VASH voucher available to do so.

(1) If DCHA absorbs the family, the VAMC or DSP providing the initial case management must agree to the absorption and the transfer of case management.

(b) If the receiving PHA does not administer a VASH program, it must always bill the initial PHA.

10102.36 If a family wants to move to another jurisdiction where it will not be possible for the initial PHA's partnering VAMC or DSP to provide case management services, the initial VAMC or DSP must first determine that the VASH family could be served by another VAMC or DSP that is participating in the VASH program, and the receiving PHA has an available VASH voucher.

10102.37 In these cases, the family must be absorbed by the receiving PHA either as a new admission or as a portability move-in, as applicable. Upon absorption, the initial PHA's VASH voucher will be available to lease to a new VASH-eligible family, and the absorbed family will count toward the number of VASH slots awarded to the receiving PHA.

10102.38 Veterans who request to port beyond the catchment area of the VAMC or DSP where they are receiving case management to protect the health or safety of a person who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and who reasonably believes they are threatened with imminent harm from further violence by remaining in the unit may port prior to receiving approval from the receiving VAMC or DSP. PHAs may require verbal self-certification or a written request from a participant seeking a move beyond the catchment area of the VAMC or DSP.

10102.39 The verbal self-certification or written request must include either a statement expressing why the participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same unit or a statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the participants request for the move.

10102.40 The participant must still port to a PHA that has a VASH program. If the receiving PHA does not have a VASH voucher available to lease, they may bill the initial PHA until a VASH voucher is available, at which point the porting veteran must be absorbed into the receiving PHA's program.

10102.41 Except for terminations for failure to receive case management, HUD has not established any alternative requirements for termination of assistance for VASH participants. However, prior to terminating VASH participants, HUD strongly encourages PHAs to exercise their discretion under 24 CFR 982.552(c)(2) as outlined in Chapter 76 of this Title and consider all relevant circumstances of the specific case. This includes granting reasonable accommodations for persons with disabilities, as well as considering the role of the case manager and the impact that ongoing case management services can have on mitigating the conditions that led to the potential termination.

10102.42 VASH participant families may not be terminated after admission for a circumstance or activities that occurred prior to admission and were known to DCHA but could not be considered at the time of admission due to VASH program requirements. DCHA may terminate the family's assistance only for program violations that occur after the family's admission to the program.

10102.43 As a condition of receiving HCV rental assistance, a HUD-VASH-eligible family must receive case management services from the VAMC or DSP. A VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or DSP.

10102.44 However, a VAMC or DSP determination that the participant family no longer requires case management is not grounds for termination of voucher or PBV assistance. In such a case, at its option, DCHA may offer the family continued assistance through one of its regular vouchers. If DCHA has no voucher to offer, the family will retain its VASH voucher or PBV unit until such time as DCHA has an available voucher for the family.

10102.45 When a veteran's family member is receiving protection under VAWA because the veteran is the perpetrator of domestic violence, dating violence, sexual assault, or stalking, the victim must continue to be assisted. Upon termination of the perpetrator's VASH assistance, the victim must be given a regular HCV if one is available, and the perpetrator's VASH voucher must be used to serve another eligible veteran family. If a regular HCV is not available, the perpetrator must be terminated from assistance and the victim will continue to use the VASH voucher.

10102.46 PHAs are authorized to project-base their tenant-based VASH vouchers without additional HUD review or approval in accordance with Notice PIH 2017-21 and all PBV program requirements provided that the VAMC will continue to make supportive services available. In addition, since 2010, HUD has awarded VASH vouchers specifically for project-based assistance in the form of PBV HUD-VASH set-aside vouchers. While these vouchers are excluded from the PBV program cap as long as they remain under PBV HAP contract at the designated project, all other VASH vouchers are subject to the PBV program percentage limitation discussed in Chapter 94 of this Title. Note that VASH supportive

services only need to be provided to VASH families receiving PBV assistance in the project, not all families receiving PBV assistance in the project. If a VASH family does not require or no longer requires case management, the unit continues to count as an excepted PBV unit if the family resides in the unit.

10102.47 If DCHA project-bases VASH vouchers, DCHA must consult with the partnering VAMC or DSP to ensure approval of the project or projects. PHAs may project-base VASH vouchers in projects alongside other PBV units and may execute a single HAP contract covering both the VASH PBVs and the other PBVs. DCHA must refer only VASH families to PBV units exclusively made available to VASH families and to PBV units funded through a HUD set-aside award.

10102.48 If a VASH family is referred to DCHA and there is an available PBV unit that is not exclusively made available to VASH families, DCHA may offer to refer the family to the owner if allowable under the selection policy for that project, and the owner and PHA may amend the HAP contract to designate the PBV unit as a VASH PBV unit.

10102.49 DCHA and owner may agree to amend a PBV HAP contract to redesignate a regular PBV unit as a unit specifically designated for VASH families so long as DCHA first consults with the VAMC or DSP. Additionally, DCHA and owner may agree to amend a PBV HAP contract to redesignate a unit specifically designated for VASH families as a regular PBV unit, so long as the unit is not funded through a VASH PBV set-aside award and is eligible for regular PBV (i.e., the unit is not on the grounds of a medical facility and the unit is eligible under DCHA's program and project caps).

10102.50 Policies for VASH PBV units will generally follow PHA policies for the standard PBV program as listed in Chapter 94 of this Title, except for the policies listed below.

10102.51 Upon notification by the VAMC or DSP of the family's failure to participate, without good cause, in case management, DCHA must provide the family a reasonable time to vacate the unit. DCHA must terminate assistance to the family at the earlier of either the time the family vacates or the expiration of the reasonable time period given to vacate.

10102.52 Upon notification by the VAMC or DSP that a VASH PBV family has failed to participate in case management without good cause, DCHA will provide written notice of termination of assistance to the family and the owner within 10 business days. The family will be given 60 days from the date of the notice to move out of the unit.

10102.53 DCHA may make exceptions to this 60-day period if needed for reasons beyond the family's control such as death, serious illness, or other medical emergency of a family member.

10102.54 If the family fails to vacate the unit within the established time, the owner may evict the family. If the owner does not evict the family, DCHA must remove the unit from the HAP contract or amend the HAP contract to substitute a different unit in the project if the project is partially assisted. DCHA may add the removed unit to the HAP contract after the ineligible family vacates the property.

10102.55 When a VASH PBV family is eligible to move from its PBV unit in accordance with Chapter 94 of this policy, but there is no other comparable tenant-based rental assistance, the following procedures must be implemented:

(a) If a VASH tenant-based voucher is not available at the time the family wants (and is eligible) to move, DCHA may require a family who still requires case management to wait for a VASH tenant-based voucher for a period not to exceed 180 days;

(b) If a VASH tenant-based voucher is still not available after that period, the family must be allowed to move with its VASH voucher. Alternatively, DCHA may allow the family to move with its VASH voucher without having to meet this 180-day period. In either case, DCHA is required to replace the assistance in the PBV unit with one of its regular vouchers, unless DCHA and owner agree to temporarily remove the unit from the HAP contract; and

(c) If a VASH veteran is determined to no longer require case management, DCHA must allow the family to move with the first available tenant-based voucher if no VASH voucher is immediately available and cannot require the family to wait for a VASH voucher to become available.

10102.56 Mainstream vouchers assist non-elderly persons with disabilities and their families in the form of either project-based or tenant-based voucher assistance.

10102.57 Aside from separate funding appropriations and serving a specific population, Mainstream vouchers follow the same program requirements as standard vouchers. DCHA does not have special authority to treat families that receive a Mainstream voucher differently from other applicants and participants. For example, DCHA cannot apply different payment standards, establish conditions for allowing portability, or apply different screening criteria to Mainstream families.

10102.58 The Mainstream voucher program, (previously referred to as the Mainstream 5-Year program or the Section 811 voucher program) was originally authorized under the National Affordable Housing Act of 1990. Mainstream vouchers operated separately from the regular HCV program until the passage of the Frank Melville Supportive Housing Investment Act of 2010. Funding for Mainstream voucher renewals and administrative fees was first made available in 2012. In

2017 and 2019, incremental vouchers were made available for the first time since the Melville Act (in addition to renewals and administrative fees), and PHAs were invited to apply for a competitive award of Mainstream vouchers under the FY17 and FY19 NOFAs. In 2020, Notice PIH 2020-22 provided an opportunity for any PHA administering an HCV program to apply for Mainstream vouchers noncompetitively, while Notice PIH 2020-09 authorized an increase in Mainstream voucher units and budget authority for those PHAs already awarded Mainstream vouchers under the FY17 and FY19 NOFAs.

10102.59 Funds for Mainstream vouchers may be recaptured and reallocated if DCHA does not comply with all program requirements or fails to maintain a utilization rate of 80 percent for DCHA's Mainstream vouchers.

10102.60 All Mainstream vouchers must be used to serve non-elderly persons with disabilities and their families, defined as any family that includes a person with disabilities who is at least 18 years old and not yet 62 years old as of the effective date of the initial HAP contract. The eligible disabled household member does not need to be the head of household.

10102.61 The definition of person with disabilities for purposes of Mainstream vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program and is provided in Exhibit 3-1 of this policy.

10102.62 Existing families receiving Mainstream vouchers, where the eligible family member is now age 62 or older, will not "age out" of the program as long as the family was eligible on the day it was first assisted under a HAP contract.

10102.63 DCHA may not implement eligibility screening criteria for Mainstream vouchers that is different from that of the regular HCV program.

10102.64 PHAs are encouraged but not required to establish formal and informal partnerships with a variety of organizations that assist persons with disabilities to help ensure eligible participants find and maintain stable housing.

10102.65 DCHA will implement a Mainstream program in partnership with District of Columbia's Department of Aging and Community Living (DACL) and the District of Columbia's Department of Behavioral Health. DCHA may identify other partners within the community as appropriate.

10102.66 PHAs must not have a separate waiting list for Mainstream voucher assistance since DCHA is required by the regulations to maintain one waiting list for tenant-based assistance. All PHA policies on opening, closing, and updating the waiting list, as well as waiting list preferences in Chapter 52, apply to the Mainstream program.

10102.67 When DCHA is awarded Mainstream vouchers, these vouchers must be used for new admissions to DCHA's program from the waiting list. DCHA must lease these vouchers by pulling the first Mainstream-eligible family from its tenant-based waiting list. PHAs are not permitted to reassign existing participants to the program to make regular tenant-based vouchers available. Further, DCHA may not skip over Mainstream-eligible families on the waiting list because DCHA is serving the required number of Mainstream families.

10102.68 Upon turnover, vouchers must be provided to Mainstream-eligible families. If a Mainstream turnover voucher becomes available, DCHA must determine if the families at the top of the waiting list qualify under program requirements.

10102.69 If DCHA claimed points for a preference in a NOFA application for Mainstream vouchers, DCHA must adopt a preference for at least one of the targeted groups identified in the NOFA.

10102.70 DCHA selects families from the waiting list based on date and time of application.

10102.71 Mainstream voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 10, Part II apply to Mainstream families.

10102.72 The following special considerations for Mainstream vouchers apply under portability:

(a) If the receiving PHA has a Mainstream voucher available, the participant may remain a Mainstream participant:

(1) If the receiving PHA chooses to bill the initial PHA, then the voucher will remain a Mainstream voucher; and

(2) If the receiving PHA chooses to absorb the voucher, the voucher will be considered a regular voucher, or a Mainstream voucher if the receiving PHA has a Mainstream voucher available, and the Mainstream voucher at the initial PHA will be freed up to lease to another Mainstream-eligible family; and

(b) If the receiving PHA does not have a Mainstream voucher available, the participant may receive a regular voucher.

10102.73 DCHA may project-base Mainstream vouchers in accordance with all applicable PBV regulations and PHA policies in Chapter 94 of this Title. PHAs are responsible for ensuring that, in addition to complying with project-based voucher program requirements, the project complies with all applicable federal nondiscrimination and civil rights statutes and requirements. This includes, but is

not limited to, Section 504 of the Rehabilitation Act (Section 504), Titles II or III of the Americans with Disabilities (ADA), and the Fair Housing Act and their implementing regulations at 24 CFR Part 8; 28 CFR Parts 35 and 36; and 24 CFR Part 100. Mainstream vouchers are subject to the PBV program percentage limitation discussed in Section 17-I.A.

10102.74 NED vouchers help non-elderly disabled families lease suitable, accessible, and affordable housing in the private market. Aside from separate funding appropriations and serving a specific population, NED vouchers follow the same program requirements as standard vouchers. DCHA does not have special authority to treat families that receive a NED voucher differently from other applicants and participants.

10102.75 Some NED vouchers are awarded to PHAs through competitive NOFAs. The NOFA for FY2009 Rental Assistance for NED made incremental funding available for two categories of NED families:

(a) Category 1 vouchers enable non-elderly persons or families with disabilities to access affordable housing on the private market; and

(b) Category 2 vouchers enable non-elderly persons with disabilities currently residing in nursing homes or other healthcare institutions to transition into the community. PHAs with NED Category 2 vouchers were required to partner with a state Medicaid or health agency or the state Money Follows the Person (MFP) Demonstration agency.

10102.76 Since 1997, HCVs for NED families have been also awarded under various special purpose HCV programs: Rental Assistance for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans (Designated Housing), Rental Assistance for Non-Elderly Persons with Disabilities Related to Certain Types of Section 8 Project-Based Developments (Certain Developments), One-Year Mainstream Housing Opportunities for Persons with Disabilities, and the Project Access Pilot Program (formerly Access Housing 2000).

10102.77

(a) Designated Housing vouchers enable non-elderly disabled families, who would have been eligible for a public housing unit if occupancy of the unit or entire project had not been restricted to elderly families only through an approved Designated Housing Plan, to receive rental assistance. These vouchers may also assist non-elderly disabled families living in a designated unit/project/building to move from that project if they so choose. The family does not have to be listed on DCHA's voucher waiting list. Instead, they may be admitted to the program as a special admission. Once the impacted families have been served, DCHA may begin issuing these vouchers to non-elderly disabled families from their

HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from DCHA's HCV waiting list.

(b) Certain Developments vouchers enable non-elderly families having a person with disabilities, who do not currently receive housing assistance in certain developments where owners establish preferences for, or restrict occupancy to, elderly families, to obtain affordable housing. These non-elderly families with a disabled person do not need to be listed on DCHA's HCV waiting list in order to be offered and receive housing choice voucher rental assistance. It is sufficient that these families' names are on the waiting list for a covered development at the time their names are provided to DCHA by the owner. Once the impacted families have been served, DCHA may begin issuing these vouchers to non-elderly disabled families from their HCV waiting list. Upon turnover, these vouchers must be issued to non-elderly disabled families from DCHA's HCV waiting list.

(c) One-Year Mainstream Housing Opportunities for Persons with Disabilities (One-Year Mainstream) vouchers enable non-elderly disabled families on DCHA's waiting list to receive a voucher. After initial leasing, turnover vouchers must be issued to non-elderly disabled families from DCHA's voucher waiting list.

10102.78 Only eligible families whose head of household, spouse, or cohead is non-elderly (under age 62) and disabled may receive a NED voucher. Families with only a minor child with a disability are not eligible.

10102.79 In cases where the qualifying household member now qualifies as elderly due to the passage of time since the family received the NED voucher, existing NED participant families do not "age out," as the family was eligible on the day it was first assisted under a housing assistance payments (HAP) contract.

10102.80 The definition of person with disabilities for purposes of NED vouchers is the statutory definition under Section 3(b)(3)(E) of the 1937 Act, which is the same as is used for allowances and deductions in the HCV program.

10102.81 DCHA may not implement eligibility screening criteria for NED vouchers that is different from that of the regular HCV program.

10102.82 In addition to being eligible for DCHA's regular HCV program and a non-elderly person with a disability, to receive a Category 2 voucher, the family's head, spouse, cohead, or sole member must be transitioning from a nursing home or other healthcare institution and provided services needed to live independently in the community.

10102.83 Nursing homes or other healthcare institutions may include intermediate care facilities and specialized institutions that care for those with intellectual disabilities, developmentally disabled, or mentally ill, but do not include board and care facilities (e.g., adult homes, adult day care, adult congregate living).

10102.84 DCHA cannot limit who can apply to just those persons referred or approved by a Money Follows the Person (MFP) Demonstration agency or state health agency. Other individuals could be placed on the waiting list if they can show, with confirmation by an independent agency or organization that routinely provides such services (this can be the MFP or partnering agency, but need not be), that the transitioning individual will be provided with all necessary services, including care or case management.

10102.85 For each Category 2 family, there must be documentation (e.g., a copy of a referral letter from the partnering or referring agency) in the tenant file identifying the institution where the family lived at the time of voucher issuance.

10102.86 Families must be selected for NED vouchers from DCHA's waiting list in accordance with all applicable regulations and PHA policies in Chapter 52 of this Title.

10102.87 Regardless of the number of NED families DCHA is required to serve, the next family on the waiting list must be served. Further, DCHA may not skip over NED-eligible families on the waiting list because DCHA is serving the required number of NED families.

10102.88 For NED Category 2 families, the partnering agency may make referrals of eligible families to DCHA for placement on the waiting list. DCHA will then select these families from the waiting list for voucher issuance. Because language in the NOFA established that vouchers awarded under the NOFA must only serve non-elderly disabled families transitioning from institutions, DCHA does not need to establish a preference to serve these families ahead of other families on DCHA's waiting list.

10102.89 PHAs must accept applications from people living outside their jurisdiction or from people being referred from other Medicaid or MFP service agencies in their state.

10102.90 If DCHA's waiting list is closed, DCHA must reopen its waiting list to accept referrals from its partnering agency. When opening the waiting list, PHAs must advertise in accordance with 24 CFR 982.206 and DCHA policies in Chapter 52. In addition, DCHA must ensure that individuals living in eligible institutions are aware when DCHA opens its waiting list by reaching out to social service agencies, nursing homes, intermediate care facilities and specialized institutions in the local service area.

10102.91 All NED turnover vouchers must be reissued to the next NED family on DCHA's waiting list with the following exception: A Category 2 voucher must be issued to another Category 2 family upon turnover if a Category 2 family is on DCHA's waiting list. If there are no Category 2 families on DCHA's waiting list, DCHA must contact its partnering agency as well as conduct outreach through appropriate social service agencies and qualifying institutions to identify potentially eligible individuals. Only after all means of outreach have been taken to reach Category 2 families can DCHA reissue the voucher to another Category 2 NED family on DCHA's waiting list. Any subsequent turnover of that voucher must again be used for a Category 2 family on DCHA's waiting list, and DCHA is under the same obligation to conduct outreach to Category 2 families if no such families are on DCHA's waiting list.

10102.92 For PHAs that received both Category 1 and Category 2 vouchers, if at any time DCHA is serving fewer Category 2 families than the number of Category 2 HCVs awarded under the NOFA, when a Category 2 family applies to the waiting list and is found eligible, DCHA must issue the next NED voucher to that family. HUD monitors the initial leasing and reissuance of Category 2 HCVs. These vouchers may be recaptured and reassigned if not leased properly and in a timely manner.

10102.93 All NED vouchers should be affirmatively marketed to a diverse population of NED-eligible families to attract protected classes least likely to apply. If at any time following the turnover of a NED HCV a PHA believes it is not practicable to assist NED families, DCHA must contact HUD.

10102.94 In addition to providing families with a disabled person a list of accessible units known to DCHA, HUD encourages, but does not require, PHAs to provide additional resources to NED families as part of the briefing.

10102.95 In addition to providing families with a disabled person a list of accessible units known to DCHA, DCHA will provide a list of local supportive service and disability organizations that may provide such assistance as counseling services and funding for moving expenses or security deposits in the briefing packet. These organizations include state protection and advocacy agencies, Centers for Independent Living, state Medicaid agencies, and disability advocacy groups that represent individuals with a variety of disabilities.

10102.96 Further, if other governmental or non-governmental agencies provide available resources such as housing search counseling, moving expenses, security deposits, and utility deposits, DCHA will include this information in the briefing packet.

10102.97 DCHA will also offer specialized housing search assistance to families with a disabled person to locate accessible units if requested. Trained PHA staff or a local supportive service or disability organization may be able to provide this service.

10102.98 While DCHA is not required to establish different policies for the initial term of the voucher for NED vouchers, HUD has encouraged PHAs with NED vouchers to be generous in establishing reasonable initial search terms and subsequent extensions for families with a disabled person.

10102.99 All NED vouchers will have an initial term of 180 calendar days.

10102.100 The family must submit a Request for Tenancy Approval and proposed lease within the 180-day period unless DCHA grants an extension.

10102.101 All other policies on extensions and suspension of vouchers in Chapter 53 will apply.

10102.102 DCHA must permit the use of a special housing type if doing so provides reasonable accommodation so that the program is readily accessible to and usable by a person with disabilities.

10102.103 Such special housing types include single room occupancy housing, congregate housing, group homes, shared housing, cooperative housing, and manufactured homes when the family owns the home and leases the manufactured home space.

10102.104 Persons with disabilities transitioning out of institutional settings may choose housing in the community that is in a group or shared environment or where some additional assistance for daily living is provided for them on site. Under HUD regulations, group homes and shared housing are considered special housing types and are not excluded as an eligible housing type in the HCV program. Assisted living facilities are also considered eligible housing under the normal HCV program rules, as long as the costs for meals and other supportive services are not included in the housing assistance payments (HAP) made by DCHA to the owner, and as long as the person does not need continual medical or nursing care.

10102.105 NED voucher participants are eligible for portability under standard portability rules and all PHA policies regarding portability in Chapter 58, apply to NED families. However, DCHA may, but is not required to, allow applicant NED families to move under portability, even if the family did not have legal residency in the initial PHA's jurisdiction when they applied.

(a) If neither the head of household nor the spouse or cohead of a NED applicant family had a domicile (legal residence) in DCHA's jurisdiction at the time that the family's initial application for assistance was submitted, the family must lease a unit within the initial PHA's jurisdiction for at least 12 months before requesting portability.

(b) DCHA will consider exceptions to this policy for purposes of reasonable accommodation or reasons related to domestic violence, dating violence, sexual assault, or stalking.

10103 STABILITY VOUCHER PROGRAM

10103.1 DCHA has applied for SVs. Until such time as DCHA is awarded SVs, the below policies do not apply.

10103.2 The Consolidated Appropriations Act, 2021 (Public Law 116-260) (2021 Act) provided new incremental funding for voucher assistance through Stability Vouchers (SVs) for households who are:

(a) Homeless, as defined in Section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a));

(b) At-risk of homelessness;

(c) Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and

(d) Veterans and families that include a veteran family member that meet one of the above criteria.

10103.3 HUD may waive certain statutory and regulatory provisions to administer the SVs (except for requirements related to tenant rights and protections, rent setting, fair housing, nondiscrimination, labor standards, and the environment) upon a finding that any such waivers or alternative requirements are necessary to facilitate the use of funds made available for SVs. Unless expressly waived below, all statutory and regulatory requirements and HUD directives regarding the HCV program are applicable to SVs, including the use of all HUD required contracts and other forms. A PHA may request additional good cause regulatory waivers as established in Notice PIH 2018-16 in connection with the use of the SVs, which HUD will consider and assess upon the request of DCHA.

10103.4 SV funding is only awarded to PHAs that partner with eligible Continuums of Care (CoCs) or other entities that serve the targeted population, such as Victim Service Providers (VSPs) and Veteran Service Organizations (VSOs) serving the targeted population in DCHA's jurisdiction to implement coordinated approaches to reduce the prevalence of homelessness, improve service engagement, and promote housing stability while ensuring geographical need of assistance.

10103.5 DCHA must enter into a Memorandum of Understanding (MOU) with the CoC to establish a partnership with the CoC to pair SVs with CoC-funded supportive services, and to collaborate with the CoC and other stakeholders to develop a prioritization plan for these vouchers.

10103.6 In general, families are issued SVs as the result of either:

(a) The direct referral process from the CoC or other partnering organizations; or

(b) A situation where DCHA makes an SV available in order to facilitate an emergency transfer for victims of domestic violence, dating violence, sexual assault, stalking, and human trafficking.

