SECTION 8 HOMEOWNERSHIP

ADMINISTRATIVE PLAN

Contents

[I. GENERAL PROVISIONS 4](#_Toc440618508)

[II. FAMILY ELIGIBILITY REQUIREMENTS 4](#_Toc440618509)

[First Time Homebuyer 5](#_Toc440618510)

[Minimum Income Requirement 6](#_Toc440618511)

[Employment Requirement 6](#_Toc440618512)

[Current Homeowners 7](#_Toc440618513)

[Prior Mortgage Default 7](#_Toc440618514)

[Family Participation Requirements 7](#_Toc440618515)

[III. FINANCING REQUIREMENTS/PROGRAM PROVISIONS 7](#_Toc440618516)

[Maximum Term of Homeownership Assistance [24 CFR§ 982.634] 7](#_Toc440618517)

[Exception for Elderly and Disabled Families 8](#_Toc440618518)

[Securing Financing 8](#_Toc440618519)

[Closing Cost 8](#_Toc440618520)

[Determining the Amount of Subsidy 8](#_Toc440618521)

[Approval of Financing 11](#_Toc440618522)

[IV. UNIT REQUIREMENTS 11](#_Toc440618523)

[Eligible Units 11](#_Toc440618524)

[PHA Disapproval of Seller 12](#_Toc440618525)

[Inspection 12](#_Toc440618526)

[Contract of Sale 12](#_Toc440618527)

[V. MOVES WITH CONTINUED TENANT-BASED ASSISTANCE 13](#_Toc440618528)

[Move to New Unit 13](#_Toc440618529)

[Requirements for Continuation of Homeownership Assistance 14](#_Toc440618530)

[VI. TERMINATION POLICIES 14](#_Toc440618531)

[VII. INFORMAL HEARINGS 15](#_Toc440618532)

[VIII. PORTABILITY 23](#_Toc440618533)

[IX. FAIR HOUSING AND EQUAL OPPORTUNITY 23](#_Toc440618534)

[APPENDIX A: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS[24 CFR Parts 8.3 and 100.201] 33](#_Toc440618535)

[APPENDIX B: SECTION 8 HOMEOWNERSHIP PROGRAM FAMILY OBLIGATIONS 35](#_Toc440618536)

**HOMEOWNERSHIP PROGRAM**

**ADMINISTRATIVE PLAN**

# GENERAL PROVISIONS

The Homeownership Program of the Rice County Housing and Redevelopment Authority (PHA) permits eligible participants in the Section 8 Housing Choice Voucher program the option of purchasing a home with their Section 8 assistance.

**Initial Requirements**

Before commencing homeownership assistance for a family, the PHA must determine that all of the following initial requirements have been satisfied:

* The family is qualified to receive homeownership assistance (24 CFR §982.627);
* The unit is eligible (24 CFR §982.628); and
* The family has satisfactorily completed the PHA program of required pre-assistance homeownership counseling (24 CFR §982.630).

Unless otherwise provided in this part, the PHA may limit homeownership assistance to families or purposes defined by the PHA, and may prescribe additional requirements for commencement of homeownership assistance for a family. Any such limits or additional requirements must be described in the PHA administrative plan.

**Environmental Requirements**

The PHA is responsible for ensuring the purchaser obtains and maintains flood insurance for units in special flood hazard areas, prohibiting assistance for acquiring units in the coastal barrier resources system, and requiring notification to the purchaser of units in airport runway clear zones and airfield clear zones. In the case of units not yet under construction at the time the family enters into the contract for sale, the additional environmental review requirements referenced in 24 CFR §982.628(e) of this part also apply, and the PHA shall submit all relevant environmental information to the responsible entity or to HUD to assist in completion of those requirements.

# FAMILY ELIGIBILITY REQUIREMENTS

The PHA may not provide homeownership assistance for a family unless the PHA determines that the family satisfies all of the following initial requirements at commencement of homeownership assistance for the family:

* The family has been admitted to the Section 8 Housing Choice Voucher program
* The family satisfies any first-time homeowner requirements
* The family satisfies the minimum income requirement.
* The family satisfies the employment requirements
* The family has not defaulted on a mortgage securing debt to purchase a home under the homeownership option
* 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
* 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)
* The family must also fulfill the following participation requirements
  + Complete a homeownership education course approved by the PHA
  + Attend credit counseling
  + Each adult member must submit to and pass a criminal background check at least one time per year
  + An income re-examination must be completed at least one time per year
  + Participant must be compliant with their current lease agreement
  + Participants must be compliant with all Section 8 program requirements
  + Participant must terminate their current lease in compliance with the lease agreement prior to commencement of homeownership assistance
  + Participants will not be allowed to participate in the home ownership program if they owe money to the RCHRA or any other housing authority

## First Time Homebuyer

At commencement of homeownership assistance for the family, the family must be any of the following:

* A first-time homeowner (defined at 24 CFR §982.4);
* A cooperative member (defined at 24 CFR §982.4); or
* A family of which a family member is a person with disabilities, and use of the homeownership option is needed as a reasonable accommodation so that the program is readily accessible to and usable by such person, in accordance with part 8 of this title.