10103.7 The primary responsibility of the CoC under the MOU is to make direct referrals of qualifying individuals and families to DCHA and to identify any CoC-funded available supportive services that may be paired with SVs.

10103.8 The CoC or other partnering agency must certify that the SV applicants they refer to DCHA meet the definition of a qualifying individual or family for SV assistance.

10103.9 The referring agency must provide documentation to DCHA of the referring agency's verification that the family meets one of the four eligible categories for SV assistance. DCHA must retain this documentation as part of the family's file.

10103.10 DCHA must also take direct referrals from outside the CoC process if:

(a) The CoC does not have enough eligible families to refer to DCHA; or

(b) The CoC does not identify families that may be eligible for SV assistance because they are fleeing, or attempting to flee, domestic violence, dating violence, sexual assault, stalking, or human trafficking.

10103.11 If a direct referral is taken from outside of the CoC, DCHA must enter into a partnership to receive direct referrals from another entity, assuming there are such additional organizations that can certify that an individual or family is eligible for an SV.

10103.12 DCHA must enter into an MOU with a partnering referral agency or may add the partnering referral agency to the MOU between DCHA and CoC.

10103.13 The regulation that requires DCHA to admit applicants as waiting list admissions or special admissions in accordance with admission policies in Chapter 52 does not apply to PHAs operating the SV program. Direct referrals are not added to DCHA's HCV waiting list.

10103.14 DCHA must inform families on the HCV waiting list of the availability of SVs by, at a minimum, either by posting the information to their website or providing

public notice in their respective communities in accordance with the requirements listed in Notice PIH 2022-24.

10103.15 The HCV regulations requiring DCHA to operate a single waiting list for admission to the HCV program do not apply to PHAs operating the SV program. Instead, when the number of applicants referred by the CoC or partnering agency exceeds the SVs available, DCHA must maintain a separate waiting list for SV referrals. Upon turnover, SV vouchers must continue to remain available for eligible families.

10103.16 Further, the SV waiting list is not subject to DCHA policies in Chapter 52 regarding opening and closing the HCV waiting list. DCHA will work directly with its CoC and other referral agency partners to manage the number of referrals and the size of the SV waiting list.

10103.17 If local preferences are established by DCHA for HCV in Chapter 52, they do not apply to SVs. However, if DCHA has a homelessness preference or a preference for survivors of domestic violence, dating violence, sexual assault, stalking, or human trafficking for the regular HCV program, DCHA must refer any applicant on the waiting list that indicated they qualified for this preference to the CoC, or the applicable partnering referral agency.

10103.18 Except for a residency preference, which may not be applied to DCHA's SV waiting list, DCHA may choose, in coordination with the CoC and other referral partners, to establish separate local preferences for SVs, or may simply choose to not establish any local preferences for the SV waiting list. The preference system may not prohibit SV admissions from any of the four qualifying categories of eligibility.

10103.19 The CoC or referring agency determines whether the individual or family meets any one of the eligibility criteria described in Notice PIH 2022-24 and then refers the family to DCHA. DCHA determines that the family meets other eligibility criteria for the HCV program, as modified for the SV program and outlined below.

10103.20 In order to be eligible for an SV, a household must meet one of four eligibility criteria:

(a) Homeless, as defined in Section 103(a) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11302(a)) and 24 CFR 578.3;

(b) At-risk of homelessness as defined in 24 CFR 5.78.3;

(c) Those fleeing or attempting to flee domestic violence dating violence, sexual assault, stalking, or human trafficking; and

(d) Veterans [as defined in 38 U.S.C. 101(2); 38 CFR 3.1(d)] and families that include a veteran family member that meet one of the above criteria.

10103.21 HUD waived 24 CFR 982.552 and 982.553 in part for the SV applicants and established alternative requirements for mandatory and permissive prohibitions of admissions. Except where applicable, PHA policies regarding denials in Chapter 3 of this policy do not apply to screening individuals and families for eligibility for an SV. Instead, the SV alternative requirement listed in this section will apply to all SV applicants.

10103.22 The mandatory and permissive prohibitions listed in Notice PIH 2022-24 and in this chapter, however, apply only when screening the individual or family for eligibility for an SV. When adding a family member after the family has been placed under a HAP contract with SV assistance, the regulations at 24 CFR 982.551(h)(2) apply. Other than the birth, adoption, or court-awarded custody of a child, DCHA must approve additional family members and may apply its regular HCV screening criteria in Chapter 3 in doing so.

10103.23 Under alternative requirements for the SV program, mandatory denials for SV applicants include:

(a) 24 CFR 982.553(a)(1)(ii)(C), which prohibits admission if any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing; and

(b) 24 CFR 982.553(a)(2)(i), which prohibits admission to the program if any member of the household is subject to a lifetime registration requirement under a state sex offender registration program.

10103.24 DCHA will also deny assistance to household members already receiving assistance from another program.

10103.25 DCHA must deny admission to the program if any member of the family fails to sign and submit consent forms for obtaining information as required by 24 CFR 982.552(b)(3) but should notify the family of the limited SV grounds for denial of admission first.

10103.26 Notice PIH 2022-24 lists permissive prohibitions for which DCHA may, but is not required to, deny admission to SV families. The notice also lists prohibitions that, while allowable under the HCV program, may not be used to deny assistance for SV families.

10103.27 If DCHA intends to establish permissive prohibition policies for SV applicants, DCHA must first consult with its CoC partner to understand the impact that the

proposed prohibitions may have on referrals and must take the CoC's recommendations into consideration.

10103.28 The requirement to obtain third-party verification of income in accordance with Notice PIH 2018-18 does not apply to the SV program applicants at admission, and alternatively, PHAs may consider self-certification the highest form of income verification at admission. As such, PHA policies related to the verification of income in Chapter 55 of this Title do not apply to SV families at admission. Instead, applicants must submit an affidavit attesting to their reported income, assets, expenses, and other factors that would affect an income eligibility determination.

10103.29 Additionally, applicants may provide third-party documentation that represents the applicant's income within the 60-day period prior to admission or voucher issuance but is not dated within 60 days of DCHA's request.

10103.30 PHAs may accept income calculations and verifications from third-party providers or from an examination that DCHA conducted on behalf of the family for another subsidized housing program in lieu of conducting an initial examination of income as long as:

(a) The income was calculated in accordance with rules outlined at 24 CFR Part 5 and within the last six months; and

(b) The family certifies there has been no change in income or family composition in the interim.

10103.31 At the time of the family's annual reexamination, DCHA must conduct the annual reexamination of income as outlined at 24 CFR 982.516 and DCHA policies in Chapter 59 of this Title.

10103.32 Once HUD makes the EIV data available to PHAs under this waiver and alternative requirement, DCHA must:

(a) Review the EIV Income and Income Validation Tool (IVT) reports to confirm and validate family-reported income within 90 days of the PIC submission date;

(b) Print and maintain copies of the EIV Income and IVT Reports in the tenant file; and

(c) Resolve any income discrepancy with the family within 60 days of the EIV Income or IVT Report dates.

10103.33 Prior to admission, PHAs must continue to use HUD's EIV system to search for all household members using the Existing Tenant Search in accordance with PHA policies in Chapter 3.

10103.34 If a PHA later determines that an ineligible family received assistance, DCHA must take steps to terminate that family from the program in accordance with Chapter 12.

10103.35 For the SV program, DCHA is not required to obtain and verify SSN documentation and documentation evidencing eligible noncitizen status before admitting the family to the SV program. Instead, PHAs may adopt policies to admit SV applicants who are unable to provide the required SSN or citizenship documentation during the initial eligibility determination. As an alternative requirement, such individuals must provide the required documentation within 180 days of admission to be eligible for continued assistance, pending verification, unless DCHA provides an extension based on evidence from the family or confirmation from the CoC or other partnering agency that the family has made a good-faith effort to obtain the documentation.

10103.36 If a PHA determines that an ineligible family received assistance, DCHA must take steps to terminate that family from the program.

10103.37 PHAs may accept self-certification of date of birth and disability status if a higher level of verification is not immediately available. If self-certification is used, DCHA must obtain a higher level of verification within 90 days of admission or verify the information in EIV.

10103.38 If a PHA determines that an ineligible family received assistance, DCHA must take steps to terminate that family from the program.

10103.39 DCHA must determine income eligibility for SV families in accordance with 24 CFR 982.201 and PHA policy in Chapter 51 of this Title; however, income targeting requirements do not apply for SV families. DCHA may still choose to include the admission of extremely low-income SV families in its income targeting numbers for the fiscal year in which these families are admitted.

10103.40 SV vouchers shall have an initial search term of at least 180 days. PHA policies on extensions as outlined in Chapter 53 will apply.

10103.41 To expedite the leasing process, PHAs may pre-inspect available units that SV families may be interested in leasing to maintain a pool of eligible units.

10103.42 Unlike in the standard HCV program, SV voucher holders may enter into an initial lease that is for less than 12 months, regardless of DCHA policy in Chapter 57 of this Title, Term of Assisted Tenancy.

10103.43 The normal HCV portability procedures and requirements outlined in Chapter 58 of this title generally apply to SVs. Exceptions are addressed below.

(a) Under SV, applicant families may move under portability even if the family did not have legal residency in the jurisdiction of the initial PHA when they applied;

(b) A receiving PHA cannot refuse to assist an incoming SV family, regardless of whether DCHA administers SVs under its own ACC;

(c) If the SV family moves under portability to another PHA that administers SVs under its own ACC:

(1) The receiving PHA may only absorb the incoming SV family with an SV (assuming it has an SV voucher available to do so);

(2) If DCHA does not have an SV available to absorb the family, it must bill the initial PHA. The receiving PHA must allow the family to lease the unit with SV assistance and may not absorb the family with a regular HCV when the family leases the unit; and

(3) Regardless of whether the receiving PHA absorbs or bills the initial PHA for the family's SV assistance, the SV administration of the voucher is in accordance with the receiving PHA's SV policies; and

(d) If the SV family moves under portability to another PHA that does not administer SVs under its own ACC, the receiving PHA may absorb the family into its regular HCV program or may bill the initial PHA.

10103.44 In addition to the applicable family briefing requirements at 24 CFR 982.301(a)(2) as to how portability works and how portability may affect the family's assistance, the initial PHA must inform the family how portability may impact the special SV services and assistance that may be available to the family.

10103.45 The initial PHA is required to help facilitate the family's portability move to the receiving PHA and inform the family of this requirement in writing, taking reasonable steps to ensure meaningful access for persons with limited English proficiency (LEP).

10103.46 For the SV program, HUD has waived the regulation requiring a single payment standard for each unit size. Instead, DCHA may, but is not required to, establish separate higher payment standards for SVs. Lower SV payment standards are not permitted. If DCHA is increasing the regular HCV payment standard, DCHA must also increase the SV payment standard if it would be otherwise lower than the new regular HCV payment standard. The separate SV payment standard must

comply with all other HCV requirements except for the alternative requirements discussed below.

10103.47 Further, if DCHA chooses to establish higher payments standards for SVs, HUD has provided other regulatory waivers:

(a) Defining the "basic range" for payment standards as between 90 and 120 percent of the published Fair Market Rent (FMR) for the unit size (rather than 90 to 110 percent); and

(b) Allowing a PHA that is not in a designated Small Area FMR (SAFMR) area or has not opted to voluntarily implement SAFMRs to establish exception payment standards for a ZIP code area above the basic range for the metropolitan FMR based on the HUD-published SAFMRs. DCHA may establish an exception payment standard up to 120 percent (as opposed to 110 percent) of the HUD published Small Area FMR for that ZIP code area. The exception payment standard must apply to the entire ZIP code area.

10103.48 The requirement that DCHA apply increased payment standards at the family's first regular recertification on or after the effective date of the increase does not apply to SV. DCHA may, but is not required to, establish an alternative policy on when to apply the increased payment standard, provided the increased payment standard is used to calculate the HAP no later than the effective date of the family's first regular reexamination following the change.

10103.49 All tenant-based SV awards can be converted to Project-Based Vouchers (PBV) at any time after award without HUD approval provided all the established PBV regulations and requirements are followed.

10103.50 All PBV requirements in 24 CFR Part 983 and in Chapter 94 apply to project-based SVs with the exception of 24 CFR 983.251(c)(1), which requires PHAs to select families for project-based units from its HCV or PBV waiting list. HUD is waiving this requirement and establishing an alternative requirement that PHAs receive SV referrals from CoC partners for vouchers as well as project-based assistance.

New Chapter 199, DEFINITIONS, of Title 14 DCMR, HOUSING, is added to read as follows:

CHAPTER 199

DEFINITIONS

19900 INTRODUCTION

This Chapter 199 defines terms and acronyms described in the District of Columbia's Plan which constitutes the following Chapters in Title 14 Housing: Chapters 49 through 59 and Chapters 76, 83, 85, 89, 91, 94, and 100, 101, and 199 of this title of the DCMR.

19901 ACRONYMS

AAF Annual adjustment factor (published by HUD in the *Federal Register* and used to compute annual rent adjustments).

ACC Annual contributions contract.

ADA Americans with Disabilities Act of 1990.

AIDS Acquired immune deficiency syndrome.

BR Bedroom.

CDBG Community Development Block Grant (Program).

CFR Code of Federal Regulations (published federal rules that define and implement laws; commonly referred to as "the regulations").

CPI Consumer price index (published monthly by the Department of Labor as an inflation indicator).

EID Earned income disallowance.

EIV Enterprise Income Verification.

FDIC Federal Deposit Insurance Corporation.

FHA Federal Housing Administration (HUD Office of Housing).

FHEO Fair Housing and Equal Opportunity (HUD Office of).

FICA Federal Insurance Contributions Act (established Social Security taxes).

FMR Fair market rent.

FR Federal Register.

FSS Family Self-Sufficiency (Program).

FY Fiscal year.

FYE Fiscal year end.

GAO Government Accountability Office.

GR Gross rent.

HA Housing authority or housing agency.

HAP Housing assistance payment.

HCV Housing choice voucher.

HQS Housing quality standards.

HUD Department of Housing and Urban Development.

HUDCLIPS HUD Client Information and Policy System.

IPA Independent public accountant.

IRA Individual retirement account.

IRS Internal Revenue Service.

IVT Income Validation Tool.

JTPA Job Training Partnership Act.

LBP Lead-based paint.

LEP Limited English proficiency.

MSA Metropolitan statistical area (established by the U.S. Census Bureau).

MTCS Multi-family Tenant Characteristics System (now the Form HUD-50058 submodule of the PIC system).

MTW Moving to Work.

NOFA Notice of funding availability.

OGC HUD's Office of General Counsel.

OIG HUD's Office of Inspector General.

OMB Office of Management and Budget.

PASS Plan to Achieve Self-Support.

PHA Public housing agency.

PIC PIH Information Center.

PIH (HUD Office of) Public and Indian Housing.

PS Payment standard.

QC Quality control.

REAC (HUD) Real Estate Assessment Center.

RFP Request for proposals.

RFTA Request for tenancy approval.

RIGI Regional inspector general for investigation (handles fraud and program abuse matters for HUD at the regional office level).

SEMAP Section 8 Management Assessment Program.

SRO Single room occupancy.

SSA Social Security Administration.

SSI Supplemental security income.

SWICA State wage information collection agency.

TANF Temporary assistance for needy families.

TPV Tenant protection vouchers.

TR Tenant rent.

TTP Total tenant payment.

UA Utility allowance.

UFAS Uniform Federal Accessibility Standards.

UIV Upfront income verification.

URP Utility reimbursement payment.

VAWA Violence Against Women Reauthorization Act of 2013.

19902 GLOSSARY OF SUBSIDIZED HOUSING TERMS

Absorption. In portability: the point at which a receiving PHA stops billing the initial PHA for assistance on behalf of a portability family. The receiving PHA uses funds available under the receiving PHA consolidated ACC.

Accessible. The facility or portion of the facility can be approached, entered, and used by persons with disabilities.

Adjusted income. Annual income, less allowable HUD deductions and allowances.

Administrative fee. Fee paid by HUD to DCHA for administration of the program.

Administrative Plan (or Plan). The plan that describes DCHA policies for administration of the tenant-based programs. The Administrative Plan and any revisions must be approved by DCHA's Board of Commissioners and included as a supporting document to the PHA Plan.

Admission. The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in a tenant-based program.

Affiliated individual. With respect to an individual, a spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in the place of a parent), or any individual, tenant, or lawful occupant living in the household of that individual.

Amortization payment. In a manufactured home space rental: The monthly debt service payment by the family to amortize the purchase price of the manufactured home.

Annual. Happening once a year.

Annual contributions contract (ACC). The written contract between HUD and DCHA under which HUD agrees to provide funding for a program under the 1937 Act, and DCHA agrees to comply with HUD requirements for the program.

Annual income. The anticipated total income of an eligible family from all sources for the twelve (12) month period following the date of determination of income, computed in accordance with the regulations.

Applicant (applicant family). A family that has applied for admission to a program but is not yet a participant in the program.

Area exception rent. An amount that exceeds the published FMR.

As-paid states. States where the welfare agency adjusts the shelter and utility component of the welfare grant in accordance with actual housing costs.

Assets. (See *net family assets.*)

Auxiliary aids. Services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities receiving federal financial assistance.

Biennial. Happening every two (2) years.

Bifurcate. With respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.

Budget authority. An amount authorized and appropriated by the Congress for payment to PHAs under the program. For each funding increment in a PHA program, budget authority is the maximum amount that may be paid by HUD to the PHA over the ACC term of the funding increment.

Child. *A* member of the family other than the family head or spouse who is under eighteen (18) years of age.

Childcare expenses. Amounts anticipated to be paid by the family for the care of children under thirteen (13) years of age during the period for which annual income is computed, but only where such care is necessary to enable a family member to actively seek employment, be gainfully employed, or to further their education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for childcare. In the case of childcare

necessary to permit employment, the amount deducted shall not exceed the amount of employment income that is included in annual income.

Citizen. *A* citizen or national of the United States.

Co-head. An individual in the household who is equally responsible for the lease with the head of household. A family may have a co-head or spouse but not both. A co-head never qualifies as a dependent. The co-head must have legal capacity to enter into a lease.

Common space. In shared housing, the space available for use by the assisted family and other occupants of the unit.

Computer match. The automated comparison of databases containing records about individuals.

Confirmatory review. An on-site review performed by HUD to verify the management performance of a PHA.

Consent form. Any consent form approved by HUD to be signed by assistance applicants and participants to obtain income information from employers and SWICAs; return information from the Social Security Administration (including wages, net earnings from self-employment, and retirement income); and return information for unearned income from the IRS. Consent forms expire after a certain time and may authorize the collection of other information to determine eligibility or level of benefits.

Congregate housing. Housing for elderly persons or persons with disabilities that meets the HQS for congregate housing. A special housing type.

Contiguous MSA. In portability: An MSA that shares a common boundary with the MSA in which the jurisdiction of the initial PHA is located.

Continuously assisted. An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Housing Act program when the family is admitted to the voucher program.

Contract authority. The maximum annual payment by HUD to a PHA for a funding increment.

Cooperative (term includes mutual housing). Housing owned by a nonprofit corporation or association, and where a member of the corporation or association has the right to reside in a particular apartment, and to participate in management of the housing. A special housing type.

Covered families. Statutory term for families who are required to participate in a welfare agency economic self-sufficiency program and who may be subject to a welfare benefit sanction for noncompliance with this obligation. Includes families who receive welfare assistance or other public assistance under a program for which federal, state or local law requires that a member of the family must participate in an economic self-sufficiency program as a condition for the assistance.

Dating violence. Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:

(a) The length of the relationship;

(b) The type of relationship; and

(c) The frequency of interaction between the persons involved in the relationship.

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

Dependent child. In the context of the student eligibility restrictions, a dependent child of a student enrolled in an institution of higher education. The dependent child must also meet the definition of *dependent* as specified above.

Disability assistance expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a disabled family member, and that are necessary to enable a family member (including the disabled member) to be employed, provided that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Disabled family. A family whose head, co-head, spouse, or sole member is a person with disabilities; two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

Disabled person. See *person with disabilities.*

Disallowance. Exclusion from annual income.

Displaced family. A family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been

extensively damaged or destroyed because of a disaster declared or otherwise formally recognized pursuant to federal disaster relief laws.

Domestic violence. Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Domicile. The legal residence of the household head or spouse as determined in accordance with state and local law.

Drug-related criminal activity. The illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute, or use the drug.

Economic self-sufficiency program. Any program designed to encourage, assist, train or facilitate the economic independence of assisted families, or to provide work for such families. Can include job training, employment counseling, work placement, basic skills training, education, English proficiency, Workfare, financial or household management, apprenticeship, or any other program necessary to ready a participant to work (such as treatment for drug abuse or mental health treatment). Includes any work activities as defined in the Social Security Act (42 U.S.C. 607(d)).

Elderly family. A family whose head, co-head, spouse, or sole member is a person who is at least sixty-two (62) years of age; two (2) or more persons who are at least sixty-two (62) years of age living together; or one or more persons who are at least sixty-two (62) years of age living with one or more live-in aides.

Elderly person. An individual who is at least sixty-two (62) years of age.

Eligible family. A family that is income eligible and meets the other requirements of the 1937 Act and Part 5 of 24 CFR. See also *family*.

Employer identification number (EIN). The nine-digit taxpayer identifying number that is assigned to an individual, trust, estate, partnership, association, company, or corporation.

Evidence of citizenship or eligible status. The documents which must be submitted as evidence of citizenship or eligible immigration status.

Extremely low-income family. A family whose annual income does not exceed the federal poverty level or thirty percent (30%) percent of the median income for the area, whichever number is higher. Area median income is determined by HUD, with adjustments for smaller and larger families. HUD may establish income ceilings higher or lower than thirty percent (30%) of median income if HUD finds such variations are necessary due to unusually high or low family incomes.

Facility. All or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock, or other real or personal property or interest in the property.

Fair Housing Act. Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Fair market rent (FMR). The rent, including the cost of utilities (except telephone), as established by HUD for units of varying sizes (by number of bedrooms), that must be paid in the housing market area to rent privately owned, existing, decent, safe, and sanitary rental housing of modest (non-luxury) nature with suitable amenities. See periodic publications in the *Federal Register* in accordance with 24 CFR Part 888.

Family. Includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, and can be further defined in PHA policy:

(a) A family with or without children (the temporary absence of a child from the home due to placement in foster care is not considered in determining family composition and family size);

(b) An elderly family or a near-elderly family;

(c) A displaced family;

(d) The remaining member of a tenant family; and

(e) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

Family rent to owner. In the voucher program, the portion of rent to owner paid by the family.

Family self-sufficiency program (FSS program). The program established by a PHA within its jurisdiction to promote self-sufficiency among participating families, including the coordination of supportive services to these families (24 CFR § 984.103).

Family share. The portion of rent and utilities paid by the family. For calculation of family share, see 24 CFR § 982.515(a).

Family unit size. The appropriate number of bedrooms for a family, as determined by DCHA under DCHA subsidy standards.

Federal agency. A department of the executive branch of the federal government.

Foster childcare payment. A payment to eligible households by state, local, or private agencies appointed by the state to administer payments for the care of foster children.

Full-time student. A person who is attending school or vocational training on a full-time basis (carrying a subject load that is considered full-time for day students under the standards and practices of the educational institution attended).

Funding increment. Each commitment of budget authority by HUD to a PHA under the consolidated annual contributions contract for the PHA program.

Gender identity. Actual or perceived gender-related characteristics.

Gross rent. The sum of the rent to owner plus any utility allowance.

Group home. A dwelling unit that is licensed by a state as a group home for the exclusive residential use of two to twelve persons who are elderly or persons with disabilities (including any live-in aide). (A special housing type).

Handicap. Any condition or characteristic that renders a person an individual with handicaps. (See *person with disabilities*.)

HAP contract. The housing assistance payments contract. A written contract between the PHA and an owner for the purpose of providing housing assistance payments to the owner on behalf of an eligible family.

Head of household. The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

Household. A household includes additional people other than the family who, with the PHA's permission, live in an assisted unit, such as live-in aides, foster children, and foster adults.

Housing agency (HA). See *public housing agency.*

Housing assistance payment. The monthly assistance payment by a PHA, which includes: (a) A payment to the owner for rent to the owner under the family's

lease; and (b) An additional payment to the family if the total assistance payment exceeds the rent to owner.

Housing quality standards (HQS). The HUD minimum quality standards for housing assisted under the voucher program.

HUD. The U.S. Department of Housing and Urban Development.

Imputed asset. An asset disposed of for less than fair market value during the two years preceding examination or reexamination.

Imputed asset income. The PHA-established passbook rate multiplied by the total cash value of assets. The calculation is used when net family assets exceed Five Thousand Dollars ($5,000).

Imputed welfare income. An amount of annual income that is not actually received by a family as a result of a specified welfare benefit reduction, but is included in the family's annual income and therefore reflected in the family's rental contribution.

Income. Income from all sources of each member of the household, as determined in accordance with criteria established by HUD.

Income for eligibility. Annual income.

Income information means information relating to an individual's income, including:

(a) All employment income information known to current or previous employers or other income sources;

(b) All information about wages, as defined in the state's unemployment compensation law, including any social security number; name of the employee; quarterly wages of the employee; and the name, full address, telephone number, and, when known, employer identification number of an employer reporting wages under a state unemployment compensation law;

(c) Whether an individual is receiving, has received, or has applied for unemployment compensation, and the amount and the period received;

(d) Unearned IRS income and self-employment, wages, and retirement income; and

(e) Wage, social security, and supplemental security income data obtained from the Social Security Administration.

Individual with handicaps. See *person with disabilities.*

Initial PHA. In portability, the term refers to both: (a) A PHA that originally selected a family that later decides to move out of the jurisdiction of the selecting PHA; and (b) A PHA that absorbed a family that later decides to move out of the jurisdiction of the absorbing PHA.

Initial payment standard. The payment standard at the beginning of the HAP contract term.

Initial rent to owner. The rent to owner at the beginning of the HAP contract term.

Institution of higher education. An institution of higher education as defined in 20 U.S.C. 1001 and 1002. See Exhibit 3-2 in this Administrative Plan.

Jurisdiction. The area in which the PHA has authority under state and local law to administer the program.

Landlord. Either the owner of the property or their representative, or the managing agent or their representative, shall be designated by the owner.

Lease. A written agreement between an owner and a tenant for the leasing of a dwelling unit to the tenant. The lease establishes the conditions for occupancy of the dwelling unit by a family with housing assistance payments under a HAP contract between the owner and the PHA.

Live-in aide. A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(a) Is determined to be essential to the care and well-being of the persons;

(b) Is not obligated for the support of the persons; and

(c) Would not be living in the unit except to provide the necessary supportive services.

Living/sleeping room. A living room may be used as sleeping (bedroom) space, but no more than two persons may occupy the space. A bedroom or living/sleeping room must have at least one window and two electrical outlets in proper operating condition. See HCV GB p. 10-6 and 24 CFR 982.401.

Local preference. A preference used by the PHA to select among applicant families.

Low-income family. A family whose income does not exceed 80 percent of the median income for the area as determined by HUD with adjustments for smaller or larger families, except that HUD may establish income limits higher or lower than 80 percent for areas with unusually high or low incomes.

Manufactured home. A manufactured structure that is built on a permanent chassis, is designed for use as a principal place of residence and meets the HQS. (A special housing type: see 24 CFR 982.620 and 982.621.)

Manufactured home space. In manufactured home space rental: A space leased by an owner to a family. A manufactured home owned and occupied by the family is located on the space. See 24 CFR 982.622 to 982.624.

Medical expenses. Medical expenses, including medical insurance premiums, that are anticipated during the period for which annual income is computed, and that are not covered by insurance (a deduction for elderly or disabled families only). These allowances are given when calculating adjusted income for medical expenses in excess of 3 percent of annual income.

Minor. A member of the family household other than the family head or spouse, who is under 18 years of age.

Mixed family. *A* family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

Monthly adjusted income. One twelfth of adjusted income.

Monthly income. One twelfth of annual income.

Mutual housing. Included in the definition of *cooperative.*

National. *A* person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

Near-elderly family. A family whose 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.

Net family assets. Net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment, excluding interests in Indian trust land and excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded.

(a) In cases where a trust fund has been established and the trust is not revocable by, or under the control of, any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted when determining annual income under §5.609.

(b) In determining net family assets, PHAs or owners, as applicable, shall include the value of any business or family assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two years preceding the date of application for the program or reexamination, as applicable, in excess of the consideration received, therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Noncitizen. *A* person who is neither a citizen nor national of the United States.

Notice of funding availability (NOFA). For budget authority that HUD distributes by competitive process, the *Federal Register* document that invites applications for funding. This document explains how to apply for assistance and the criteria for awarding the funding.

Office of General Counsel (OGC). The General Counsel of HUD.

Overcrowded. A unit that does not meet the following HQS space standards: (1) Provide adequate space and security for the family; and (2) Have at least one bedroom or living/sleeping room for each two persons.

Owner. Any person or entity with the legal right to lease or sublease a unit to a participant.

Participant (participant family). A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

Payment standard. The maximum monthly assistance payment for a family assisted in the voucher program (before deducting the total tenant payment by the family).

Person with disabilities. *For the purposes of program eligibility*. A person who has a disability as defined under the Social Security Act or Developmental Disabilities Care Act, or a person who has a physical or mental impairment expected to be of long and indefinite duration and whose ability to live

independently is substantially impeded by that impairment but could be improved by more suitable housing conditions. This includes persons with AIDS or conditions arising from AIDS but excludes persons whose disability is based solely on drug or alcohol dependence. *For the purposes of reasonable accommodation.* A person with a physical or mental impairment that substantially limits one or more major life activities, a person regarded as having such an impairment, or a person with a record of such an impairment.

PHA Plan. The annual plan and the 5-year plan as adopted by the PHA and approved by HUD.

PHA's quality control sample. An annual sample of files or records drawn in an unbiased manner and reviewed by a PHA supervisor (or by another qualified person other than the person who performed the original work) to determine if the work documented in the files or records conforms to program requirements. For minimum sample size see 24 CFR 985.3.

Portability. Renting a dwelling unit with a Section 8 housing choice voucher outside the jurisdiction of the initial PHA.

Premises. The building or complex in which the dwelling unit is located, including common areas and grounds.

Previously unemployed. With regard to the earned income disallowance, a person with disabilities who has earned, in the 12 months previous to employment, no more than would be received for 10 hours of work per week for 50 weeks at the established minimum wage.

Private space. In shared housing, the portion of a contract unit that is for the exclusive use of an assisted family.

Processing entity. The person or entity that, under any of the programs covered, is responsible for making eligibility and related determinations and any income reexamination. In the HCV program, the "processing entity" is the "responsible entity."

Project owner. The person or entity that owns the housing project containing the assisted dwelling unit.

Public assistance. Welfare or other payments to families or individuals, based on need, which are made under programs funded, separately or jointly, by federal, state, or local governments.

Public housing agency (PHA). Any state, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

Qualified family (under the earned income disallowance). A family participating in an applicable assisted housing program or receiving HCV assistance:

(a) Whose annual income increases as a result of employment of a family member who is a person with disabilities and who was previously unemployed for one or more years prior to employment;

(b) Whose annual income increases because of increased earnings by a family member who is a person with disabilities during participation in any economic self-sufficiency or other job training program; or

(c) Whose annual income increases, as a result of new employment or increased earnings of a family member who is a person with disabilities, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the responsible entity in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance--provided that the total amount over a six-month period is at least $500.

Qualified census tract. Regarding certain tax credit units, any census tract (or equivalent geographic area defined by the Bureau of the Census) in which at least 50 percent of households have an income of less than 60 percent of Area Median Gross Income (AMGI), or where the poverty rate is at least 25 percent, and where the census tract is designated as a qualified census tract by HUD.

Reasonable rent. A rent to owner that is not more than rent charged: (1) For comparable units in the private unassisted market; and (2) For comparable unassisted units in the premises.

Reasonable accommodation. A change, exception, or adjustment to a rule, policy, practice, or service to allow a person with disabilities to fully access the PHA's programs or services.

Receiving PHA. In portability: A PHA that receives a family selected for participation in the tenant-based program of another PHA. The receiving PHA issues a voucher and provides program assistance to the family.

Recertification. Sometimes called *reexamination.* The process of securing documentation of total family income used to determine the rent the tenant will pay for the next 12 months if there are no additional changes to be reported.

Remaining member of the tenant family. The person left in assisted housing who may or may not normally qualify for assistance on their own circumstances (i.e., an elderly spouse dies, leaving widow age 47 who is not disabled).

Rent to owner. The total monthly rent payable to the owner under the lease for the unit (also known as contract rent). Rent to owner covers payment for any housing services, maintenance, and utilities that the owner is required to provide and pay for.

Residency preference. A PHA preference for admission of families that reside anywhere in a specified area, including families with a member who works or has been hired to work in the area (See *residency preference area*).

Residency preference area. The specified area where families must reside to qualify for a residency preference.

Responsible entity. For the public housing and the Section 8 tenant-based assistance, project-based voucher assistance, and moderate rehabilitation programs, the responsible entity means the PHA administering the program under an ACC with HUD. For all other Section 8 programs, the responsible entity means the Section 8 owner.

Secretary. The Secretary of Housing and Urban Development.

Section 8. Section 8 of the United States Housing Act of 1937.

Section 8 covered programs. All HUD programs which assist housing under Section 8 of the 1937 Act, including Section 8 assisted housing for which loans are made under Section 202 of the Housing Act of 1959.

Section 214. Section 214 of the Housing and Community Development Act of 1980, as amended.

Section 214 covered programs. The collective term for the HUD programs to which the restrictions imposed by Section 214 apply. These programs are set forth in 24 CFR 5.500.

Security deposit. A dollar amount (maximum set according to the regulations) which can be used for unpaid rent or damages to the owner upon termination of the lease.

Set-up charges. In a manufactured home space rental, charges payable by the family for assembling, skirting, and anchoring the manufactured home.

Sexual assault. Any nonconsensual sexual act proscribed by federal, tribal, or state law, including when the victim lacks capacity to consent (42 U.S.C. 13925(a)).

Sexual orientation. Homosexuality, heterosexuality or bisexuality.

Shared housing. A unit occupied by two or more families. The unit consists of both common space for shared use by the occupants of the unit and separate private space for each assisted family. (A special housing type: see 24 CFR 982.615–982.618.)

Single person. A person living alone or intending to live alone.

Single room occupancy housing (SRO). A unit that contains no sanitary facilities or food preparation facilities, or contains either, but not both, types of facilities. (A special housing type: see 24 CFR 982.602–982.605.)

Small rural public housing agency (PHA). Section 38 defines the term "small public housing agency" as a public housing agency "for which the sum of the number of public housing dwelling units administered by the agency and the number of vouchers under Section 8(o) administered by the agency is 550 or fewer" and "that predominantly operates in a rural area, as described in Section 1026.35(b)(2)(iv)(A) of Title 12, Code of Federal Regulations." After consideration of the public comments discussed above, HUD is interpreting "predominantly operates in a rural area" to mean a small PHA that:

(1) Has a primary administrative building with a physical address in a rural area as described in 12 CFR 1026.35(b)(2)(iv)(A); or

(2) More than 50 percent of its combined public housing units and voucher units under Section 8(o) are in rural areas as described in 12 CFR 1026.35(b)(2)(iv)(A). HUD also clarifies that voucher units under Section 8(o) include those in the tenant-based Housing Choice Voucher (HCV) program and the Project-Based Voucher (PBV) program.

Social security number (SSN). The nine-digit number that is assigned to a person by the Social Security Administration and that identifies the record of the person's earnings reported to the Social Security Administration. The term does not include a number with a letter as a suffix that is used to identify an auxiliary beneficiary.

Special admission. Admission of an applicant that is not on the PHA waiting list or without considering the applicant's waiting list position.

Special housing types. See subpart M of part 982. Subpart M states the special regulatory requirements for: SRO housing, congregate housing, group homes,

shared housing, cooperatives (including mutual housing), and manufactured homes (including manufactured home space rental).

Specified welfare benefit reduction. Those reductions of welfare benefits (for a covered family) that may not result in a reduction of the family rental contribution. A reduction of welfare benefits because of fraud in connection with the welfare program, or because of welfare sanction due to noncompliance with a welfare agency requirement to participate in an economic self-sufficiency program.

Spouse. The marriage partner of the head of household.

Stalking. To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

State wage information collection agency (SWICA). The state agency, including any Indian tribal agency, receiving quarterly wage reports from employers in the state, or an alternative system that has been determined by the Secretary of Labor to be as effective and timely in providing employment-related income and eligibility information.

Subsidy standards. Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

Suspension. The term on the family's voucher stops from the date the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied. This practice is also called *tolling.*

Tax credit rent. With regard to certain tax credit units, the rent charged for comparable units of the same bedroom size in the building that also receive the low-income housing tax credit but do not have any additional rental assistance (e.g., tenant-based voucher assistance).

Tenancy addendum. For the housing choice voucher program, the lease language required by HUD in the lease between the tenant and the owner.

Tenant. The person or persons (other than a live-in aide) who executes the lease as lessee of the dwelling unit.

Tenant rent to owner. See *family rent to owner*.

Term of lease. The amount of time a tenant agrees in writing to live in a dwelling unit.

Total tenant payment (TTP). The total amount the HUD rent formula requires the tenant to pay toward rent and utilities.

Unit. Residential space for the private use of a family. The size of a unit is based on the number of bedrooms contained within the unit and generally ranges from zero (0) bedrooms to six (6) bedrooms.

Utilities. Water, electricity, gas, other heating, refrigeration, cooking fuels, trash collection, and sewage services. Telephone service is not included.

Utility allowance. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the tenant rent but is the responsibility of the family occupying the unit, an amount equal to the estimate made or approved by a PHA or HUD of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

Utility reimbursement. In the voucher program, the portion of the housing assistance payment which exceeds the amount of rent to owner.

Utility hook-up charge. In a manufactured home space rental: Costs payable by a family for connecting the manufactured home to utilities such as water, gas, electrical, and sewer lines.

Very low-income family. A low-income family whose annual income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes. This is the income limit for the housing choice voucher program.

Veteran. A person who has served in the active military or naval service of the United States at any time and who shall have been discharged or released therefrom under conditions other than dishonorable.

Violence Against Women Reauthorization Act (VAWA) of 2022. Prohibits denying admission to the program to an otherwise qualified applicant or terminating assistance on the basis that the applicant or program participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Violent criminal activity. Any illegal criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against the person or property of another.

Voucher *(housing choice voucher).* A document issued by a PHA to a family selected for admission to the housing choice voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

Voucher holder. A family holding a voucher with an unexpired term (search time).

Voucher program. The housing choice voucher program.

Waiting list. A list of families organized according to HUD regulations and PHA policy who are waiting for a unit to become available.

Waiting list admission. An admission from the PHA waiting list.

Welfare assistance. Income assistance from federal or state welfare programs, including assistance provided under TANF and general assistance. Does not include assistance directed solely to meeting housing expenses, nor programs that provide health care, childcare or other services for working families. For the FSS program (24 CFR 984.103), *welfare assistance* includes only cash maintenance payments designed to meet a family's ongoing basic needs. Does not include nonrecurring short term benefits designed to address individual crisis situations, work subsidies, supportive services such as childcare and transportation provided to families who are employed, refundable earned income tax credits, contributions to and distributions from Individual Development Accounts under TANF, services such as counseling, case management, peer support, childcare information and referral, financial empowerment, transitional services, job retention, job advancement, and other employment-related services that do not provide basic income support, amounts solely directed to meeting housing expenses, amounts for health care, Supplemental Nutrition Assistance Program (SNAP) and emergency rental and utilities assistance, SSI, SSDI, or social security, and child-only or non-needy TANF grants made to or on behalf of a dependent child solely on the basis of the child's need and not the need of the child's current non-parental caretaker.

All persons desiring to comment on these proposed rules must submit comments in writing, no later than thirty (30) days after the date of publication of this notice in the *District of Columbia Register*, to the following: District of Columbia Housing Authority, Office of the General Counsel, 300 7th Street, SW, Washington, D.C. 20024 or in the alternative email comments to PublicationComments@dchousing.org. Copies of these proposed regulations may be obtained without charge at the above-described address.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2026-037
March 16, 2026

SUBJECT: Appointment and Reappointments — District of Columbia Developmental Disabilities Fatality Review Committee

ORIGINATING AGENCY: Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and in accordance with Mayor's Order 2009-225, dated December 22, 2009, as amended by Mayor's Order 2013-154, dated August 26, 2013, it is hereby **ORDERED** that:

1. **GREGORY KOONS** is appointed as a public member of the District of Columbia Developmental Disabilities Fatality Review Committee (the "Committee"), filling a new seat, for the remainder of an unexpired term to end March 7, 2028.

2. The following individuals are reappointed to the Committee, for terms to end March 7, 2028:

   a. **DR. MICHAELA ZAJICEK-FARBER,** as a faculty member from a school of social work at a college or university located in the District public member; and

   b. **DR. LAURA HARTMANN-VILLALTA,** as a family member of a person with an intellectual disability public member.

3. **EFFECTIVE DATE:** This Order shall become effective immediately.

MURIEL BOWSER
MAYOR

ATTEST: Kimberly A. Bassett
KIMBERLY A. BASSETT
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION
ALCOHOLIC BEVERAGE AND CANNABIS BOARD

NOTICE OF PUBLIC HEARINGS
CALENDAR

WEDNESDAY, MARCH 25, 2026
899 NORTH CAPITOL STREET, NE, SUITE 4200 A-B
WASHINGTON, D.C. 20002

Donovan W. Anderson, Chairperson
Members: Silas Grant, Jr., Teri Janine Quinn, Ryan Jones and David Meadows

Protest Hearing (Status) **10:30 AM**

Case # 26-PRO-00016
Atlantis Georgetown, LLC t/a Brasero Atlantico/Floreria Atlantico
1066 Wisconsin Ave NW
License #131191
Retailer CR
ANC 2E
Substantial Change (increase seating from 199 to 244)

Protest Hearing (Status) **10:30 AM**

Case # 26-PRO-00018
816 Dirty Water, LLC, t/a Dirty Water
816 H Street NE
License #125771
Retailer CT
ANC 6A
Substantial Change (change hours of operation and alcoholic beverage sales and service on the summer garden)

Board's Calendar
March 19, 2026

Show Cause Hearing **10:30 AM**

Case # 25-251-00012
Equity 18, LLC, t/a Twelve After Twelve
1212 18th Street NW
License #117238
Retailer CN
ANC 2B
Allowed the Establishment to be Used for an Unlawful or Disorderly Purpose, Failed to Follow Security Plan (five counts), Failed to Have Operational Security Cameras, Allowed a Patron to leave the Establishment with an Alcoholic Beverage in an Open Container, No ABC Manager on Duty, Provided False or Misleading Information

Show Cause Hearing **10:30 AM**

Case # 25-CC-00018
Darien DC, LLC t/a Bidwell
1309 5th Street NE
License #92990
Retailer CT
ANC 2B
Sale to Minor Violation

Show Cause Hearing **10:30 AM**

Case # 25-CIT-00256
BK Events, LLC, t/a Flair Restaurant & Lounge
2210 14th Street NW
License #120179
Retailer CT
ANC 1B
Operating After Hours

Board's Calendar
March 19, 2026

BOARD RECESS AT 12:00 PM

ADMINISTRATIVE AGENDA AT 1:00 PM

Show Cause Hearing **1:30 PM**

Case # 25-CC-00009
N&K Market, Inc., t/a Chesapeake Big Market
601 Chesapeake Street SE
License #117463
Retailer B
ANC 8A
Sale to Minor Violation, Failed to Take Steps Necessary to Ascertain Legal Drinking Age

Protest Hearing **1:30 PM**

Case # 26-PRO-00002
Buddy's Inc. t/a Buddy's DC
3234 11th Street NW
License #123008
Retailer CT
ANC 1A
Application to Renew the License

Protest Hearing **1:30 PM**

Case # 26-PRO-00001
Buddy's Inc. t/a Buddy's DC
3234 11th Street NW
License #123008
Retailer CT
ANC 1A
Petition to Amend or Terminate the Settlement Agreement

Board's Calendar
March 19, 2026

Protest Hearing **1:30 PM**

Case # 26-PRO-00003
Growth & Wellness LLC t/a District Wellness Center
1815 M Street NW
License #127952
Retailer MC
ANC 2B
Application for a New License (including Home Delivery, Educational Tasting, Safe-Use Treatment Facility & Summer Garden Endorsements)

All of the ABC Board's public hearings are conducted virtually and are livestreamed on ABCA's YouTube channel which can be found here: *https://www.youtube.com/@alcoholicbeverageregulatio5683*.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at *opengovoffice@dc.gov*

DEPARTMENT OF BEHAVIORAL HEALTH

NOTICE OF FUNDING AVAILABILITY

Substance Use Disorder HIV Early Intervention Services

The District of Columbia, Department of Behavioral Health (DBH) is soliciting applications from qualified applicants for services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the DBH's intent to make funds available for the purpose described herein. The applicable Request for Application (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria, and DBH terms and conditions for applying for and receiving funding.

General Information:

Funding Opportunity Title:	Substance Use Disorder HIV Early Intervention Services
Funding Opportunity Number:	RFA RM0 HIV-EIS032026
Opportunity Category:	Competitive
DBH Branch/Division Unit:	Community Services Division
DBH Administrative Unit	Adult Services
Program Contact:	Tricialand Hilliard-Tyrone Treatment and Recovery Coordinator 202-727-8944 Tricialand.HilliardTyrone@dc.gov
Program Description:	This RFA identifies funding opportunities to support DBH certified Substance Use Disorder providers to conduct HIV early intervention services for individuals seeking substance use disorder treatment and recovery services. Grantees shall focus on the four key areas: education counseling, screening/testing, linkage to care and data for HIV early intervention services.
Eligible Applicants:	District of Columbia Department of Behavioral Health certified Substance Use Disorder Provider
Anticipated Number of Awards:	Twenty (20) awards
Anticipated Amount Available:	$260,000
Floor Award Amount:	N/A
Ceiling Award Amount:	$13,000

Funding Authorization:

Legislative Authorization:	Subparts II&III,B,Title XIX,PHS Act/45 CFR Part96
Assistance Listing#:	93.959
Associated Federal Award ID#:	1B08TI088145
Cost Sharing/Match Required?	No

RFA Release Date:	Friday, March 20, 2026
Pre-Application Conference (Date):	Friday, March 27, 2026
Pre-Application Conference (Time):	12:00 pm ET
Pre-Application Conference (Microsoft Teams Access):	Pre-App Conference for RFA RM0 HIV-ES031326
Letter of Intent Due Date:	Friday, April 10, 2026
Application Deadline Date:	Friday, April 17, 2026
Application Deadline Time:	3:00 pm, ET
Links to Additional Information about this Funding Opportunity:	**Serve DC: Serve DC:** https://communityaffairs.dc.gov/content/community-grant-program#4 **DBH RFA Opportunities:** https://dbh.dc.gov/page/request-applications-01

Notes:

A. DBH reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.
B. Awards are contingent upon the availability of funds.
C. Individuals are not eligible for DBH grant funding.
D. Applicants must have a UEI#, Tax ID#, and be registered in the federal Systems for Award Management (SAM).
E. Contact the program manager assigned to this funding opportunity for additional information.

DEPARTMENT OF BUILDINGS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Office of Strategic Code Enforcement

RE:

Address:	**Square:**	**Lot:**
78 Seaton Pl. NW	3106	0093

Dear Sir/Madam:

The Department of Buildings, (DOB), has reviewed and **granted** your request for Hardship for the above property for real property tax year for **FY2026 1st half** for the following reasons: **You provided sufficient evidence to support your extraordinary circumstances and hardship.**

> *Pursuant to D.C. Code §42-3131§.06 (b), Paragraph 5, "A vacant building shall be exempted by the Mayor in extraordinary circumstances and upon a showing of substantial undue economic hardship.*
> *(B) The exemption may be granted for a period of up to 24 months, subject to renewal on the basis of continuing extraordinary circumstances and substantial undue economic hardship."*

Annually you are required by law to register vacant property or seek an exemption for the current tax year. DOB will immediately notify the Office of Tax and Revenue (OTR) to reclassify the subject property as exempt or Class 1/Class 2. Please visit mytax.dc.gov to inquire about refunds, updated tax bills or payment.

DOB reserves the right to revoke this exemption if the building is not maintained in accordance with the Vacant Building Maintenance standards, or if disqualifying information is obtained. To learn more about the vacant building registration process or inspection requirements, please visit dob.dc.gov.

If you have questions regarding this decision, please contact Mekdelawi Taddese, Deputy Strategic Enforcement Administrator @ mekdelawi.taddese@dc.gov .

Sincerely,

Mekdelawi Taddese
Deputy Strategic Enforcement Administrator
Office of Strategic Code Enforcement
(202) 701.5399
Mekdelawi.taddese@dc.gov

CRIMINAL JUSTICE COORDINATING COUNCIL

NOTICE OF PUBLIC MEETING

Prearrest diversion task force meeting

AGENDA
Friday, March 27, 2026 | *10:00 am – 11:30 am* |
Meeting location: *Microsoft Teams*

PURPOSE OF THE PREARREST DIVERSION TASK FORCE

Duties of the Prearrest Diversion Task Force:

1. Reviewing and assessing best practices for prearrest diversion;
2. Making recommendations for prearrest diversion of certain misdemeanor offenses, and certain categories of persons;
3. Making recommendations regarding the programs, facilities, personnel, and funding that are necessary to implement prearrest diversion;
4. Making recommendations for any legislative changes that are necessary to enable prearrest diversion;
5. Implementing prearrest diversion of certain misdemeanor offenses, and categories of persons identified by the Task Force as being appropriate for diversion;
6. Identifying any potential improvements in police training or procedures relating to police interactions with individuals impacted by homelessness, mental or behavioral health issues, or substance abuse; and
7. Identifying individuals who frequently interact with police, are frequent mental health consumers, or have suffered from chronic homelessness, and ensure that those individuals are connected to social services.

PRESENTERS
Meeting Facilitator: Kelly O'Meara, Chairperson, MPD and Adam Schutzman, Policy Analyst, CJCC

Meeting topics	Presenter
Welcome and Introduction 1. Roll Call 2. Approval of Meeting Minutes	**Kelly O'Meara, MPD**
Discussion 1. Philadelphia Site Visit review	**CJCC, ALL**

2. Prearrest Diversion Decision Points **ALL**
   a. Discussion of all components of a prearrest diversion program in D.C. that the task force will need to vote on
   b. Addition of missing components for April vote

ATTACHMENTS

Please read the following documents included in the email with this agenda prior to attending the Task Force meeting.

- **February meeting minutes**
- **Philadelphia site visit summary**
- **Prearrest diversion decision points**

Previous Meeting Action Items	**Person/Agency**	**Deadline**
N/A	N/A	N/A

Please note: the Prearrest Diversion Task Force is subject to the open meetings act

The agenda for the meeting is subject to change up until the day before the meeting. Please check the CJCC website for the most up-to-date agenda.

D.C. STATE BOARD OF EDUCATION

NOTICE OF PUBLIC MEETING

Educator Excellence Committee Meeting

The D.C. State Board of Education's Educator Excellence Committee Meeting will hold a meeting on the following date:

- Thursday, March 26, 2026 at 4:00 P.M.

The meeting will be conducted remotely via Zoom, and members of the public are invited to join the meeting webinar and observe at: https://dc-gov.zoom.us/j/84700692129.

Below is the agenda for the committee's meeting.

AGENDA:

I. Establishment of a Quorum
II. Committee Work Planning
III. New Business
IV. Adjournment

Please note: This agenda is subject to change.

These meetings are governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

BOARD OF ELECTIONS

Certification of Filling a Vacancy
In Advisory Neighborhood Commission

Pursuant to D.C. Official Code §1-309.06(d)(6)(D), if there is only one person qualified to fill the vacancy within the affected single-member district, the vacancy shall be deemed filled by the qualified person. As such, the Board hereby certifies that the vacancy has been filled in the following single-member district by the individual listed below:

Morgan A. Conley
Single-Member District **6A05**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
CITYWIDE REGISTRATION SUMMARY
AS OF FEBRUARY 28, 2026

WARD	DEM	REP	STG	N-P	OTH	TOTALS
1	44,811	2,052	629	10,184	336	58,012
2	36,655	3,861	346	11,263	334	52,459
3	40,803	4,095	440	11,216	324	56,878
4	47,980	2,165	618	9,790	371	60,924
5	53,406	2,463	777	11,598	491	68,735
6	48,965	5,673	531	12,885	442	68,496
7	47,978	2,083	633	9,739	450	60,883
8	38,034	2,111	553	8,565	416	49,679
TOTALS	**44,811**	**2,052**	**629**	**10,184**	**336**	**58,012**
Percentage by Party	**358,632**	**24,503**	**4,527**	**85,240**	**3,164**	**476,066**

DISTRICT OF COLUMBIA BOARD OF ELECTIONS MONTHLY REPORT OF
VOTER REGISTRATION STATISTICS AND REGISTRATION TRANSACTIONS
AS OF THE END OF FEBRUARY 28, 2026

COVERING CITY-WIDE TOTALS BY:
WARD, PRECINCT, AND PARTY

1015 HALF STREET, SE SUITE 750
WASHINGTON, DC 20003
(202) 727-2525
http://www.dcboe.org



D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 1 REGISTRATION SUMMARY
AS OF FEBRUARY 28, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
20	863	35	11	183	7	1,099
22	4,277	291	30	950	26	5,574
23	2,996	136	40	684	26	3,882
24	2,820	151	22	628	22	3,643
25	4,209	244	53	997	25	5,528
35	3,605	116	53	766	29	4,569
36	4,025	196	58	879	26	5,184
37	3,959	141	57	1,016	39	5,212
38	2,758	117	41	692	23	3,631
39	3,984	150	62	831	24	5,051
40	3,256	126	68	661	24	4,135
41	3,240	168	62	867	31	4,368
42	1,756	75	29	390	11	2,261
43	1,843	57	27	380	12	2,319
137	1,220	49	16	260	11	1,556
TOTALS	**44,811**	**2,052**	**629**	**10,184**	**336**	**58,012**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 2 REGISTRATION SUMMARY
AS OF FEBRUARY 28, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
2	464	63	5	208	5	745
3	1,733	252	26	657	22	2,690
4	2,402	328	21	895	31	3,677
5	2,245	445	20	899	32	3,641
6	2,270	503	20	1,196	26	4,015
13	1,371	161	11	418	10	1,971
14	2,877	270	31	826	22	4,026
15	3,130	231	24	782	23	4,190
16	3,731	290	19	906	17	4,963
17	4,699	375	39	1,313	32	6,458
18	4,652	282	41	1,057	36	6,068
21	1,056	42	11	221	12	1,342
129	3,412	428	53	1,275	40	5,208
141	2,613	191	25	610	26	3,465
TOTALS	**36,655**	**3,861**	**346**	**11,263**	**334**	**52,459**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 3 REGISTRATION SUMMARY
AS OF FEBRUARY 28, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
7	1,421	271	14	534	19	2,259
8	2,881	533	15	995	26	4,450
9	1,021	290	7	418	10	1,746
10	2,012	292	20	706	21	3,051
11	3,383	352	61	1,107	47	4,950
12	659	148	2	263	7	1,079
26	3,216	221	25	792	21	4,275
27	2,448	179	27	570	9	3,233
28	2,525	301	32	736	19	3,613
29	1,797	125	26	534	17	2,499
30	1,514	163	14	404	15	2,110
31	2,604	227	23	584	14	3,452
32	2,942	186	28	686	20	3,862
33	2,999	156	28	650	20	3,853
34	3,669	196	49	927	15	4,856
50	2,232	210	31	542	27	3,042
136	1,266	79	16	290	6	1,657
138	2,214	166	22	478	11	2,891
TOTALS	**40,803**	**4,095**	**440**	**11,216**	**324**	**56,878**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 4 REGISTRATION SUMMARY
AS OF FEBRUARY 28, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
45	2,219	78	31	414	9	2,751
46	2,825	79	37	510	28	3,479
47	3,201	128	59	673	28	4,089
48	2,761	113	35	604	16	3,529
49	974	45	16	228	7	1,270
51	3,607	361	23	689	18	4,698
52	1,470	98	4	280	8	1,860
53	1,074	59	16	248	8	1,405
54	2,178	82	29	468	26	2,783
55	2,266	76	25	457	14	2,838
56	3,037	121	48	655	29	3,890
57	2,285	94	36	535	21	2,971
58	1,940	66	25	406	22	2,459
59	2,385	86	25	434	13	2,943
60	2,034	151	29	654	33	2,901
61	1,445	74	21	319	17	1,876
62	3,708	140	43	627	11	4,529
63	3,759	155	64	743	23	4,744
64	2,166	65	22	387	21	2,661
65	2,646	94	30	459	19	3,248
TOTALS	**47,980**	**2,165**	**618**	**9,790**	**371**	**60,924**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 5 REGISTRATION SUMMARY
AS OF FEBRUARY 28, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
19	4,515	214	87	1,031	45	5,892
44	2,364	185	49	623	27	3,248
66	4,315	146	46	809	38	5,354
67	2,706	98	29	491	17	3,341
68	1,866	137	29	377	17	2,426
69	2,057	69	26	374	10	2,536
70	1,386	66	28	291	8	1,779
71	2,263	78	33	466	22	2,862
72	3,971	161	56	840	51	5,079
73	1,761	86	26	321	14	2,208
74	5,219	282	95	1,304	57	6,957
75	4,984	237	57	1,128	39	6,445
76	2,952	158	31	762	38	3,941
77	2,709	139	49	585	31	3,513
78	2,748	124	38	638	23	3,571
79	1,942	88	34	509	17	2,590
135	2,733	121	35	555	19	3,463
139	2,915	74	29	494	18	3,530
TOTALS	**53,406**	**2,463**	**777**	**11,598**	**491**	**68,735**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 6 REGISTRATION SUMMARY
AS OF FEBRUARY 28, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
1	5,294	460	58	1,568	48	7,428
81	3,287	307	32	719	24	4,369
82	2,698	223	31	617	22	3,591
83	3,482	290	39	785	28	4,624
84	2,007	353	21	498	14	2,893
85	2,670	453	21	700	23	3,867
88	2,029	249	15	474	21	2,788
89	2,653	488	25	702	24	3,892
90	1,608	185	18	448	18	2,277
91	4,248	354	45	1,058	37	5,742
127	4,713	395	69	1,192	36	6,405
128	2,186	174	24	588	13	2,985
130	3,744	1,064	26	1,266	62	6,162
142	2,946	313	53	966	27	4,305
143	352	26	4	55	3	440
144	5,048	339	50	1,249	42	6,728
TOTALS	**48,965**	**5,673**	**531**	**12,885**	**442**	**68,496**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 7 REGISTRATION SUMMARY
AS OF FEBRUARY 28, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
80	1,821	231	60	448	23	2,583
86	2,934	201	43	682	39	3,899
87	2,620	215	27	604	25	3,491
92	1,315	37	19	228	10	1,609
93	1,458	44	19	278	12	1,811
94	1,807	73	27	386	17	2,310
95	1,646	59	22	375	16	2,118
96	1,748	60	15	324	15	2,162
97	1,297	49	20	276	16	1,658
98	1,975	75	28	411	21	2,510
99	1,263	47	13	304	11	1,638
100	2,072	65	22	407	14	2,580
101	1,393	51	16	267	15	1,742
102	2,210	96	32	396	19	2,753
103	2,781	87	43	527	23	3,461
104	2,894	121	43	603	30	3,691
105	2,211	84	25	502	17	2,839
106	2,457	76	22	493	21	3,069
107	1,049	45	10	217	14	1,335
108	963	26	6	148	7	1,150
109	871	40	6	147	4	1,068
110	3,273	106	36	521	24	3,960
111	1,999	68	34	431	20	2,552
113	2,075	67	21	384	24	2,571
132	1,846	60	24	380	13	2,323
TOTALS	**47,978**	**2,083**	**633**	**9,739**	**450**	**60,883**

D.C. BOARD OF ELECTIONS
MONTHLY REPORT OF VOTER REGISTRATION STATISTICS
WARD 8 REGISTRATION SUMMARY
AS OF FEBRUARY 28, 2026

PRECINCT	DEM	REP	STG	N-P	OTH	TOTALS
112	1,247	33	16	249	9	1,554
114	2,560	122	51	619	38	3,390
115	1,663	52	23	353	15	2,106
116	2,355	92	34	523	20	3,024
117	2,402	85	33	537	29	3,086
118	2,819	93	37	601	29	3,579
119	1,635	86	24	338	24	2,107
120	1,782	72	20	340	17	2,231
121	2,842	103	35	580	24	3,584
122	1,766	71	25	365	15	2,242
123	1,540	148	34	399	23	2,144
124	1,906	66	37	397	16	2,422
125	3,104	113	44	628	43	3,932
126	2,689	130	57	643	21	3,540
131	3,443	673	32	1,168	50	5,366
133	1,355	61	15	256	10	1,697
134	1,551	54	21	309	17	1,952
140	1,375	57	15	260	16	1,723
TOTALS	**38,034**	**2,111**	**553**	**8,565**	**416**	**49,679**

DC BOARD OF ELECTIONS

NOTICE OF MEETING
TO ADOPT FORMULATIONS FOR THE SHORT TITLE, SUMMARY STATEMENT, AND LEGISLATIVE FORM FOR INITIATIVE MEASURE NO. 87

Pursuant to D.C. Official Code § 1-1001.16(c)-(d), the Board of Elections hereby gives notice that the Board will adopt ballot language (short title, summary statement, and legislative form or "formulations") for Initiative Measure No. 87 ("the Measure") at its regular Board meeting that will be held on **Wednesday, April 1, 2026 at 10:30 a.m.** at 1015 Half Street SE, Suite 750, Washington DC 20003.

The Board will meet remotely. Members of the public can access the meeting by using the following information:

Join from PC, Mac, iPad, or Android:

https://us06web.zoom.us/j/89878363553

Phone one-tap:
+13052241968,,89878363553# US
+13092053325,,89878363553# US
Join via audio:
+1 305 224 1968 US
+1 309 205 3325 US
+1 312 626 6799 US (Chicago)
+1 646 876 9923 US (New York)
+1 646 931 3860 US
+1 301 715 8592 US (Washington DC)
+1 564 217 2000 US
+1 669 444 9171 US
+1 669 900 6833 US (San Jose)
+1 689 278 1000 US
+1 719 359 4580 US
+1 253 205 0468 US
+1 253 215 8782 US (Tacoma)
+1 346 248 7799 US (Houston)
+1 360 209 5623 US
+1 386 347 5053 US
+1 408 638 0968 US (San Jose)
+1 507 473 4847 US

Webinar ID: 898 7836 3553

International numbers available: https://us06web.zoom.us/u/kdHzbCDwPT

Pursuant to D.C. Official Code § 1-1001.16(c), the following formulations for Initiative Measure No. 87 were prepared this 10th day of March, 2026.

INITIATIVE MEASURE

No. 87

SHORT TITLE

District of Columbia Living Wage Amendment Act of 2026

SUMMARY STATEMENT

If enacted, this Initiative would gradually increase the minimum wage to $25.00 per hour for eligible employees by July 1, 2029 and gradually eliminate the credit for tips received by tipped workers. The "tipped minimum wage" for tipped workers (currently $10.00 per hour, indexed to inflation) would gradually increase until July 1, 2031, when the base wage for tipped workers would match the regular minimum wage (currently $17.95 per hour, proposed to increase to $25.00 hour by July 1, 2029 and thereafter indexed to inflation). Service charges collected from customers by employers of tipped workers will belong to employees.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Living Wage Amendment Act of 2026".

Sec. 2. The Tipped Minimum Wage Increase Clarification Emergency Declaration Resolution of 2025, effective June 3, 2025 (Res. 26-134; 72 DCR 6620), is repealed.

Sec. 3. The Minimum Wage Act Revision Act of 1992, effective March 25,1993 (D.C. Law 9-248; D.C. Official Code § 32-1001 *et seq.*) is amended as follows:

(a) Section 3 (D.C. Official Code § 32-1002) is amended by adding a new paragraph (7B-1) to read as follows:

"(7B-1) The term "service charge" means any fee or charge added to a customer's bill and required to be paid by the customer (other than taxes), by an employer which employs employees who customarily receive tips or gratuities.".

(b) Section 4 (D.C. Official Code § 32-1003) is amended as follows:

(1) Subsection (a) is amended as follows:

(A) Paragraph (5)(A) is amended to read as follows:

"(A)(i) Except as provided in subsection (h) of this section and subparagraph (B) of this paragraph, the minimum hourly wage for any employee of the District of Columbia or employee employed to perform services provided under contracts with the District of Columbia shall be as of:

"(I) July 1, 2016: $11.50;
"(II) July 1, 2017: $12.50
"(III) July 1, 2018: $13.25
"(IV) July 1, 2019: $14.00; and
"(V) July 1, 2020: $15.00.

"(ii) Except as provided in subsection (h) of this section and 9 subparagraph (B) of this paragraph, the minimum hourly wage for any employee who works in the District of Columbia and is not an employee of the District of Columbia or an employee employed to perform services provided under contracts with the District of Columbia shall be as of:

"(I) July 1, 2026: $20.00;
"(II) July 1, 2027: $21.75;
"(III) July 1, 2028: $23.50; and
"(IV) July 1, 2029: $25.00.".

(B) Paragraph (6)(A) is amended to read as follows:

"(A) Except as provided in subsection (h) of this section, beginning on July 1, 2021, and no later than July 1 of each successive year, the minimum wage provided in paragraph (5)(A)(i) of this subsection, and, beginning on July 1, 2030, and no later than July 1 of each successive year, the minimum wage provided in paragraph (5)(A)(ii) of this subsection, shall be increased in proportion to the annual average increase, if any, in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of $.05.".

(2) Subsection (f) is amended as follows:

(A) Paragraphs (6), (7), (8), (9), and (10) are amended to read as follows:

"(6) Except as provided in subsections (h) and (i) of this section, as of July 1, 2025, the tipped minimum wage shall be not less than $10.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

"(7) Except as provided in subsections (h) and (i) of this section, as of July 1, 2026, the tipped minimum wage shall be not less than $13.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

"(8) Except as provided in subsections (h) and (i) of this section, as of July 1, 2027, the tipped minimum wage shall be not less than $16.00 an hour, with tips on top; provided,

that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

"(9) Except as provided in subsections (h) and (i) of this section, as of July 1, 2028, the tipped minimum wage shall be not less than $19.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

"(10) Except as provided in subsections (h) and (i) of this section, as of July 1, 2029, the tipped minimum wage shall be not less than $22.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.".

(B) New paragraphs (11) and (12) are added to read as follows:

"(11) Except as provided in subsections (h) and (i) of this section, as of July 1, 2030, the tipped minimum wage shall be not less than $25.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

"(12) Except as provided in subsections (h) and (i) of this section, as of July 1, 10 2031, the tipped minimum wage shall be not less than the minimum wage as set by subsection (a) of this section, with tips on top.".

(3) Subsection (g)(3) is amended to read as follows:

"(3) All gratuities, tips, and service charges received by the employee or collected by the employer have been remitted to the employees who performed services directly for the customers from whom the fee was collected, in addition to such employees' wages, and the employer has prominently disclosed the amount or rate of any service charge to the customer in a manner visible to the customer before the customer places an order; and provided that, the distribution of such gratuities, tips, and service charges has occurred as follows:

"(A) If a gratuity, tip, or service charge has been collected by the employer from a customer who obtained table service, such gratuity, tip, or service charge has been remitted to those employees who directly provided service to that table;

"(B) If a gratuity, tip, or service charge has been collected by an employer from a customer who received catering services from such employer for a meeting or event, the gratuities, tips, and service charges have been distributed equally among all employees who rendered any services in connection with such meeting or event; and

"(C) No portion of any gratuity, tip, or service charge has been distributed to any supervisory or managerial employees; except that, the parties to a bona fide collective bargaining agreement may establish rules for the distribution of gratuities, tips and service charges different from those set out in paragraphs (1), (2) and (3).".

(4) Subsection (i) is amended to read as follows:

"(i) The provisions of subsections (f)(2), (3), (4), (5), (6), (6A), (7), (8), (9), (10), (11) and (12) of this section shall not apply to employees of the District of Columbia, or to employees employed to perform services provided under contracts with the District of Columbia. Those employees shall continue to be subject to the minimum wage requirements of this chapter as they

existed before February 23, 2023, including the minimum hourly wage set by subsection (a)(5)(A)(i) of this section as increased by subsection (a)(6)(A) of this section, and to the requirements of all other applicable laws, regulations, or policies relating to wages or benefits, including the Living Wage Act of 2006, effective June 8, 2006 (D.C. Law 16-118; D.C. Official Code § 2-220.01).".

Sec. 4. This act shall take effect following a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § l-206.02(c)(l)), and publication in the District of Columbia Register.

The Short Title, Summary Statement, and Legislative Text of the proposed initiative, as submitted to the Board by the proposer(s) of the measure, read as follows:

INITIATIVE MEASURE

No. ___

SHORT TITLE

District of Columbia Living Wage for All Amendment Act of 2026

SUMMARY STATEMENT

If enacted, this Initiative would gradually increase the minimum wage to $25.00 per hour for eligible employees by July 1, 2029 and gradually eliminate the credit for tips received by tipped workers. The "tipped minimum wage" for tipped workers (currently $10.00 per hour, indexed to inflation) would gradually increase until July 1, 2031, when the base wage for tipped workers would match the regular minimum wage (currently $17.95 per hour, proposed to increase to $25.00 hour by July 1, 2029 and thereafter indexed to inflation). Service charges collected from customers by employers of tipped workers will belong to employees.

LEGISLATIVE TEXT

BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "District of Columbia Living Wage for All Amendment Act of 2026".

Sec. 2. Resolution R26-0134, Effective June 3, 2025 is repealed.

Sec. 3. Sec. 3 of the Minimum Wage Act Revision Act of 1992, effective March 25,1993 (D.C. Law 9-248; D.C. Official Code § 32-1002), as amended, is further amended by adding a new subsection (7B-1) to read as follows:

"(7B-1) The term 'service charge' means any fee or charge added to a customer's bill and required to be paid by the customer (other than taxes), by an employer which employs employees who customarily receive tips or gratuities."

Sec. 4. Sec. 4 of the Minimum Wage Act Revision Act of 1992, effective March 25, 1993 (D.C. Law 9-248; D.C. Official Code § 32-1003), as amended, is further amended as follows:

(a) Subparagraph (A) of paragraph (a)(5) is amended to read as follows:

"(A)(1) Except as provided in subsection (h) of this section and subsection (B) of this paragraph, the minimum hourly wage for any employee of the District of Columbia or employee employed to perform services provided under contracts with the District of Columbia shall be as of:

(i) July 1, 2016: $11.50;

(ii) July 1, 2017: $12.50
(iii) July 1, 2018: $13.25
(iv) July 1, 2019: $14.00; and
(v) July 1, 2020: $15.00."

(b) A new subparagraph (A)(2) of paragraph (a)(5) is added to read as follows:

"(A)(2) Except as provided in subsection (h) of this section and subparagraph (B) of this paragraph, the minimum hourly wage for any employee who works in the District of Columbia and is not an employee of the District of Columbia or an employee employed to perform services provided under contracts with the District of Columbia shall be as of:
(i) July 1, 2026: $20.00;
(ii) July 1, 2027: $21.75;
(iii) July 1, 2028: $23.50; and
(iv) July 1, 2029: $25.00."

(c) Subparagraph (A) of paragraph (a)(6) is amended to read as follows:

"Except as provided in subsection (h) of this section, beginning on July 1, 2021, and no later than July 1 of each successive year, the minimum wage provided in subparagraph (A)(1) of this paragraph, and, beginning on July 1, 2030, and no later than July 1 of each successive year, the minimum wage provided in subparagraph (A)(2) of this paragraph, shall be increased in proportion to the annual average increase, if any, in the Consumer Price Index for All Urban Consumers in the Washington Metropolitan Statistical Area published by the Bureau of Labor Statistics of the United States Department of Labor for the previous calendar year. Any increase under this paragraph shall be adjusted to the nearest multiple of $.05."

(d) Paragraph (f)(6) is amended to read as follows:

''(f)(6) Except as provided in subsections (h) and (i) of this section, as of July 1, 2025, the tipped minimum wage shall be not less than $10.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section."

(e) Paragraph (f)(7) is amended to read as follows:

"(f)(7) Except as provided in subsections (h) and (i) of this section, as of July 1, 2026, the tipped minimum wage shall be not less than $13.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section."

(f) Paragraph (f)(8) is amended to read as follows:

"(f)(8) Except as provided in subsections (h) and (i) of this section, as of July 1, 2027, the tipped minimum wage shall be not less than $16.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section."

(g) Subsection (f) is amended by adding at the end thereof the following new paragraphs (9), (10), (11) and (12) to read as follows:

"(9) Except as provided in subsections (h) and (i) of this section, as of July 1, 2028, the tipped minimum wage shall be not less than $19.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

"(10) Except as provided in subsections (h) and (i) of this section, as of July 1, 2029, the tipped minimum wage shall be not less than $22.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section.

"(11) Except as provided in subsections (h) and (i) of this section, as of July 1, 2030, the tipped minimum wage shall be not less than $25.00 an hour, with tips on top; provided, that the employee actually receives tips in an amount at least equal to the difference between the hourly wage paid and the minimum wage as set by subsection (a) of this section."

"(12) Except as provided in subsections (h) and (i) of this section, as of July 1, 2031, the tipped minimum wage shall be not less than the minimum wage as set by subsection (a) of this section, with tips on top."

(h) Paragraph 3 of subsection (g) is amended to read as follows:

"(g) All gratuities, tips and service charges received by the employee or collected by the employer have been remitted to the employees who performed services directly for the customers from whom the fee was collected, in addition to such employees' wages, and the employer has prominently disclosed the amount or rate of any service charge to the customer in a manner visible to the customer before the customer places an order; and provided that, the distribution of such gratuities, tips and service charges has occurred as follows:

"(1) If a gratuity, tip or service charge has been collected by the employer from a customer who obtained table service, such gratuity, tip or service charge has

been remitted to those employees to those employees who directly provided service to that table;

"(2) If a gratuity, tip or service charge has been collected by an employer from a customer who received catering services from such employer for a meeting or event, the gratuities, tips and service charges have been distributed equally among all employees who rendered any services in connection with such meeting or event;

"(3) No portion of any gratuity, tip or service fee has been distributed to any supervisory or managerial employees; except that, the parties to a bona fide collective bargaining agreement may establish rules for the distribution of gratuities, tips and service charges different from those set out in paragraphs (1), (2) and (3)."

(i) Subsection (i) is amended to read as follows:

(i) The provisions of subsections (f)(2), (3), (4), (5), (6), (6A), (7), (8), (9), (10), (11) and (12) of this section shall not apply to employees of the District of Columbia, or to employees employed to perform services provided under contracts with the District of Columbia. Those employees shall continue to be subject to the minimum wage requirements of this chapter as they existed before February 23, 2023, including but not limited to the minimum hourly wage set by subparagraph (A)(1) of paragraph (a)(5) as increased by subparagraph (A) of paragraph (a)(6), and to the requirements of all other applicable laws, regulations, or policies relating to wages or benefits, including subchapter X-A of Chapter 2 of Title 2.

Sec. 5. This act shall take effect following a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § l-206.02(c)(l)), and publication in the District of Columbia Register.

Notice: This decision may be formally revised before it is published in the *District of Columbia Register* and the Office of Employee Appeals' website. Parties should promptly notify the Office Manager of any formal errors so that this Office can correct them before publishing the decision. This notice is not intended to provide an opportunity for a substantive challenge to the decision.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

THE OFFICE OF EMPLOYEE APPEALS

In the Matter of:	)	
	)	
EMPLOYEE[1],	)	OEA Matter No. 1601-0017-21C24
Employee	)	
v.	)	Date of Issuance: January 20, 2026
	)	
D.C. DEPARTMENT OF CONSUMER	)	
AND REGULATORY AFFAIRS[2],	)	Monica Dohnji, Esq.
Agency	)	Senior Administrative Judge
	)	

Donna Beasley, Esq., Employee's Representative
Stephen Milak, Esq., Agency's Representative

ADDENDUM DECISION ON COMPLIANCE

INTRODUCTION AND PROCEDURAL HISTORY

On March 11, 2021, Employee filed a Petition for Appeal with the D.C. Office of Employee Appeals ("OEA" or "Office") contesting the District of Columbia Department of Consumer and Regulatory Affairs' ("DCRA" or "Agency") decision to terminate him from his position as an Elevator Inspector, effective February 13, 2021. Employee was charged with: "Unavailability for work due to medical reasons. Unauthorized absence of five (5) workdays or more."[3]

On April 18, 2023, I issued an Initial Decision ("ID"), reversing Agency's decision to terminate Employee. Agency appealed the ID to the OEA Board. On November 16, 2023, the OEA Board issued an Opinion and Order on Petition for Review ("O&O") dismissing Agency's Petition for Review.[4] Agency did not appeal the Board's decision. On March 13, 2024, Employee filed a Motion for Compliance and Enforcement of the April 18, 2023, Order citing that he had not been reinstated, and that he had not received his backpay and benefits. On April 3, 2024, Agency filed an Opposition to Employee's Motion for Compliance requesting that Employee's Motion be

[1] Employee's name was removed from this decision for the purposes of publication on the Office of Employee Appeals' website.
[2] This Agency no longer exists as it was split into two (2) separate agencies in 2022 - Department of Licensing and Consumer Protection and the Department of Buildings.
[3] 6B District of Columbia Municipal Regulation ("DCMR") §§ 1605.4(f)(2) and 1607.2(f)(4).
[4] *Employee v. D.C. Department of Consumer and Regulatory Affairs*, OEA Matter No. 1601-0017-21, Opinion and Order on Petition for Review (November 16, 2023).

denied or in the alternative, held in abeyance until Employee's fitness for duty evaluation was completed.

On April 19, 2024, the undersigned issued an Order Convening a Status Conference for May 14, 2024. Both parties were in attendance. Thereafter, on May 16, 2024, I issued a Post Status Conference Order requiring the parties to engage in the interactive process prescribed in 6-B DCMR § 2006.2. The Order also required the parties to submit a status update on their progress. On June 14, 2024, the parties filed a Joint Status Report noting that the parties needed additional time to continue with the interactive process. The parties proposed filing another status report by July 26, 2024. Thereafter, on June 21, 2024, the undersigned issued an Order wherein, I granted the parties' request to file another status report by July 26, 2024. The parties filed a Second Joint Status Report on July 26, 2024, proposing to file another status update by August 23, 2024. The parties filed a Third Joint Status Report on September 3, 2024, requesting to file another status report by October 11, 2024. On September 17, 2024, the undersigned issued an Order granting the parties' request to file another status report by October 11, 2024. The parties filed a Fourth Status Report on October 11, 2024, citing that the parties will continue to work together until a mutually agreeable resolution is achieved or either party determines that a mutually agreeable resolution is not possible. The parties further requested until November 15, 2024, to file another status report. On October 29, 2024, the undersigned issued an Order granting the parties' request to file another status report by November 15, 2024. The parties filed a Fifth Joint Status Report on November 15, 2024, requesting to file another status report on December 20, 2024. On November 25, 2024, the undersigned issued an Order granting the parties' Fifth Joint Status Report.[5]

On December 20, 2024, the parties submitted a Sixth Joint Status Report, proposing to file another status report by February 21, 2025. On February 5, 2025, the undersigned issued an Order granting the parties' Sixth Joint Status Report. Subsequently, the parties filed a Seventh Joint Status Report on February 21, 2025, proposing to file another status report by April 21, 2025. Since the parties did not file a status report on April 21, 2025, as noted in their Seventh Joint Status Report, on April 30, 2025, the undersigned issued an Order scheduling a Status Conference for May 19, 2025. Thereafter, on May 5, 2025, the parties filed the Eighth Status Report, proposing to file another status report by July 6, 2025. Both parties were present for the May 19, 2025, Status Conference. On May 28, 2025, the undersigned issued a Second Post Status/Prehearing Conference Order requiring the parties to submit briefs in this matter. Agency's brief was due by July 7, 2025; Employee's brief was due by July 28, 2025; and Agency had the option to file a sur-reply brief by August 11, 2025.

On June 30, 2025, Agency filed a Consent Motion for Extension requesting a three (3) week extension to file its brief. This request was granted in an Order dated July 1, 2025, and the briefing schedule was adjusted as follows: Agency's brief was now due by July 28, 2025; Employee's brief was now due by August 18, 2025; and Agency's sur-reply brief was now due by September 1, 2025. Agency filed its Statement on Compliance on July 28, 2025. On August 18, 2025, Employee filed his Motion to Extend Due Date of Employee's Brief to August 20, 2025. Thereafter, on August 20, 2025, Employee filed another Motion to Extend Due Date of

[5] Due to personal extenuating circumstances requiring the undersigned's absence, on December 12, 2024, AJ Harris issued a Notice Regarding Temporary Abeyance of Proceedings to the parties until my return.

Employee's Brief to August 21, 2025. Employee filed his Response to Agency's Final Statement on Compliance on August 21, 2025. On August 29, 2025, Agency filed a Motion for Extension, requesting an additional two (2) weeks to file its sur-reply brief, citing health reasons. On September 2, 2025, Employee filed an Opposition to Agency's Motion for Extension. On September 3, 2025, Agency filed Agency's Motion for Leave to File a Reply to Employee's Opposition and Reply to Employee's Opposition.[6] Agency filed Agency's Reply Regarding Compliance on September 15, 2025. The record is now closed.

JURISDICTION

OEA has jurisdiction in this matter pursuant to D.C. Official Code § 1-606.03 (2001).

ISSUE

Whether Agency has fully complied with the April 18, 2023, Initial Decision.

FINDINGS OF FACT, ANALYSIS, AND CONCLUSIONS OF LAW[7]

Employee filed a Motion for Compliance and Enforcement on March 13, 2024, asserting that Agency had not fully complied with the April 18, 2023, Order ("ID"). Employee argued therein that he had not been reinstated, and that he had not received his backpay and benefits. Employee concluded that the total backpay Agency owed to him as of November 16, 2023, was three hundred ninety thousand six hundred seventy-nine dollars and fourteen cents. ($390,679.14). Agency filed its Opposition to Employee's Motion for Compliance on April 3, 2024, wherein, Agency requested that Employee's Motion be denied or in the alternative, held in abeyance until Employee's fitness for duty evaluation is completed. Agency asserted that Employee must undergo a Fitness-For-Duty evaluation before Agency can comply with the April 18, 2023, ID. Agency further asserted that Employee's entitlement to backpay and benefits was contingent on the outcome of his Fitness-For-Duty evaluation. Agency also explained that it believed Employee was not likely to be entitled to a full award of backpay.

Agency's Position[8]

Agency argues in its brief that it complied with the April 18, 2023, ID's Order for Employee's reinstatement. Agency cites that pursuant to 6-B DCMR § 2000.2, each District employee must be able to complete the essential function of their job with or without reasonable accommodation. Agency further cites that pursuant to 6-B DCMR § 2004.2, the personnel authority may require an individual to undergo medical evaluation whenever there is an objectively reasonable concern about the employee's ability to meet the established physical requirements of

[6] These Motions are now MOOT.

[7] Although I may not discuss every aspect of the evidence in the analysis of this case, I have carefully considered the entire record. *See Antelope Coal Co./Rio Tino Energy America v. Goodin*, 743 F.3d 1331, 1350 (10th Cir. 2014) (citing *Clifton v. Chater*, 79 F.3d 1007, 1009-10 (10th Cir. 1996)) ("The record must demonstrate that the ALJ considered all of the evidence, but an ALJ is not required to discuss every piece of evidence").

[8] *See.* Agency's Statement of Compliance (July 28, 2025) and Agency's Reply Regarding Compliance (September 15, 2025).

the job. Agency also notes that pursuant to 6-B DCMR § 2004.3, the personnel authority may disqualify or separate an employee if the employee cannot meet the established physical requirements of their job. Agency asserts that, upon consultation with the District of Columbia Department of Human Resources ("DCHR"), it was determined that before complying with the April 18, 2023, ID, Employee needed to undergo a fitness-for-duty evaluation. Agency avers that Employee notified Agency in 2019 of his disability and that he could no longer work because of his disability. Agency cites that Dr. Griffiths stated in his 2020 note to Agency that Employee would not be able to return to his position due to his disability. Thus, Agency states that it had an objectively reasonable concern about Employee's continued ability to meet the established physical requirements of his job.

Agency asserts that as part of the fitness-for-duty, Dr. Griffiths was provided with the position description of the Code Compliance Specialist (Elevator) position[9], as well as all the forms, which were needed to apprise Agency of whether Employee was able to perform the essential functions of his position, with or without accommodation. Agency avers that Dr. Griffiths stated in all the reports he completed that Employee could not perform the essential functions of his Code Compliance Specialist (Elevator) position and that Employee needed a light duty position reviewing charts and general desk work.[10] Agency also notes that Dr. Jagadeesan's May 15, 2025, medical report largely mirrored Dr. Griffiths' assessment.[11] Agency contends that because both Dr. Griffiths and Dr. Jagadeesan determined that Employee was permanently incapable of performing the essential functions of the Code Compliance Specialist (Elevator) position, Agency was required to consider whether Employee could be reasonably accommodated, pursuant to 6-B DCMR § 2006.

Agency contends that while both Dr. Griffiths and Dr. Jagadeesan stated that Employee had various work restrictions, neither identified any accommodations that would enable Employee to perform the essential functions of the Code Compliance Specialist (Elevator) position, including the essential function of performing onsite inspection of various apparatuses. Agency also cites that Employee did not identify any accommodation that will enable him to perform the essential functions of the Code Compliance Specialist (Elevator) position. Agency avers that it concluded in its Second Determination issued to Employee that no reasonable accommodation existed that would enable Employee to fulfill the essential function of the Code Compliance Specialist (Elevator) position.

In addition, Agency avers that while both doctors indicated that Employee would need a 'desk' position, and Employee has also requested that his current position be converted to a light-duty position or he be reassigned to a light-duty position, pursuant to the D.C. Office of Disability Rights ("ODR") Manual[12], Agency is not required to do so, if this entails removing essential functions from his position. Agency argues that due to budgetary constraints and operational needs, it is unable to convert the Code Compliance Specialist (Elevator) position to a light-duty position or create a new light-duty position for Employee.

[9] Agency's Statement of Compliance, *supra*, at Attachment 1.
[10] *Id*. at Attachment 6.
[11] *Id*. at Attachment 16.
[12] Agency cites that the ODR highlights that there is no requirement to create a light-duty position or any other position.

Agency asserts that the only accommodation it could consider was to reassign Employee to a vacant position within Agency. Citing to case law, Agency highlights that Employee has failed to identify any vacancy within Agency that he could be reassigned to and for which he is qualified and suitable for. Agency states that during a meeting with Employee, it identified several potential vacancies for Employee's consideration, and that Employee through multiple rounds of discovery, was able to obtain information on Agency vacancies. Agency notes that Employee asked to be considered for the Building Code Inspector, the Combination Code Compliance Specialist and Housing Code Inspector positions. Agency cites that it determined that Employee was not fit for any of the potential vacancies, as each of these positions had physical requirements as part of their essential functions, which fell outside of Employee's physical restrictions. Agency asserts that each of these vacancies have a 25-pound lifting requirement which is outside of Employee's lifting restriction of 20-pounds as confirmed by both Dr. Griffiths and Dr. Jagadeesan.

Agency argues that it has done more than what is required under the Americans with Disability Act ("ADA"), District regulations, case law, OEA precedent, and official guidance from the ODR Manual to attempt to reassign Employee. Agency explains that it considered all the information Employee provided during this interactive process but, neither reinstatement to the Code Compliance Specialist (Elevator) position, with or without accommodation, nor reassignment to another position with or without accommodation is possible. Agency maintains that Employee's disability renders him not fit for any vacancy he maybe otherwise be qualified for at Agency. It cites that to ignore Employee's fitness for duty or lack thereof, will create an incredibly dangerous situation for both Agency and Employee, as such, Agency requests that this Office finds that it has complied with the April 18, 2023, ID's order of reinstatement.

Further, Agency contends that Employee is not eligible for backpay or benefits because: (1) he was incapacitated due to his disability and not capable of performing the essential duties of his position; and (2) there is no evidence that Employee has been actively seeking employment to mitigate his damages. Citing to 6-B DCMR § 1149.11(a), Agency notes that based on Employee's long-term disability approval letter, Employee became disabled on July 11, 2019. Agency also notes that Dr. Griffiths informed Agency on July 22, 2020, that dialysis treatment would prevent Employee from returning to work and he specified that Employee's condition would last for a lifetime. Agency explained that Employee was terminated effective February 13, 2021. Agency notes that on October 30, 2023, Dr. Griffiths, cited that Employee was unable to perform all the duties of his position from December 14, 2021, to October 30, 2023. Agency states that given the nature of Employee's disability and the hearing testimony, Employee was unable to perform the essential functions of the Code Compliance Specialist (Elevator) position from February 13, 2021, (when he was terminated) to the December 14, 2021, date cited by Dr. Griffiths. Agency also highlights that Dr. Jagadeesan confirmed on May 15, 2025, that Employee is still unable to perform the essential functions of his position. Agency additionally asserts that given Employee's continued receipt of his long-term disability payments from the long-term disability company, Standard, and the lack of correspondence to or from Standard evincing Employee's recovery from that disability, Employee has remained unable to perform the essential functions of his position.

Agency explains that pursuant to 6-B DCMR § 1149.11(c), an agency will not include any period after one (1) year from the date of unwarranted or unjustified personnel action where it is determined that an Employee has not actively sought employment. Agency asserts that there is no

evidence in the record that Employee has been actively seeking employment to mitigate his damages, therefore, Employee is not entitled to any backpay. Agency maintains that its inability to reinstate Employee and reimburse his backpay makes the benefit restoration issue moot. Agency cites that the process for benefit restoration is included alongside the backpay regulation. It notes that the restriction found under 6-B DCMR § 1149.11(a) is applicable to both the restoration of benefits and the reimbursement of backpay. Agency asserts that the restriction is further emphasized by 6-B DCMR § 1149.14 which provides that an employee entitled to backpay under this section shall have included in the back pay computation any pay or benefit that the employee would have received. Agency maintains that because Employee is not entitled to backpay, he is also not entitled to benefit restoration. As such, Agency requests that this Office find that it has complied with the April 18, 2023, ID's Order for back pay reimbursement and benefits restoration.

Agency asserts in its Reply brief that Employee misunderstood the 'Third-Party Program.[13] Agency explains that Employee's claim that 'field work' is not an essential function of the Code Compliance Specialist (Elevator) position because those duties have been contracted out to the 'Third-Part Program' is false. Agency states that to perform the essential functions of the Code Compliance Specialist (Elevator) position, all Code Compliance Specialist (Elevator) must be able to drive, walk, and stand for long periods of time, move elevator parts, climb, reach, stoop, stretch, work in cramped and awkward positions and lift materials typically weighing 20-30 pounds. Agency reiterates that these physical demands are listed in the Code Compliance Specialist (Elevator) position description and that functions listed in a written job description are prima facie evidence of essential job functions.

Agency notes that while the 'Third-Party Program' provides an expedited route for obtaining a plan view and/or inspection by expanding the pool of professionals, beside those within Agency who could perform plan reviews and/or inspections, the default route is for Agency to conduct both the plan reviews and inspections through its Code Compliance Specialist, including its Code Compliance Specialist (Elevator) for plan reviews and inspections involving elevators. Agency cites that applicants have the option to choose between Agency's Code Compliance Specialists or 'Third-Party' agencies for plan reviews and/or inspections. Agency reiterates that contrary to Employee's assertion, the 'Third-Party Program' did not relieve Code Compliance Specialists of their essential functions related to 'field work' as Code Compliance Specialists still perform 'field work' when selected by applicants for" (1) initial/routine/emergency inspections, testing or maintenance[14]; (2) when the work performed by a third-party agency needs to be audited[15]; (3) investigating violation by third-party agencies of the 'Third-Party Program' which may lead to disciplinary actions[16]; and (4) Agency receives notice about an unsafe or unlawful condition causing an elevator to be removed from service.[17] Agency states that Employee's

[13] Agency notes that the Third-Party Program created an expedited route for obtaining a plan view and/or inspection by expanding the pool of professionals, beside those within Agency who could perform plan reviews and/or inspections. *See.* Agency's Reply Regarding Compliance, *supra*, at Attachment 20 for the Third-Party Program Manual.
[14] Citing to 12 DCMR § 3009.5.
[15] Referencing Agency's Reply Regarding Compliance, *supra*, at Attachment 20, pg. 34.
[16] *Id*. at Attachment 20, pgs. 39 – 47.
[17] Citing to 12 DCMR § 3009.10.1.

argument that Agency's Code Compliance Specialists are not required to perform this 'field work' under the applicable statutory and regulatory framework are meritless.

Agency asserts that contrary to Employee's belief that Agency's Code Compliance Specialists (Elevator) work from home and are on 'light-duty', Agency's Code Compliance Specialists (Elevator) are not permitted to telework. Agency notes that Employee's assertion is further rebutted by the Agency's Code Compliance Specialists (Elevator 1) and Agency's Code Compliance Specialists (Elevator 2) timesheets and worklogs.[18] Agency avers that the 'Third-Party Program' did not eliminate or even substantially reduce the 'field work' essential function of the Code Compliance Specialist (Elevator) position and that it correctly determines that Employee would be required to perform 'field work' if he were reinstated to the Code Compliance Specialist (Elevator) position.

Additionally, Agency states that Employee misunderstood the parameters of the interactive process. Agency cites that Employee has not demonstrated that it acted in 'bad faith' during the interactive process. Agency explains that the parameters indicate that it engaged with Employee in good faith. Agency maintains that throughout the interactive process with Employee that lasted months, it repeatedly: (1) sought information from Employee's physician concerning Employee's ability to perform the essential functions of the Code Compliance Specialist (Elevator) position; (2) encouraged Employee to provide Agency with any and all information he deemed relevant for Agency's consideration; (3) responded to Employee's discovery requests; (4) engaged in numerous email and phone discussions with Employee; and (5) considered all the information provided by Employee. Agency avers that on May 7, 2025, the parties met in-person for approximately three (3) hours to discuss Employee's fitness-for-duty and the availability of reasonable accommodation, including reassignment. Agency cites that just because the parties could not identify a reasonable accommodation that would enable Employee to perform the essential functions of the Code Compliance Specialist (Elevator) position does not indicate that Agency failed to engage in the interactive process with Employee in good faith.

Agency contends that Employee misunderstood his entitlement to reasonable accommodation. Agency notes that 'field work' is an essential function of the Code Compliance Specialist (Elevator) position. Agency states that Employee's requested accommodations of (1) desk-based tasks and paperwork; (2) oversight and non-field duty and work from home practice; and (3) light duty assignment would not have enabled him to perform the essential functions of the Code Compliance Specialist (Elevator) position. Agency further cites that reassigning Employee to a light-duty position is not reasonable. Agency avers that it does not have a 'light-duty program' and it does not reserve certain jobs for 'light-duty.' Agency also notes that Employee has not shown the existence of any 'light-duty' position at Agency, as such, this Office should find that Agency was not required to reassign Employee to a 'light-duty' position.

Agency argues that it thoroughly considered the possibility of reassigning Employee to all other vacant positions at Agency. It avers that it was incumbent on Employee to express interest in reassignment as an accommodation and identify vacant positions to which he was qualified and could have been reassigned. Agency cites that Employee only expressed interest in reassignment

[18] Agency's Reply Regarding Compliance, *supra*, at Attachments 21-26.

during the May 2025, after he was asked if he would consider a reassignment. It states that Employee however did not identify any vacancies at Agency during that meeting, to which he wanted to be reassigned to. Agency highlights that Employee vaguely referenced wanting to work as a criminal investigator for Agency, but he did not specify any vacant position at Agency to which he could be reassigned to. Agency notes that it provided Employee with access to its online job postings on June 12, 2024. Agency contends that even if Employee had identified a vacant position to which he wanted to be reassigned to, he would also need to show that he was qualified for that position. Agency states that it had no affirmative duty to search for vacant positions to which Employee could have been reassigned, but out of the abundance of caution, it thoroughly considered all its vacancies for purposes of potential reassignment.

Agency also cites the Mayor's Order 2025-053 on hiring, overtime, pay raise, promotion, bonuses and other payment freeze as impacting District agencies' ability to reassignment obligations. It highlights that the Mayor's Order reduced its "pool' of available vacancies for reassignment purposes. Agency asserts that OEA should consider the Mayor's Order in the overall assessment of Agency's attempt to reassign Employee to a vacant funded position.

Additionally, referring to Employee's resume, Agency contends that Employee's education is limited and his work experience is highly specialized. Agency states that upon receiving his high school diplomat, Employee attended Elevator and Automotive trade school. It avers that beside Employee's work as a Criminal Justice Act Criminal Investigator, Employee has worked exclusively in the 'elevator' field. Agency explains that between Employee's limited education, his highly specialized field and the Mayor's Order; Employee was not qualified for Agency's scarce vacancies, including Agency's sedentary vacancies, which mostly required additional education and certifications, which Employee admitted he did not possess. Agency also highlights that Employee's physical impairment is considerable, as these restrictions highlighted by Employee's doctors disqualify him from the Code Compliance Specialist (Elevator) position and nearly all other non-sedentary positions at Agency. Agency also provides that contrary to Employee's assertion that he qualified for the Elevator Inspector position and the Building Code Inspector position, it does not have any Elevator Inspector position, and that the only position at Agency that involves elevators is the Code Compliance Specialist (Elevator) position. Agency also notes that Employee has made no showing of how he qualified for these positions.

Agency argues that because Employee cannot be reasonably accommodated in the Code Compliance Specialist (Elevator) position, separation is appropriate. Therefore, it has complied with the April 18, 2023, ID to reinstate Employee to his last position of record or a comparable position. Agency maintains that this action is permissible under District laws and OEA precedent. Agency cites to 6-B DCMR § 2006.2 (c) and (d) and the ODR Manual which highlights that if an employee cannot be reasonably accommodated or reassigned to a new position, the personnel authority may separate the employee. Agency avers that Employee's situation is unique because he has already been separated and Agency cannot reinstate an employee who is not fit for duty. Agency explains that instead of separation, the only logical and reasonable alternative is for OEA to find that Agency has complied with the April 18, 2023, ID's Order of reinstatement.

Agency also asserts that OEA should disregard Employee's discovery claims. It also cites that this Office should disregard Employee's argument concerning Agency's supposed obligation

to demonstrate undue hardship before denying a requested accommodation. Agency avers that Employee's argument is premised on his misunderstanding of the ADA law. Agency cites that while undue hardship can be raised by an agency as a basis to deny a request for accommodation, it is not the only basis to deny a request for accommodation. Agency states that the ODR Manual explicitly provides six (6) reasons an agency may deny an employee's request for accommodation which include: (1) the employee does not have a qualified disability; (2) the employee is able to perform the essential functions of the position without the requested accommodation; (3) the requested accommodation will not enable the employee to perform the essential functions of the position (or will lower performance standards); (4) the employee's requested accommodation will impose an undue hardship on the operations of the agency; (5) the employee would pose a direct threat to health and safety of others that cannot otherwise be mitigated; and (6) the accommodation would cause a fundamental alteration of the agency's service, program, or activities. Agency highlights that it relied on # 3, as the requested accommodation would not enable adequate performance of the essential functions of the Code Compliance Specialists (Elevator) position. Agency avers that having made this determination, it was not required to additionally show undue hardship. Agency also notes that if Employee was excused from the 'field work' essential functions of the Code Compliance Specialists (Elevator) position, that would likely result in undue hardship to the extent that other Code Compliance Specialists (Elevator) would be required to do more 'field work' to cover Employee's disability.

Employee's Position

Employee filed a Motion for Compliance and Enforcement on March 13, 2024, asserting that Agency has not complied with the April 18, 2023, Order. Employee argued therein that he has not been reinstated, and that he has not received his backpay and benefits. Employee explained that he was entitled to backpay in the amount of three hundred and forty-one thousand and twenty-nine dollars and sixty-two cents ($341,029.62). Employee also states that he was entitled to five percent (5%) contribution to his retirement for a total retirement contribution of twelve thousand one hundred and one dollars and thirty-eight cents ($12,101.38). Additionally, Employee contends that "there is also the loss of growth investments of Petitioner's 401a fund during the backpay period, that is, twenty-four thousand eight hundred ninety-one dollars and sixty-one cents ($24,891.61)." Employee avers that the total backpay Agency owed him as of November 16, 2023, was three hundred ninety thousand six hundred seventy-nine dollars and fourteen cents. ($390,679.14).

Employee avers that Agency failed to engage in good faith in the discovery and the collaborative process. Employee asserts that Agency's claim that it has complied with the April 18, 2023, ID Order is meritless. He highlights that (1) Agency has permanently contracted out the physical aspects of Employee's position; (2) Agency failed to consider the impact of the Third-Party Contractor system; (3) Agency penalized Employee and his disability as a means to disqualify him for the Elevator Inspector position; and (4) that Agency failed to deal fairly with Employee in the interactive process.

Employee argues that Agency cited in the July 1, 2025, Final Fitness for Duty and Reasonable Accommodation Reassignment Determination, and its subsequent July 22, 2025, Addendum Fitness for Duty and Reasonable Accommodation Reassignment findings that it could

not accommodate Employee's request for an accommodation because Employee allegedly could not meet the physical requirements of his position. Employee cites that Agency, however, did not determine what duties of the position Employee applied to, that he could perform. Employee contends that Agency focused on Employee's physical disability and not its accommodation of that disability. Employee notes that although Agency was obligated to provide Employee with reasonable accommodation such as (1) changes to the work environment; or (2) changes to the manner or circumstances in which the position is normally performed; Agency failed to do so. Employee cites that Agency failed to comply with his doctors' requests to be placed on light-duty.

Employee states that Agency currently has two (2) Elevator Inspectors on light duty and that these Elevator inspectors do not go into the field. Employee avers that these employees work from home and they no longer perform the physical aspects of the position because of the creation of the Third-Party Contractor Program. Employee contends that the creation of the Third-Party Contractor Program in 2002 changed the performance of the physical duties performed by Code Compliance Specialists in Employee's unit. Employee explains that since the creation of the Third-Party Program, building owners can choose to use third party contractors or District employees. Employee states that because "the Third-Party Contractor Program affected the duties performed by those individuals working as Elevator Inspectors, it is well established that the physical requirements of the Code Compliance Specialist were contracted out as a matter of law."

Employee asserts that Agency failed to consider the impact of the Third-Party Contractor Program on the duties performed by its Code Compliance Specialists (Elevator). Employee highlights that the field work for building trade professionals is performed by the third-party contractors. Employee avers that he informed Agency during the May 7, 2025, meeting that while the physical requirements of the position are listed in the job description for the Code Compliance Specialists positions, that aspect of the job is completed by the third-party contractors and not Agency's employees. Employee also notes that although part of the job description for the Code Compliance Specialists position, he had never had to move elevator parts, work in cramped spaces, or lift materials 2-30 pounds. He also cites that he does not know how to lip sync or read lips. Employee contends that Agency used inaccurate position description in the Knowledge and Guideline areas, which required an understanding of the ICC rules when Elevator Inspectors were exempt from its coverage. Employee also cites that Agency used an inaccurate position description that required the knowledge of housing code regulations that had been repealed. Employee maintains that Agency failed to consider the changes in the duties of Elevator Inspectors with the advent of the Third-Party Contractor Program over twenty (20) years ago that took over the physical demands of the position.

Employee explains that Agency penalized him by using his disability to disqualify him for the Elevator Inspector position, in violation of 6-B DCMR 2006.2 and the District of Columbia Government Manual for Accommodating Employees with Disabilities. Employee cites that despite medical documentation from his doctors supporting his ability to perform desk work and oversight work with restrictions, Agency failed to develop a reasonable accommodation plan. Employee states that he provided Agency with the following options for accommodation: (1) desk-based tasks and paperwork; (2) oversight and non-field duties and work from home practices; and (3) light duty assignments, but Agency failed to consider any of these options. Employee avers that Agency used one element of the Elevator Inspector position – physical demand, to deny his

request to be reinstated to his Elevator Inspector position. Employee reiterates that the physical demand of his position had been contracted out to the Third-Party Program. He asserts that the Third-Party Program Manual covered the Elevator Inspector and Building Code Inspector jobs that Employee qualified for, and Agency conducts oversight of the Third-Party Program. Employee highlights that the oversight involves periodic and random audits, to include quality assurance inspection of all Third-Party Agencies. Employee asserts that he could participate in the oversight procedures in the capacity of either an Elevator Inspector or Building Inspector. Employee contends that Agency could have accommodated him by assigning him to the oversight process of the Third-Party Program which was ongoing when he requested light duty. However, Agency focused on what Employee could not do as a basis to render a determination that Employee was unfit for duty.

Employee argues that Agency failed to deal fairly with him during the interactive process. Specifically, Employee notes that Agency acted in bad faith during the discovery process by objecting to all his interrogatories. Additionally, Employee contends that Agency did not demonstrate that accommodating Employee would impose an undue hardship on Agency, in compliance with ADA Title 1 and EEOC requirements.

Employee further notes that Agency's claim that he is not entitled to back pay and benefits is without merit. Employee avers that whether or not he is entitled to backpay requires consideration as to whether he was fit for duty or whether Agency had standing to raise such a claim after engaging in a blatant act of bad faith during the interactive process. Employee reiterates that Agency remained fixated on his disability while ignoring to consider the impact of the Third-Party Program. Employee reiterates that he could perform the duties of the Elevator Inspector with light-duty accommodation as required by his doctors on October 29, 2023; November 30, 2023; and May 14, 2025. He avers that his condition has continued to progress with time. Employee cites that Agency is seeking to avoid its responsibility under the final Order of November 2023, as such, this Office should compel Agency to pay him back pay and reinstate him with reasonable accommodation in an oversight position where he would review requests from Third-Party Contractor Program as other employees in his unit.

Analysis

OEA Rule 640[19] addresses compliance and enforcement of Orders issued by this office. OEA Rule 640.1 provides that unless the Office's final decision is appealed to the Superior Court of the District of Columbia, the District agency shall comply with the Office's final decision within thirty (30) calendar days from the date the decision becomes final. In the instant matter, an ID was issued on April 18, 2023, reversing Agency's decision to terminate Employee and requiring Agency to reinstate and pay back pay and benefits to Employee. Agency filed an appeal of this decision with the OEA Board. Thereafter, On September 8, 2023, Agency filed a Pracipe Withdrawing Agency's Petition for Review, citing therein that "*Agency will move forward in complying with the ID's Order to reinstate Employee and reimburse him all back-pay and benefits lost as a result of his termination*." (Emphasis added). On November 16, 2023, the OEA Board issued an Opinion and Order on Petition for Review ("O&O") dismissing Agency's Petition for

[19] 6-B DCMR Ch. 600 (December 27, 2021).

Review. Agency did not appeal the OEA Board's decision, accordingly, this decision became the final decision in this matter.

Reinstatement

Agency argues that because of Employee's inability to perform the essential functions of the Elevator Inspector position with or without accommodation, Agency is unable to reinstate Employee to his previous position of record or a comparable one as required by the April 18, 2023, ID and the November 16, 2023, O&O. Agency cites that pursuant to 6-B DCMR § 2000.2, each District employee must be able to complete the essential function of their job with or without reasonable accommodation. Agency further cites that pursuant to 6-B DCMR § 2004.2, the personnel authority may require an individual to undergo medical evaluation whenever there is an objectively reasonable concern about the employee's ability to meet the established physical requirements of the job. Agency also notes that pursuant to 6-B DCMR § 2004.3, the personnel authority may disqualify or separate an employee if the employee cannot meet the established physical requirements of the job.

Pursuant to 6-B DCMR § 2004.2 (c), "The personnel authority may require an individual who has applied for or occupies a job with established physical or mental requirements, including requirements for selection or retention, or established occupational or environmental standards, to undergo a medical evaluation:

(a) After an offer of employment has been made to a job applicant and prior to appointment (including reemployment based on full or partial recovery from a medical condition);

(b) On a regularly recurring, periodic basis; or

(c) *Whenever there is an objectively reasonable concern about an employee's continued ability to meet the established physical or mental requirements of the job*. (Emphasis added).

While I agree with Agency's concerns regarding Employee's continued ability to meet the established physical or mental demands of his job, I find that because Employee was terminated effective February 13, 2021, Agency would have to first reinstate Employee before requiring him to undergo medical evaluation pursuant to 6-B DCMR § 2004.2 (c).[20] Agency acknowledged that it would "…. *reinstate Employee and reimburse him all back-pay and benefits lost as a result of his termination*" in its September 8, 2023, submission to the OEA Board, but it has still not reinstated Employee as of the date of this decision. (Emphasis added). Because Agency has not reinstated Employee as required in the April 18, 2023, ID, I find that 6-B DCMR § 2000.2, 6-B DCMR § 2004.2, and 6-B DCMR § 2004.3 is not applicable to the current matter. Additionally, since Employee does not currently occupy a job within Agency or the District government, I find that any requests for reasonable accommodation at this point is inconsequential.

[20] Agency could have reinstated Employee and placed him on leave or reassigned him before requesting a fitness-for-duty evaluation and explore options for accommodation/reassignment.

Additionally, although decisions from the Merit Systems Protection Board ("MSPB"), this Office's federal counterpart are not binding on OEA, this Office has historically relied on its decisions for guidance.[21] In *Gorny v. Department of the Interior*, 115 M.S.P.R. 520, the MSPB Board noted that when "a personnel action [is] unwarranted, the aim is to place the appellant, as nearly as possible, in the situation she would have been in had the wrongful personnel action not occurred."[22] While also citing to *Kerr v. National Endowment for the Arts*,[23] the MSPB Board further noted that, this is called *status quo ante* relief.[24] The MSPB Board in *Gorny* explained that "the displacement of other individuals is sometimes necessary to afford an appellant, as nearly as possible, *status quo ante* relief." Accordingly, in the instant matter, Agency was required to reinstate Employee to his previous position of record – Elevator Inspector, even if it had to displace other individuals at Agency.

Moreover, the MSPB Board in *Gorny*, citing to *Miller v. Department of the Army*, 109 M.S.P.R. 41, (2008)), noted that "if the agency does not return the employee to her former position, *it must show first that it has a strong overriding interest or compelling reason requiring reassignment to a different position, and second that it has reassigned the employee to a position that is substantially similar to the former position* (emphasis added)." In the current matter, Agency contends that Employee cannot meet the essential functions, specifically the physical demands of his current position because of his disability. However, Agency has failed to offer Employee any other positions or reassign Employee to a position that is substantially similar to his former position. Accordingly, I find that Agency has not complied with the order to reinstate Employee.

Backpay, Benefits and Mitigation

An award of back pay is governed by 6-B DCMR 1149, which provides in pertinent part as follows:

> 1149.2 An employee who, on the basis of a timely appeal of an administrative determination is found, by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have undergone an unjustified or unwarranted personnel action resulting in the withdrawal or reduction of all or part of an employee's pay or benefits, shall be entitled, on correction of the personnel action, to back pay under this section.
>
> 1149.9 Subject to the provisions of §§ 1149.11 and 1149.12, the period for which recomputation is required under § 1149.10 shall be the period covered by the unjustified or unwarranted personnel action that is corrected.

[21] *See Sholanda Miller v. D.C. Metropolitan Police Department*, OEA Matter No. 1601-0325-10R15, Opinion and Order on Remand, at 8(June 6, 2017).
[22] *Citing Tubesing v. Department of Health and Human Services*, 112 M.S.P.R. 393, ¶ 5 (2009) (*citing House v. Department of the Army*, 98 M.S.P.R. 530, ¶ 9 (2005)).
[23] 726 F.2d 730 (Fed. Cir. 1984).
[24] *See also*, *Kerr*, *supra*.

> 1149.10 When an appropriate authority corrects or directs the correction of an unjustified or unwarranted personnel action, the agency shall determine the employee's back pay entitlement by recomputing for the period covered by the corrective action the pay and benefits of the employee as if the unjustified or unwarranted personnel action had not occurred, but in no case shall the employee be granted more pay or benefits than he or she would have been entitled by law, Mayor's Order, regulation, or agency policy.

Agency contends that Employee is not eligible for backpay or benefits because: (1) he was incapacitated due to his disability and not capable of performing the essential duties of his position; and (2) there is no evidence that Employee has been actively seeking employment to mitigate his damages. Regarding Agency's first argument that Employee was incapacitated due to his disability and not able to perform the essential duties of his position, I find that the record supports this assertion. Employee became disabled and unable to perform his duties prior to the effective date of his termination. Based on the record, Employee's last day of work due to his disability was July 10, 2019, and he was covered under disability insurance effective July 11, 2019. However, Employee testified during the November 15, 2022, Evidentiary Hearing that as of the date of the Evidentiary Hearing, he was ready to return to work. Additionally. Dr. Griffiths cited in the DCHR Private Physician's or Practitioner's Work Status Recommendation ("Fitness-for Duty") forms he completed on October 30, 2023, and November 29, 2023, that "for the period beginning *December 14, 2021* through present, the employee may continue to perform all duties required for the position."[25] (Emphasis added). Dr. Griffiths also noted in his January 16, 2024, Fitness-for-Duty form that "for the period beginning *October 23, 2023* through present, the employee may continue to perform all duties required for the position."[26] (Emphasis added).

Pursuant to 6-B DCMR 1149.11(a), "in computing the amount of back pay under this section, the agency shall not include any of the following:

> (a) *Any period during which the employee was not ready and able to perform his or her job because of an incapacitating illness*, except that the agency shall grant, upon the request of and documentation by the employee, any sick leave or annual leave to his or her credit to cover the period of incapacity by reason of illness." (Emphasis added).

Accordingly, based on 6-B DCMR 1149.11(a), I find that Employee is not entitled to back pay for the period he was unable to perform his job because of an incapacitating illness, which pursuant to the record, spans from July 10, 2019, to at least December 13, 2021. I further find that because Dr. Griffiths asserted that Employee could perform his job effective December 14, 2021, Employee is entitled to back pay and benefits from that date. Pursuant to 6-B DCMR 1149.2, *supra*, "[a]n employee who, on the basis of a timely appeal of an administrative determination is found, by appropriate authority under applicable law, rule, regulation, or collective bargaining agreement, to have undergone an unjustified or unwarranted personnel action resulting in the

[25] Agency's Statement of Compliance at Attachment 6 (July 28, 2025).
[26] *Id*.

withdrawal or reduction of all or part of an employee's pay or benefits, shall be entitled, on correction of the personnel action, to back pay under this section."

Further, E-DPM Instruction No. 11B-80 (II)(a) (October 4, 2011), highlights that, upon authorization from the appropriate authority to correct the personnel action, an agency shall determine the employee's back pay entitlement by recomputing the period covered by the action. The affected employee's pay and benefits (as prescribed by law and regulation) shall be recomputed as if the unjustified or unwarranted personnel action had not occurred. E-DPM Instruction No. 11B-80 (II)(b)(2)(i) additionally provides that, when an employee is entitled to receive back pay, the agency shall offset and deduct from the gross back-pay award, "*authorized deductions that would have been made from the employee's pay … subject to any applicable law or regulation, including, but not limited to, the following types of deductions as applicable*: mandatory retirement contributions … (emphasis added)." In addition, the April 18, 2023, ID Ordered Agency to reimburse Employee *all back-pay and benefits* lost as a result of the separation (emphasis added). 6-B DCMR § 1149 defines 'benefits' as "monetary and employment benefits to which an employee is entitled by law or regulation, including but not limited to health and life insurance, and excluding pay as defined in this section." Accordingly, I find that in its calculation of Employee's back pay, Agency can offset and deduct from Employee's gross back pay any deductions authorized by applicable law or regulation, including any payments Employee received from his long-term disability provider, Standard Insurance, *if this is authorized by applicable law and regulations*. (Emphasis added).

Agency also argues that there is no evidence that Employee has been actively seeking employment to mitigate his damages. Agency argues that pursuant to 6-B DCMR § 1149.11(c), an agency will not include any period after one (1) year from the date of unwarranted or unjustified personnel action where it is determined that an Employee has not actively sought employment. Agency asserts that there is no evidence in the record that Employee has been actively seeking employment to mitigate his damages, therefore, Employee is not entitled to any backpay. Employee testified during the Evidentiary Hearing that as of the date of the Evidentiary Hearing, he had not done any criminal justice work since approximately 2018.

6-B DCMR § 1149.11(c) provides that, "in computing the amount of back pay under this section, *the agency shall not include* any of the following:

…..

(c) *Any period after one (1) year from the date of the unjustified or unwarranted personnel action where it is determined that an employee has not actively sought employment*. (Emphasis added).

Further, the D.C. Court of Appeals has held that an employee who has been improperly discharged must exercise "reasonable diligence in seeking alternative employment."[27]

[27] *Wisconsin Avenue Nursing Home v. D.C. Commission on Human Rights*, 527 A.2d 282 (D.C. 1987). *Wisconsin Avenue Nursing Home* involved a discriminatory discharge. Nonetheless, the principles regarding mitigation set forth in the case are applicable here.

Additionally, the Court also held that "minimal efforts to seek employment . . . [are] not reasonably diligent."[28] In *EEOC v. Service News Co.,* 898 F.2d 958, 963 (4th Cir.1990), the Court held that "[l]ooking through want ads for an unskilled position, without more, is insufficient to show mitigation, and the back pay award should accordingly be reduced."

The U.S. Court of Appeals ("CA") held in *Ellis v. Ringgold School Dist.,*[29] that plaintiff was responsible for mitigating her damages by seeking other employment. That obligation compels a plaintiff to seek "amounts earnable with reasonable diligence."[30] The duty of mitigation may require that a plaintiff accept a lower paying position if one equivalent to that from which she was barred is unavailable.[31] Here, Dr. Griffiths cited that Employee could perform his job effective December 2021, yet, the record is void of any evidence to suggest that Employee actively sought employment after he was unjustly terminated on February 13, 2021 and when the November 16, 2023, O&O became final. Consequently, I find that because Employee was not able to perform his job for the period of February 13, 2021, to December 13, 2021 due to his disability, in compliance with 6-B DCMR §§ 1149.11 (a) and (c), Employee is only entitled to one (1) year of back pay from December 14, 2021, to December 13, 2022.

[28]527 A.2d at 292 (citing *Sangster v. United Air Lines, Inc.*, 633 F.2d 864, 866 & n.2 868 (9th Cir. 1980)).
[29] 832 F.2d at 29.
[30]*Craig v. Y & Y Snacks,* 721 F.2d at 82.
[31] *Ford Motor Company v. EEOC,* 458 U.S. 219, 231 n. 16, 102 S.Ct. 3057, 3065 n. 16, 73 L.Ed.2d 721 (1982).

ORDER

Based on the aforementioned, it is hereby **ORDERED** that, in accordance with all applicable D.C. laws and regulations:

(1) Agency **SHALL REINSTATE** Employee to his last position of record, or a comparable position.

(2) Agency **SHALL pay Employee ONE (1) year of back pay and benefits lost for the period of December 14, 2021, to December 13, 2022**. Agency **SHALL offset and deduct from Employee's gross back pay any deductions authorized by applicable law or regulation, including any payments Employee received from his long-term disability provider, Standard Insurance, if authorized by applicable law and regulations.**

(3) Agency **SHALL** file with this Office, within 30 calendar days from the date on which this addendum decision becomes final, documents showing compliance with the terms of this Order.

FOR THE OFFICE:

/s/ Monica N. Dohnji
MONICA DOHNJI, Esq.
Senior Administrative Judge

DEPARTMENT OF ENERGY AND ENVIRONMENT

PUBLIC NOTICE

DRAFT FACILITY-WIDE TITLE V OPERATING PERMIT AND GENERAL PERMIT FOR DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY BLUE PLAINS ADVANCED WASTEWATER TREATMENT PLANT

Notice is hereby given that the District of Columbia Water and Sewer Authority has applied for a Title V air quality permit renewal to operate the emission units listed below, pursuant to the requirements of Title 20 of the District of Columbia Municipal Regulations, Chapters 2 and 3 (20 DCMR Chapters 2 and 3) and that the Air Quality Division (AQD) of the Department of Energy and Environment (DOEE) is proposing to issue Permit No. 038 in response to this application. The facility is located at 5000 Overlook Avenue SW, Washington, DC 20032.

The contact person for the facility is Meena Gowda, Vice President and Deputy General Counsel, at (202) 787-2628 or meena.gowda@dcwater.com.

Emission Units				
Emission Unit ID	**Location/Stack ID**	**Emission Unit Name**	**Chapter 2 Permit No.** †	**Description**
C7-2 & C8-2	Central Maintenance Facility- C7-2 & C8-2	CMF boilers	6422-A1 and 6423-A1	Two (2) 5.979 MMBTU/hr natural gas-fired Cleaver Brooks boilers: Model CBLE 150-15ST
AB	Combined Heat and Power Plant – AB	Auxiliary Boiler	6372-C2/O	One (1) auxiliary boiler rated at 62.52 MMBTU/hr firing digester gas and 61.79 MMBTU/hr firing natural gas
CT-1, CT-2, CT-3	Combined Heat and Power Plant – CT-1, CT-2, CT-3	Combustion Gas Turbines	6372-C2/O	Three (3) Solar Mercury 50 Combustion Gas Turbines rated at 46.3 MMBTU/hr each firing digester gas or a combination of digester gas and natural gas
DB1, DB2, DB3	Combined Heat and Power Plant –DB1, DB2, DB3	Duct Burners	6372-C2/O	Three (3) Heat Recovery Steam Generators (HRSGs) with supplemental

Emission Units				
Emission Unit ID	**Location/Stack ID**	**Emission Unit Name**	**Chapter 2 Permit No.** †	**Description**
				firing by Duct Burners rated at 21 MMBTU/hr each, firing digester gas
SF	Combined Heat and Power Plant –SF	Siloxane Flare	6372-C2/O	One (1) Siloxane flare rated at 6.14 MMBTU/hr firing digester gas
EF-1 & EF-2	Main Process Train –EF-1 & EF-2	Emergency Flares	6372-C2/O	Two (2) Emergency flares rated at 126 MMBTU/hr each firing digester gas
MPTOS	Main Process Train - MPTOS	Biological Odor Scrubber	6372-C2/O	One (1) 58,000 cfm odor scrubber
FDFOS	Final Dewatering Facility - FDFOS	Dual Stage Chemical Scrubber	6372-C2/O	One (1) 54,000 cfm chemical odor scrubber
PT1, PT2, PT3, PT4, PT5, PT6	PT1-BH, PT2-BH, PT3-BH, PT4-BH, PT5-BH, PT6-BH	Polymer Storage Silos equipped with Baghouses	None	Six (6) polymer storage silos with baghouses estimated to have been installed between 2002 and 2003.
DCST-1, DCST-2, DCST-3, DCST-4	Enhanced Nitrogen Removal Facility – DCMVS-1 & DCMVS-2	Denitrification Carbon Storage Tanks	6347-R2	Four (4) 60,000 gallon above-ground denitrification carbon storage tanks
DCMVS-1 & DCMVS-2	Enhanced Nitrogen Removal Facility – DCMVS-1 & DCMVS-2	Denitrification Carbon Methanol Vapor Scrubbers	6347-R2	Two (2) Duall packed tower carbon methanol vapor scrubbers
GSLS-1 & GSLS-2	Grit and Screenings Loading Station – GSLS-1 & GSLS-2	One-stage Chemical Odor Scrubber	7067-A1 and 7068-A1	One (1) 45,000 cfm, chemical odor scrubber and one (1) 71,400 cfm chemical odor scrubber

Emission Units				
Emission Unit ID	**Location/Stack ID**	**Emission Unit Name**	**Chapter 2 Permit No.** †	**Description**
DSLF	Dewatered Sludge Loading Facility – DSLF	Two-staged packed-bed wet odor scrubbers	6472-C2	One (1) 54,000 cfm Indusco odor scrubber
TDPS-EG	South of TDPS-TDPS-EG	Tunnel Dewatering Pumping Station Diesel-fired Emergency Generator	7048-SC-0235-R1 (previously 7126)	One (1) 250 kWe MTU emergency generator powered by a 418 hp (312 kWm) MTU diesel-fired engine.
ECF-OS1, ECF-OS2, & ECF-OS3	North of the Grit Removal Facility – ECF-OS1, ECF-OS2, & ECF-OS3	Carbon Adsorbers	7127, 7128, and 7130, respectively.	Three (3) identical DARCO H_2S radial carbon adsorber odor scrubbers, each rated at 28,700 cfm
TDPS-OS4	South of TDPS-TDPS-OS4	Carbon Adsorber	7129	One (1) DARCO H_2S vertical carbon adsorber odor scrubber, rated at 3,500 cfm

† These permits are being incorporated into the Title V permit at the time of issuance of permit No. 038 and will cease to exist as separate permits (except for historical purposes) with that incorporation.

In addition to the significant units listed above, DC Water identified in their application the following insignificant units:

- Small natural gas-fired hot water heaters with heat input ratings less than 5 MMBTU/hr;
- Natural gas-fired kitchen equipment including dining facilities;
- Natural gas-fired space heaters/furnaces and packaged HVAC units;
- Small boilers with heat input less than 5 MMBTU/hr;
- Nine degreasers;
- Filtrate treatment facility with two feed tanks and six batch reactors;
- Ten gravity thickners;
- Twelve centrifuges
- Inorganic storage tanks;
- 30,000 gallon alternate carbon tank for the storage of pure glycerol, tank ACST-1;
- One 1,575 gallon storage tank for ULSD; and
- Two 500 gallon portable diesel tanks; and
- One 500 gallon used oil tank.

EMISSIONS SUMMARY:

The following is an estimate of overall potential emissions from the facility:

FACILITY-WIDE EMISSIONS SUMMARY	
Criteria Pollutants	**Potential Emissions (tons per year)**
Oxides of Sulfur (SO_x)	26.56
Oxides of Nitrogen (NO_x)	132.92
Total Particulate Matter, including condensables (PM Total)	23.13
Volatile Organic Compounds (VOC)	33.01
Carbon Monoxide (CO)	143.25
Total Hazardous Air Pollutants (Total HAP)	22.23
Methanol (the individual HAP with the highest potential to emit)	8.27

Blue Plains Wastewater Treatment Plant has the potential to emit 132.92 tons per year (TPY) of NO_x, 33.01 TPY of VOC, and 143.25 TPY of CO. The value for these criteria pollutants exceed the major source thresholds in the District of Columbia of 25 TPY of NO_x or VOC, and/or 100 TPY of any other criteria pollutant. Because potential emissions of NO_x, VOC, and CO exceed the relevant major source thresholds, pursuant to 20 DCMR 300.1(a), the source is subject to Chapter 3 and must obtain an operating permit in accordance with that regulation and Title V of the federal Clean Air Act.

The Department of Energy and Environment (DOEE) has reviewed the permit application and related documents and has made a preliminary determination that the applicant meets all applicable air quality requirements promulgated by the U.S. Environmental Protection Agency (EPA) and the District. Therefore, draft permit No. 038 has been prepared.

The application, the draft permit, and all other materials submitted by the applicant [except those entitled to confidential treatment under 20 DCMR 301.1(c)] considered in making this preliminary determination are available for public review during normal business hours at the offices of the Department of Energy and Environment, 1200 First Street NE, 5th Floor, Washington DC 20002. Copies of the draft permit and related fact sheet are available at https://doee.dc.gov/service/public-notices-hearings.

A public hearing on this permitting action will not be held unless DOEE has received a request for such a hearing within 30 days of the publication of this notice. Interested parties may also submit written comments on the permitting action.

Comments on the draft permit and any request for a public hearing should be addressed to:

Stephen S. Ours
Chief, Permitting Branch
Air Quality Division
Department of Energy and Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
stephen.ours@dc.gov

No comments or hearing requests submitted after May 4, 2026 will be accepted.

For more information, please contact John Nwoke at (202) 724-7778 or john.nwoke@dc.gov.

FRIENDSHIP PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Exterior and Interior Wayfinding sign Design and Consulting Services

- Friendship Public Charter School – Exterior and Interior Wayfinding sign Design, Planning, Fabrication, Installation Consulting Services

  The competitive Request for Proposal can be found on FPCS website at http://www.friendshipschools.org/procurement/. Proposals are due no later than **4:00 P.M., EST, Wednesday, April 1, 2026**. No proposals will be accepted after the deadline. Questions can be addressed to ProcurementInquiry@friendshipschools.org .

DEPARTMENT OF HEALTH
HEALTH SYSTEMS AND PREPAREDNESS ADMINISTRATION

NOTICE OF VIRTUAL MEETING

Board of Medicine
March 25, 2026

On March 25, 2026, at 8:30 am, the Board of Medicine will hold a virtual meeting to consider and discuss a range of matters impacting competency and safety in the practice of medicine.

The meeting will be open to the public from 8:30 am to 10:30 am to discuss various agenda items and any comments and/or concerns from the public.

In accordance with Section 405(b) of the Open Meetings Amendment Act of 2010, the meeting will then move to Closed Session from 10:30 am until 4:00 pm to plan, discuss, or hear reports concerning licensing issues, ongoing or planned investigations of practice complaints, and violations of law or regulations.

The meeting will be conducted via videoconference. The public may attend the open session through one of the following:

Meeting link:
https://dcnet.webex.com/dcnet/j.php?MTID=m7f823658b3b1e1556a59c90709042b04

Meeting number:
160 487 2313

Password:
eTJJfPgx322

Join by video system
Dial 1604872313@dcnet.webex.com
You can also dial 173.243.2.68 and enter your meeting number.

Join by phone
+1-202-860-2110 United States Toll (Washington D.C.)
1-650-479-3208 Call-in number (US/Canada)
Access code: 160 487 2313

Executive Director for the Board – Emilia Moran, Interim Executive Director
(Emilia.Moran@dc.gov)

DISTRICT OF COLUMBIA
HISTORIC PRESERVATION REVIEW BOARD

NOTICE OF HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATIONS

The D.C. Historic Preservation Review Board hereby provides public notice of its decision to designate the following property as a historic landmark in the D.C. Inventory of Historic Sites. The property is now subject to the D.C. Historic Landmark and Historic District Protection Act of 1978.

Designation Case No. 26-02: Shrine of the Sacred Heart
32111 Pine Street NW (Square 2675, Lot 826)
Designated February 26, 2026
Applicant: D.C. Preservation League
Affected Advisory Neighborhood Commission: 1A

Listing in the D.C. Inventory of Historic Sites provides recognition of properties significant to the historic and aesthetic heritage of the nation's capital city, fosters civic pride in the accomplishments of the past, and assists in preserving important cultural assets for the education, pleasure and welfare of the people of the District of Columbia.

DC DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

NOTICE OF 2026 PUBLIC MEETING SCHEDULE

District of Columbia Housing Production Trust Fund Advisory Board

The DC Department of Housing and Community Development hereby announces that the District of Columbia Housing Production Trust Fund Advisory Board will hold regularly scheduled public meetings in the year 2026 at 12:30 pm, on the third Thursday of the month. Here are following scheduled dates:

April 23rd Special Meeting
May 21st Regular Meeting
June 18th Regular Meeting
July 16th Regular Meeting
August 20th Regular Meeting
September 17th Regular Meeting
October 15th Regular Meeting
November 19th Regular Meeting
December 17th Regular Meeting

The public meetings shall take place at the DC Department of Housing and Community Development, 1909 Martin Luther King Jr., Avenue SE, Washington, DC 20020 or virtually in accordance with provisions of the Open Meetings Act. For additional information on the Housing Production Trust Fund Advisory Board Meetings, visit DHCD.dc.gov, email dhcd.occo@dc.gov, or contact DHCD by phone at 202-442-7200.

IDEA INTEGRATED DESIGN AND ELECTRONIC ACADEMY PUBLIC CHARTER SCHOOL

REQUEST FOR PROPOSALS

Rooftop HVAC Unit Replacement

IDEA Integrated Design and Electronic Academy PCS solicit proposals for the following services:

- Rooftop HVAC Unit Replacement

Full RFP available by request. All proposals must be submitted in PDF format and emailed to bids@ideapcs.org no later than 5:00 PM on **Wednesday, April 22, 2026**. No phone calls please.

KIPP DC PUBLIC CHARTER SCHOOLS

REQUEST FOR PROPOSALS

Special Education Instructional and Operational Systems Review

KIPP DC is soliciting proposals from qualified vendors for Special Education Instructional and Operational Systems Review. The RFP can be found on KIPP DC's website at www.kippdc.org/procurement. Proposals must be uploaded to the website by March 31, 2026. Questions must be addressed to irum.pierce@kippdc.org by Thursday, March 26, 2026.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

NOTICE OF RESCHEDULED PUBLIC MEETING

District of Columbia Industrial Trades

The District of Columbia Board of Industrial Trades ("Board") hereby gives notice of its regular meeting, pursuant to the section 406 of the Open Meetings Act of 2010, effective January 19, 2011 (D.C. Law 18-350; D.C. Official Code § 2-576). The proposed agenda for each meeting will be posted on the Department of Licensing and Consumer Protection's website at www.dlcp.dc.gov and the Office of Open Government's website at https://www.open-dc.gov/public-bodies/meetings, not less than forty-eight (48) hours before the meeting.

The Board will hold its next meeting on Tuesday, March 24, 2026, at 1 p.m.

The Board holds its meeting quarterly at the time specified. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Chanda Kearney, Board Administrator, at (202) 6600-0509 or chanda.kearney@dc.gov.

DRAFT AGENDA

1. Call to Order – 1:00 p.m.
2. Attendance
3. Comments from the public
4. Approval of minutes
5. Old Business
6. New Business
   Motion - Executive Session, which is closed to the public, in order to consult with our attorneys to seek legal advice; to discuss disciplinary matters; and to deliberate upon decisions in adjudication actions and proceedings, as provided by D.C. Code § 2-575(b)(4)(A), § 2-575(b)(9), and § 2-575(b)(13). We will resume the public portion of the meeting at the conclusion of the executive session. Please stand by for our return if you are participating online.
7. Adjourn
8. Next Scheduled Commission Meeting – June 16, 2026, via Zoom.

Meeting Login Information:
https://dcgov.zoom.us/j/84842261805?pwd=VMMWRvZQxlracdz1mtOQH523BzFFhz.1
Webinar ID: 848 4226 1805; **Password:** 397755

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at open.govoffice@dc.gov.

DEPARTMENT OF LICENSING AND CONSUMER PROTECTION

District of Columbia Board of Professional Engineers

NOTICE OF PUBLIC MEETING

The District of Columbia Board of Professional Engineers ("Board") hereby gives notice of its upcoming meeting, pursuant to the section 406 of the Open Meetings Act of 2010, effective January 19, 2011 (D.C. Law 18-350; D.C. Official Code § 2-576). The proposed agenda for each meeting will be posted on the Department of Licensing and Consumer Protection's website at www.dlcp.dc.gov and the Office of Open Government's website at https://www.open-dc.gov/public-bodies/meetings, not less than forty-eight (48) hours before the meeting.

The Board will hold its upcoming meeting on Thursday, March 26, 2026, at 11:00 a.m.

The Board holds its meetings on the fourth Thursday of every month (except for April, August, November, and December) at 11:00 a.m. The meetings are open to members of the public virtually through Zoom. For additional information, please contact Ms. Avis B. Pearson, Board Administrator, at (202) 615-2331 or avis.pearson@dc.gov.

Draft Agenda

1. Call to Order – 11:00 a.m.
2. Attendance
3. Comments from the Public
4. Approval of Minutes
5. Old Business
6. New Business
   Motion - Executive Session, which is closed to the public, in order to consult with our attorneys to seek legal advice; to discuss disciplinary matters; and to deliberate upon decisions in adjudication actions and proceedings, as provided by D.C. Code § 2-575(b)(4)(A), § 2-575(b)(9), and § 2-575(b)(13). We will resume the public portion of the meeting at the conclusion of the executive session. Please stand by for our return if you are participating online.
7. Adjourn
8. Next Scheduled Commission Meeting – April 23, 2026, via Zoom.

Meeting Login Information
https://dc-gov.zoom.us/j/84982925588?pwd=yoDQWz2MrzWmHOFyeNULCPY2OnUUkm.1
Webinar ID: 849 8292 5588; **Password:** 032626

***** This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov***

OFFICE OF OUT OF SCHOOL TIME GRANTS AND YOUTH OUTCOMES

NOTICE OF PUBLIC MEETING

Commission on Out of School Time Grants and Youth Outcomes

The Commission on Out of School Time Grants and Youth Outcomes will hold a **virtual** public meeting on Thursday, March 26, 2026 from 6:00 pm to 8:00 pm. The meeting will be held online via Microsoft Teams by clicking here. The OST Commission will hear updates from the Office of Out of School Time Grants and Youth Outcomes and the OST Commission.

Individuals and representatives of organizations who wish to comment at a public meeting are asked to notify the OST Office in advance by phone at (202) 746-3075 or by email at learn24@dc.gov. Individuals should furnish their names, addresses, telephone numbers, and organizational affiliation, if any, and if available, submit one electronic copy of their testimony by the close of business on Tuesday, March 24, 2026 at 5:00 pm.

Below is the draft agenda for the meeting.

I. Call to Order
II. Public Comment
III. Announcement of a Quorum
IV. Approval of the Agenda
V. Approval of Minutes
VI. Office of Out of School Time Grants and Youth Outcomes Updates
VII. OST Commission Updates
VIII. Adjournment

The Office of Out of School Time Grants and Youth Outcomes (OST Office) and the OST Commission support the equitable distribution of high-quality, out-of-school-time programs to District of Columbia youth through coordination among government agencies, grant-making, data collection and evaluation, and the provision of technical assistance to service providers. The OST Commission's purpose is to develop a District-wide strategy for equitable access to out-of-school-time programs and to facilitate interagency planning and coordination for out-of-school time programs and funding.

Date: March 26, 2026
Time: 6:00 p.m. – 8:00 p.m.
Location: Join here.
Contact: Khadija Jones
Operations Specialist
Office of Out of School Time Grants and Youth Outcomes
Office of the Deputy Mayor for Education
(202) 746 – 3075
Khadija.jones1@dc.gov

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov.

DISTRICT OF COLUMBIA

DEPARTMENT OF PARKS AND RECREATION

NOTICE OF APPLICATION
4OO MASS AVENUE DOG PARK

Notice is hereby given that, pursuant to the authority set forth in § 9a D.C. Law 3-30; D.C. Official Code § 8-1808.01 (2006 Supp.), and Chapter 7 of Title 19 (Amusements, Parks and Recreation) of the District of Columbia Municipal Regulations, Section 730-735, dated December 7, 2007, that the District Department of Parks and Recreation is reviewing an application for a dog exercise area at "400 Mass Ave", located specifically north and northwest of 400 Mass Ave Condos located 400 Massachusetts Ave NW, Washington, DC 20001.

The proposed application seeks to install and operate an off-leash dog park at the above-referenced location. Interested parties wishing to review the application can review the application in-person at the District Department of Parks and Recreation headquarters at 1275 First Street, NE on the 8th floor. The application is also available at: http://dpr.dc.gov/page/dog-parks

Interested persons may submit written comments within thirty (30) days of publication of this notice. The written comments must include the person's name, telephone number, affiliation, if any, mailing address, and statement outlining the issues in dispute or support surrounding the implementation of a dog park. All relevant comments will be considered in reviewing the dog park application. **Written comments postmarked after April 20, 2026, will not be accepted.**

Address written comments to:

Office of Planning & Capital Projects
District Department of Parks and Recreation
Attn: Brent Sisco (Dog Park Comments – 400 Mass Ave Dog Park)
1275 First Street, NE
Washington, DC 2002

To submit comments via email, please email brent.sisco@dc.gov

For more information, please contact DPR Customer Care at (202) 673-7647.

PAUL PUBLIC CHARTER SCHOOL

REQUESTS FOR PROPOSALS

10 year Facilities Master plan architectural services

Paul PCS currently occupies a 170,000 SF facility with approximately 750 students and 150 staff. The building is approaching its 100th anniversary, and has an addition constructed in 2015 Paul PCS seeks to develop a new 10 year facilities plan to ensure we continue to maintain this historic structure in the best ways possible.

Request the full RFP with wall bidding requirements from business-office@paulcharter.org.

We will offer one walk through with our Director of Facilities on Friday, April 17, 2026 at 10 AM at 5800 8th Street, NW Washington, DC.

All Questions should be directed to Executive Director of Operations, Kristin Yochum at kyochum@paulcharter.org. (Email ONLY)

All responses are due by 5 PM on Thursday, April 30, 2026.

PAUL PUBLIC CHARTER SCHOOL

REQUESTS FOR PROPOSALS

Technology

Paul Public Charter School is currently seeking bids for:

Technology:

- **HP Chromebook 11 G10 or equivalent:** 382 units

More information about the technology bid is available by request. All submissions are due by Friday April 1, 2026 at 12 noon and must be emailed to business-office@paulcharter.org.

DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

NOTIFICATION OF CHARTER REVIEW

SUMMARY: The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comments on the DC public charter schools listed below which are up for a charter review or renewal on April 27, 2026. Pending DC PCSB staff's analysis, the Board may elect to do one of the following for schools up for review: 1) continue the school's charter without conditions, 2) conditionally continue the school's charter by imposing annual or interim targets or requirements it must meet, or 3) initiate charter revocation proceedings. For schools up for renewal, the Board may elect to do one of the following for each school: 1) renew the school's charter or 2) not renew the school's charter.

Global Citizens Public Charter School (Global Citizens PCS)
Global Citizens PCS is up for its five-year charter review. The school operates one campus in Ward 7. It serves students in grades pre-kindergarten 3 (PK3) – 3. Its mission is "to inspire and prepare the next generation of global citizens. We will do this by supporting students, ages 3 – 11, to reach their full academic and leadership potential in a nurturing learning environment. We will immerse them in the Mandarin and Spanish languages, promote the value of diversity, and equip them with the knowledge, skills, and mindsets they need to contribute to a better world."

Inspired Teaching Demonstration Public Charter School (Inspired Teaching PCS)
Inspired Teaching PCS is up for its 15-year charter renewal. The school operates one campus in Ward 5. It serves students in grades PK3 – 8. Its mission is: "At the Inspired Teaching Demonstration Public Charter School, a professional learning community of master teachers and teacher residents ensures that a diverse group of students achieve their potential as accomplished learners, thoughtful citizens, and imaginative and inquisitive problem solvers through a demanding, inquiry-based curriculum."

Mundo Verde Bilingual Public Charter School (Mundo Verde PCS)
Mundo Verde PCS is up for its 15-year charter renewal. The school operates two campuses in Ward 5. It serves students in grades PK3 – 5. Its mission is: "Mundo Verde PCS aims to foster high levels of academic achievement among a diverse group of students by preparing them to be successful and compassionate global stewards of their communities through an engaging curriculum focused on sustainability and biliteracy."

Pursuant to the School Reform Act, D.C. Code 38-1802 et seq., DC PCSB is required to review each DC public charter school's performance at least once every five years.

PUBLIC MEETING: DC PCSB will discuss and vote on Global Citizens PCS, Inspired Teaching PCS, and Mundo Verde PCS on April 27, 2026, at 5:00 pm. Please check www.dcpcsb.org to register to attend the meeting.

PUBLIC COMMENT INSTRUCTIONS: Comments must be submitted on or before April 27, 2026.[1] You may submit comments by any one of the methods listed below.

Sign up to testify during the public hearing by going to https://dcpcsb.org/public-comment. Click on the "Sign up to Testify at the Meeting" tab to fill out the form. The deadline to sign up to testify is noon on April 27, 2026.

Submit a written comment identified via
Online form at https://dcpcsb.org/public-comment
Postal Mail, Hand Delivery, or Courier: Attn: Public Comment, DC Public Charter School Board, 100 M Street SE, Suite 400, Washington, DC 20003.

Submit audio testimony by phone: Call (202) 328-2660 and select option 2. You will have up to five minutes to record your testimony. Please note that all comments will be transcribed and made available to the public upon receipt.

FOR FURTHER INFORMATION, CONTACT: Gina Lucchesi, Manager of School Quality and Accountability, at glucchesi@dcpcsb.org.

[1] DC PCSB reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all your submission that it may deem to be inappropriate for publication, such as obscene language.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA Application No. 20970-A
The Washington Ballet
3515 Wisconsin Avenue, N.W. (Square 1911, Lot 20)

HEARING DATES (20970):	November 1 and December 6, 2023
DECISION DATE (20970):	December 6, 2023
ORDER ISSUANCE DATE (20970):	December 20, 2023
DECISION DATE (20970-A):	February 25, 2026

SUMMARY ORDER ON REQUEST FOR TWO-YEAR TIME EXTENSION

ORIGINAL APPLICATION. In Application No. 20970, the Board of Zoning Adjustment ("**Board**" or "**BZA**") approved the request by The Washington Ballet (the "**Applicant**") for a special exception pursuant to Subtitle X § 901.2, to expand an existing private school use under Subtitle U § 203.1(m), and pursuant to Subtitle X § 1002, for area variances from the floor area ratio requirements of Subtitle F § 302.1 and from the lot occupancy requirements of Subtitle F § 304.1, to enlarge an existing building for a private school use in the RA-1 zone. The Board issued Order No. 20970 on December 20, 2023 (the "**Order**," Exhibit 3). Pursuant to Subtitle Y § 604.11, the Order became effective ten days after issuance. Pursuant to Subtitle Y § 702.1, the Order was valid for two years from the time it became final.

REQUEST FOR TWO-YEAR TIME EXTENSION. On December 8, 2025, the Applicant submitted a request that the Board grant a two-year extension of Order No. 20970. (Exhibits 1-6.)

NOTICE OF THE REQUEST. Pursuant to Subtitle Y § 705.2(a), the Applicant provided proper and timely notice of the request for time extension to the parties to the underlying case. (Exhibit 2.)

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 3A.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on December 16, 2025, at which a quorum was present, the ANC voted to support the request. (Exhibit 7.)

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the time extension. (Exhibit 8.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record for this time extension application.

CONCLUSIONS

This request for extension is pursuant to Subtitle Y § 705 of the Zoning Regulations, which permits the Board to extend the time periods in Subtitle Y § 702.1 for good cause shown upon the filing of a written request by the applicant before the expiration of the approval.

Pursuant to Subtitle Y § 705.2(a), the Applicant shall serve on all parties to the application and all parties shall be allowed 30 days to respond. Pursuant to Subtitle Y § 705.2(b), the Applicant shall demonstrate that there is no substantial change in any of the material facts upon which the Board based its original approval of the application. Finally, under Subtitle Y § 705.2(c), good cause for the extension must be demonstrated with substantial evidence of one or more of the following criteria: (1) An inability to obtain sufficient project financing due to economic and market conditions beyond the applicant's reasonable control; (2) an inability to secure all required governmental agency approvals by the expiration date of the Board's order because of delays that are beyond the applicant's reasonable control; or (3) the existence of pending litigation or such other condition, circumstance, or factor beyond the applicant's reasonable control.

Based upon the record before the Board and having given great weight to the appropriate recommendations and reports filed in this case, the Board finds that the Applicant has met the criteria of Subtitle Y § 705.2 to extend the validity of the underlying order.

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

DECISION

It is therefore **ORDERED** that the request for a two-year time extension to the validity of the Board's approval in Order No. 20970 is hereby **GRANTED**, and the Order shall be valid until **DECEMBER 20, 2027**.

VOTE: 3-0-2 (Carl H. Blake, Brittney Drakeford, Gwen M. Wright to APPROVE; two Board seats vacant)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 4, 2026

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Application No. 21252-A of the Embassy of the Republic of Cuba, pursuant to 11 DCMR Subtitle Y § 703 for a modification without hearing of the order in Application No. 21252 not disapproving an application to allow a new security fence, requiring grading and a retaining wall, and improvements to an existing enclosure for trash containers and a new emergency generator at an existing chancery in the RA-2 and RA-4 zones at 2630 16th Street, N.W. (Square 2575, Lot 843).

HEARING DATE (21252):	February 26, 2025
DECISION DATE (21252):	March 12, 2025
ORDER ISSUED (21252):	April 8, 2025
MODIFICATION DECISION DATE (21252-A):	March 4, 2026

NOTICE OF FINAL RULEMAKING
and
ORDER APPROVING A MODIFICATION

The Board of Zoning Adjustment, pursuant to the authority set forth in § 206 of the Foreign Missions Act, approved August 24, 1982 (96 Stat. 286; D.C. Official Code § 6-1306) and Chapter 2 of Subtitle X of the Zoning Regulations of the District of Columbia (Title 11 of the District of Columbia Municipal Regulations), hereby gives notice that it took final action not to disapprove a request submitted by the Embassy of the Republic of Cuba ("Applicant") to modify a prior decision that allowed a new security fence, requiring grading and a retaining wall, and improvements to an existing enclosure for trash containers and a new emergency generator at an existing chancery in the RA-2 and RA-4 zones at 2630 16th Street, N.W. (Square 2575, Lot 843) (the "subject property"). The modification clarified that the enclosure will be accessible from Mozart Place via an opaque gate, without a ramp providing street access for a vehicle, and that the enclosure will be bounded by a wrought-iron fence, eight feet high and not opaque, as shown in plans approved by the Order.

The initial order and notice of final rulemaking in this proceeding was issued on April 8, 2025. On September 25, 2025, the Applicant submitted a request for modification without a hearing to address "an inaccuracy in the description of the trash enclosure access and the fencing" in the order. (Exhibit 1.)

A notice of proposed rulemaking for the modification request was published in the December 5, 2025 edition of the *D.C. Register* (72 DCR 13851). The Office of Zoning scheduled a decision meeting on the request for January 21, 2026, and on November 20, 2025 referred the application to the United States Department of State, the National Capital Planning Commission, the District

of Columbia Office of Planning ("OP") and the Historic Preservation Office ("HPO"), the District Department of Transportation, the Department of Buildings, Advisory Neighborhood Commission ("ANC") 1C, whose boundaries encompass the subject property, as well as ANC 1A, also an "affected" ANC,[1] the Single Member District Commissioners for ANC 1A01 and 1C09, the Office of Advisory Neighborhood Commissions, and the Councilmember for Ward 1 as well as the Chairman and the at-large members of the D.C. Council.

THE MODIFICATION

Background. The Board voted on March 12, 2025 not to disapprove the original application, which was accompanied by a letter from the United States Department of State certifying that the Applicant had complied with § 205 of the Foreign Mission Act (22 USC § 4305). The application addressed a new security fence, requiring grading and a retaining wall, and improvements to an existing enclosure for trash containers and a new emergency generator at the rear of the subject property. The Applicant did not propose any changes to the principal building and did not request any other relief related to zoning or public space in the application, which concerned the portion of the subject property abutting Mozart Place that is located in a Residential Apartment (RA) zone, RA-2.

The Order. The Board's determination not to disapprove the application was based solely on the six criteria enumerated in § 206(d) of the Foreign Missions Act, D.C. Official Code § 6-1306(d). With respect to historic preservation, the order reflected that the subject property is located in the Meridian Hill Historic District, in which the principal building is a contributing structure. The order noted that the Applicant had modified the design of the proposed fences, retaining wall, and attendant grading in response to comments from the Office of Planning, including the Historic Preservation Office. Consistent with those comments, the Board determined that the planned enclosure would be "located at the southwest corner of the subject property, 22 feet wide and accessible from the interior of the lot but not from Mozart Place. The enclosure will be bounded by a solid opaque fence that will align in height with the new security fence."

Modification request. The Applicant "identified an inaccuracy in the description of the trash enclosure access and the fencing" as stated in the Order and requested a modification to clarify that (a) the enclosure will be accessible from Mozart Place via an opaque gate to facilitate trash collection and (b) the enclosure will be bounded by a wrought-iron fence, eight feet high and not opaque, as shown in plans approved by the Order.[2] The Applicant provided "written correspondence with HPO staff" that "clarified the intent" of HPO's prior recommendation by "confirm[ing] that a gate providing access for collection personnel – limited to rolling trash containers to a truck on Mozart Place – is consistent with the Meridian Hill Historic District design guidelines." (Exhibits 5, 6.)

FOREIGN MISSIONS ACT CRITERIA

[1] See Subtitle B § 100.2 and Subtitle Y § 101.8.
[2] The approved plans are included in the record as Exhibit 33A (Application No. 21252) and Exhibit 4 (Application No. 21252-A.)

Pursuant to § 206(d) of the Foreign Missions Act, D.C. Official Code § 6-1306(d), the Board must consider six enumerated criteria when reviewing a chancery application and must base its decision solely on the six criteria. The provision further dictates who is to make the relevant finding for certain factors. The factors and relevant findings are as follows.

1. **The international obligation of the United States to facilitate the provision of adequate and secure facilities for foreign missions in the Nation's Capital.**

By letter dated February 13, 2026, the Department of State determined that favorable action on the modification request would fulfill the international obligation of the United States to facilitate the Embassy of the Republic of Cuba in acquiring adequate and secure premises in Washington. (Exhibit 17.)

2. **Historic preservation, as determined by the Board of Zoning Adjustment. In carrying out this section, and in order to ensure compatibility with historic landmarks and districts, substantial compliance with District of Columbia and federal regulations governing historic preservation shall be required with respect to new construction and to demolition of or alteration to historic landmarks.**

Based on the evidence in the record, the Board finds that this criterion is met by the modification request. The Office of Planning recommended approval of the requested modification, which OP noted would not "alter the location, function, or design of the enclosure as originally approved" or "involve any substantive redesign or alteration of use." (Exhibit 11.) The Office of Planning proposed a revision to the Order to accomplish the modification, which the Board determined was reasonable. The revision clarified that the enclosure will be accessible from the interior of the subject property and from a gate on Mozart Place; that the gate will be accessible to persons engaged in trash collection, who will remove bins from the enclosure and then replace them; that the enclosure will be bounded by an 8-foot-tall wrought-iron fence; and that the gate access to the enclosure will be opaque.

3. **The adequacy of off-street or other parking and the extent to which the area will be served by public transportation to reduce parking needs, subject to such special security requirements as may be determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.**

The Department of State determined that there exist no special security requirements relating to parking in this case. (Exhibit 17.)

4. **The extent to which the area is capable of being adequately protected, as determined by the Secretary of State, after consultation with federal agencies authorized to perform protective services.**

The Department of State, after consulting with the Federal agencies authorized to perform protective services, determined that the subject site and area are capable of being adequately protected. (Exhibit 17.)

5. The municipal interest, as determined by the Mayor of the District of Columbia.

By memorandum dated January 6, 2026, the Office of Planning recommended approval of the requested modification. (Exhibit 11.)

6. The federal interest, as determined by the Secretary of State.

The Department of State determined that there is a federal interest in the Applicant's project, noting that "the Government of the Republic of Cuba has been helpful in addressing the United States' zoning and permit needs required for the construction of a new fence at the U.S. chancery in Havana." The State Department noted that "[s]uch cooperation was essential for successfully achieving the Federal Government's mission of providing safe, secure, and functional facilities for the conduct of U.S. diplomacy and the promotion of U.S. interests worldwide." (Exhibit 17.)

Great Weight

The Board is required under §13(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-58: D.C. Official Code § 1-309.10(d); Subtitle Y § 406.2) to give great weight to the issues and concerns raised in the written report of an affected ANC, in this case ANCs 1A and ANC 1C. By letter dated December 17, 2025 ANC 1A indicated its support for the requested modification, stating that the request "does not raise any concerns" for the ANC. (Exhibit 13.) For the reasons discussed above, the Board agrees with ANC 1A that the application should not be disapproved.

Based on its consideration of the six criteria discussed above, the Board has decided not to disapprove the request for modification of the order not disapproving Application No. 21252-A. Accordingly, it is hereby **ORDERED** that the modification is **NOT DISAPPROVED** to make the following revision[3] to the second paragraph in the section entitled "Proposed expansion" on page 2 of the prior order:

> The enclosure will be located at the southwest corner of the subject property, 22 feet wide and accessible from the interior of the lot **and** ~~but not~~ from Mozart Place **via a gate that will allow waste collection personnel to roll containers to trucks on Mozart Place and return them to the enclosure.** The enclosure will be bounded by a **wrought-iron fence eight feet high and the** ~~solid opaque fence that will align in height with the new security fence.~~ **gate to the enclosure will be opaque.**

[3] Aspects of the Order that were deleted by the revision are shown in ~~strikethrough~~. New text is shown in **bold and underlined**.

VOTE: **3-0-2** (Carl H. Blake, Marcel C. Acosta, and Tammy M. Stidham to NOT DISAPPROVE; two Board seats vacant)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 11, 2026

PURSUANT TO 11 DCMR SUBTITLE Y § 604.12, FOR A CHANCERY APPLICATION, A DECISION OF THE BOARD IS FINAL UPON PUBLICATION IN THE *D.C. REGISTER*. THE DECISION SHALL BECOME EFFECTIVE TEN (10) DAYS AFTER HAVING BECOME FINAL.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

BZA Application No. 21384
Adetokunbo Harrison[1]
630 Randolph Street, NW (Square 3233, Lot 77)

HEARING DATE: January 21, 2026
DECISION DATES: February 11 and February 25, 2026

SUMMARY ORDER

RELIEF REQUESTED. The application requests the following relief in order to construct a two-story rear addition to an existing, semi-detached, two-story, principal dwelling unit in the RF-1 zone:

- Special Exception under the rear addition requirements of Subtitle E § 207.5, pursuant to Subtitle X § 901.2 (*10 ft. max permitted, 8 ft. existing, 27 ft. proposed*)

The application was accompanied by a memorandum from the Zoning Administrator, certifying the required relief. (Exhibit 21.)[2]

PARTIES. The parties to this case were the Applicant and Advisory Neighborhood Commission ("**ANC**") 4C, the "affected ANC" pursuant to Subtitle Y §§ 101.8 and 403.5(b) of the Zoning Regulations (Title 11 of the DCMR, Zoning Regulations of 2016, to which all references are made unless otherwise specified).

NOTICE OF THE APPLICATION AND PUBLIC HEARING. The Board of Zoning Adjustment (the "**Board**") referred the application to the appropriate agencies and provided proper and timely notice of the public hearing in accordance with Subtitle Y § 402.1.

ANC REPORT. The ANC's report indicated that at a regularly scheduled, properly noticed public meeting on September 10, 2025, at which a quorum was present, the ANC voted to support the application. (Exhibit 16.) The ANC report raised no issues or concerns.

OFFICE OF PLANNING ("OP") REPORT. OP submitted a report recommending approval of the application. (Exhibit 23.)

[1] The application name was changed from Adetokunbo Oluyole to reflect the name indicated by the zoning map and property records.

[2] The application was amended to withdraw special exception relief from the lot occupancy requirements of Subtitle E § 210.1. (See Zoning Administrator Memorandum in Exhibits 4, 15.)

DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT. DDOT did not submit a report to the record.

PERSONS IN OPPOSITION. The Board received two letters from neighbors in opposition to the application from Chavis Williams and Anthony Smith, who also spoke in opposition at the January 21, 2026 public hearing. (Exhibits 26 and 29.)

CONCLUSIONS

Pursuant to Subtitle Y § 604.3, the order of the Board may be in summary form where granting an application when there was no party in opposition. As a summary order, it does not constitute binding legal precedent on the Board and shall not be considered by the Board in evaluating future applications.

Based upon the record before the Board, and having given great weight to the appropriate reports and recommendations filed in this case, the Board concludes that the Applicant has met the burden of proof that the requested special exception relief can be granted because:

- It is in harmony with the general purpose and intent of the Zoning Regulations and Map;
- It will not tend to affect adversely the use of neighboring property; and
- Pursuant to Subtitle X § 901.2(c), the relief satisfies the specified conditions for special exception relief.

DECISION

Based on the case record and the testimony at the hearing, the Board concludes that the applicant has satisfied the burden of proof for the requested relief:

- Special Exception from under the rear addition requirements of Subtitle E § 207.5, pursuant to Subtitle X § 901.2 (*10 ft. max permitted, 8 ft. existing, 27 ft. proposed*)

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 6 of the record, as required under Subtitle Y §§ 604.9 and 604.10, subject to the following **CONDITION**:

1. The Applicant shall install and maintain a privacy fence, landscaping, or other screening along the eastern side lot line shared with the abutting property to the east at 628 Randolph Street, NW.

VOTE: **3-0-2** (Carl H. Blake, Brittney Drakeford, and Robert E. Miller to APPROVE; two Board seats vacant)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

FINAL DATE OF ORDER: March 3, 2026

PURSUANT TO 11 DCMR SUBTITLE Y § 604.11, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO SUBTITLE Y § 604.7.

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.10, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR SUBTITLE A § 303, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITIONS IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX

DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

DISTRICT OF COLUMBIA REGISTER
2026 AGENCY SUBMISSION DEADLINE SCHEDULE

The *District of Columbia Register* is published weekly on Fridays including on public holidays that fall on a Friday. The deadline for submitting notices for publication by District agencies, boards, commissions, and public charter schools is **THURSDAY**, noon of the **PREVIOUS** week. For example, the deadline for the January 16, 2026 *District of Columbia Register* is noon on Thursday January 8, 2026.

The deadline for a Register to be published during a week that has an official District of Columbia holiday is WEDNESDAY noon of the PREVIOUS week. For example, Monday, January 19, 2026 (Martin Luther King Jr. Day) is an official District of Columbia holiday therefore, the deadline for the January 23, 2026 *District of Columbia Register* is noon on Wednesday, January 14, 2026.

If an official government holiday falls on a Thursday, the deadline for submitting documents is WEDNESDAY. Because Thursday, January 1, 2026 is New Years Day, the deadline for the January 9, 2026 *District of Columbia Register* is noon on Wednesday, December 31, 2025.

Because Thursday, November 26, 2026 is Thanksgiving Day, the deadline for submitting documents for the December 4, 2026 *District of Columbia Register* is noon on Wednesday, November 25, 2026.

Documents that are uploaded after the noon deadline will be published in the next edition of the Register.

The DC Register Submission Deadline Schedule is published at the end of each Register.

The Office of Documents also publishes the Submission Deadline Schedule on the DCRegs Home page at https://dcregs.dc.gov:



Since the deadline changes for a Register to be published during a week that has an official District of Columbia Government holiday, the 2026 holiday schedule is provided here for your convenience.

2026 District of Columbia Government Holiday Schedule	
New Year's Day	Thursday, January 1, 2026
Dr. Martin Luther King, Jr.'s Birthday	Monday, January 19, 2026
Washington's Birthday	Monday, February 16, 2026
DC Emancipation Day	Thursday, April 16, 2026
Memorial Day	Monday, May 25, 2026
Juneteenth National Independence Day	Friday, June 19, 2026
Independence Day (Observed)	Friday, July 3, 2026
Labor Day	Monday, September 7, 2026
Indigenous Peoples' Day	Monday, October 12, 2026
Veterans Day	Wednesday, November 11, 2026
Thanksgiving Day	Thursday, November 26, 2026
Christmas Day	Friday, December 25, 2026

Below is the 2026 District of Columbia Register Submission Deadline schedule.

OFFICE OF DOCUMENTS AND ADMINSTRATIVE ISSUANCES
DISTRICT OF COLUMBIA REGISTER
2026 AGENCY SUBMISSION DEADLINE SCHEDULE

D.C. Register Issue		Submission Deadline	
Vol. 73/1	January 2, 2026*	Wednesday	December 24, 2025
Vol. 73/2	January 9, 2026	Wednesday	December 31, 2025
Vol. 73/3	January 16, 2026	Thursday	January 8, 2026
Vol. 73/4	January 23, 2026*	Wednesday	January 14, 2026
Vol. 73/5	January 30, 2026	Thursday	January 22, 2026
Vol. 73/6	February 6, 2026	Thursday	January 29, 2026
Vol. 73/7	February 13, 2026	Thursday	February 5, 2026
Vol. 73/8	February 20, 2026*	Wednesday	February 11, 2026
Vol. 73/9	February 27, 2026	Thursday	February 19, 2026
Vol. 73/10	March 6, 2026	Thursday	February 26, 2026
Vol. 73/11	March 13, 2026	Thursday	March 5, 2026
Vol. 73/12	March 20, 2026	Thursday	March 12, 2026
Vol. 73/13	March 27, 2026	Thursday	March 19, 2026
Vol. 73/14	April 3, 2026	Thursday	March 26, 2026
Vol. 73/15	April 10, 2026	Thursday	April 2, 2026
Vol. 73/16	April 17, 2026*	Wednesday	April 8, 2026
Vol. 73/17	April 24, 2026	Wednesday	April 15, 2026
Vol. 73/18	May 1, 2026	Thursday	April 23, 2026
Vol. 73/19	May 8, 2026	Thursday	April 30, 2026
Vol. 73/20	May 15, 2026	Thursday	May 7, 2026
Vol. 73/21	May 22, 2026	Thursday	May 14, 2026
Vol. 73/22	May 29, 2026 *	Wednesday	May 20, 2026
Vol. 73/23	June 5, 2026	Thursday	May 28, 2026
Vol. 73/24	June 12, 2026	Thursday	June 4, 2026
Vol. 73/25	June 19, 2026*	Wednesday	June 10, 2026
Vol. 73/26	June 26, 2026	Thursday	June 18, 2026
Vol. 73/27	July 3, 2026 *	Wednesday	June 24, 2026
Vol. 73/28	July 10, 2026	Thursday	July 2, 2026
Vol. 73/29	July 17, 2026	Thursday	July 9, 2026
Vol. 73/30	July 24, 2026	Thursday	July 16, 2026
Vol. 73/31	July 31, 2026	Thursday	July 23, 2026
Vol. 73/32	August 7, 2026	Thursday	July 30, 2026
Vol. 73/33	August 14, 2026	Thursday	August 6, 2026
Vol. 73/34	August 21, 2026	Thursday	August 13, 2026
Vol. 73/35	August 28, 2026	Thursday	August 20, 2026
Vol. 73/36	September 4, 2026	Thursday	August 27, 2026
Vol. 73/37	September 11, 2026*	Wednesday	September 2, 2026
Vol. 73/38	September 18, 2026	Thursday	September 10, 2026
Vol. 73/39	September 25, 2026	Thursday	September 17, 2026
Vol. 73/40	October 2, 2026	Thursday	September 24, 2026
Vol. 73/41	October 9, 2026	Thursday	October 1, 2026
Vol. 73/42	October 16, 2026*	Wednesday	October 7, 2026
Vol. 73/43	October 23, 2026	Thursday	October 15, 2026
Vol. 73/44	October 30, 2026	Thursday	October 22, 2026
Vol. 73/45	November 6, 2026	Thursday	October 29, 2026
Vol. 73/46	November 13, 2026*	Wednesday	November 4, 2026
Vol. 73/47	November 20, 2026	Thursday	November 12, 2026
Vol. 73/48	November 27, 2026*	Wednesday	November 18, 2026
Vol. 73/49	December 4, 2026	Wednesday	November 25, 2026
Vol. 73/50	December 11, 2026	Thursday	December 3, 2026
Vol. 73/51	December 18, 2026	Thursday	December 10, 2026
Vol. 73/52	December 25, 2026*	Wednesday	December 16, 2026
Vol. 74/1	January 1, 2027*	Wednesday	December 23, 2026

*Weeks with District of Columbia Government public holidays. Last Updated December 5, 2025