## Minimum Income Requirement

At commencement of monthly homeownership assistance payments for the family, the family must demonstrate that the annual income of the adult family members who will own the home at commencement of homeownership assistance is not less than:

* In the case of a disabled family the monthly Federal Supplemental Security Income (SSI) benefit for an individual living alone (or paying his or her share of food and housing costs) multiplied by twelve; or
* In the case of other families, the Federal minimum wage multiplied by 2,000 hours.

Except in the case of an elderly family or a disabled family, the PHA shall not count any welfare assistance received by the family in determining annual income under this section.

The disregard of welfare assistance income only affects the determination of minimum annual income used to determine if a family initially qualifies for commencement of homeownership assistance in accordance with this section, but does not affect:

* The determination of income-eligibility for admission to the voucher program;
* Calculation of the amount of the family's total tenant payment (gross family contribution); or
* Calculation of the amount of homeownership assistance payments on behalf of the family.

## Employment Requirement

The family must demonstrate 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 30 hours per week); and
* Has been continuously so employed during the year before commencement of homeownership assistance for the family.

The PHA shall have discretion to determine whether and to what extent interruptions are considered to break continuity of employment during the year. The PHA may count successive employment during the year. The PHA may count self-employment in a business.

The employment requirement does not apply to an elderly family or a disabled family Furthermore, if a family, other than an elderly family or a disabled family, includes a person with disabilities, the PHA shall grant an exemption from the employment requirement if the PHA determines that an exemption is needed as a reasonable accommodation so that the program is readily accessible to and usable by persons with disabilities.

## Current Homeowners

Persons who already have an existing mortgage obligation cannot utilize homeownership assistance.

## Prior Mortgage Default

Prohibition against assistance to family that has defaulted. The PHA shall not commence homeownership assistance for a family that includes an individual who was an adult member of a family at the time when such family received homeownership assistance and defaulted on a mortgage securing debt incurred to purchase the home.

## Family Participation Requirements

Homeownership Education Course/Credit Counseling

Prior to the entering the homeownership program, participants must successfully complete a homeownership education course provided by or approved by the RCHRA. Participants must also receive appropriate credit counseling by an approved credit-counseling agency in the event that the participant has credit issues that require further corrective action.

**Criminal Background Check**

The RCHRA requires each adult household member to submit to a background check prior to admission and each year at annual recertification. In order to be eligible for the homeownership program, participants must comply with all RCHRA policies regarding criminal activity.

**Annual Income Recertification**

Home ownership participants are required to complete annual and interim reexaminations in accordance with the PHA Section 8 Administrative Policy.

# FINANCING REQUIREMENTS/PROGRAM PROVISIONS

Once the family has been issued a homeownership assistance voucher, the participant will be given 180 days (6 months) to locate a property to purchase. A home shall be considered located when the family submits a proposed contract of sale to the PHA, which includes the requisite components outlined below. Rental assistance shall continue until the voucher is converted to homeownership assistance, upon closing of the property. Should the family be unable to locate a property to purchase, the voucher may be used toward rental assistance. The PHA will allow extensions to the search time only as a reasonable accommodation to a disability.

## Maximum Term of Homeownership Assistance [24 CFR§ 982.634]

Except in the case of a family that qualifies as an elderly or disabled family members who do not qualify as elderly or a disabled family shall not receive homeownership assistance for more than:

* Fifteen years, if the initial mortgage incurred to finance purchase of the home has a term of 20 years or longer; or
* Ten years, in all other cases.

The maximum term described in paragraph (a) of this section applies to any member of the family who:

* Has an ownership interest in the unit during the time that homeownership payments are made; or
* Is the spouse of any member of the household who has an ownership interest in the unit during the time homeownership payments are made.

## Exception for Elderly and Disabled Families

The maximum term of assistance does not apply to elderly and disabled families.

In the case of an elderly family, the exception only applies if the family qualifies as an elderly family at commencement 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.

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 in accordance with this part).

## Securing Financing

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Each participant is responsible for securing their own financing. The PHA may develop partnerships with lenders, but cannot steer participants to any lender. Participant must receive pre-approval for financing from the families chosen lender, prior to pursuing a property to purchase. If the participant does not receive pre-approval for financing, the participant is responsible for pursuing further credit counseling in order to ensure pre-approval.

## Closing Cost

The participant is responsible for all cost associated with the closing of the property. Such cost will be outlined on property settlement statement prior to closing. The participant is responsible to provide earnest money down upon submission of proposed contract of sale. Return of such earnest money is subject to the terms of the contract of sale.

## Determining the Amount of Subsidy

Amount of monthly homeownership assistance payment. While the family is residing in the home, the PHA shall pay a monthly homeownership assistance payment on behalf of the family that is equal to the lower of:

* The payment standard minus the total tenant payment; or
* The family's monthly homeownership expenses minus the total tenant payment.

The payment standard for a family is the lower of:

* The payment standard for the family unit size; or
* The payment standard for the size of the home.

If the home is located in an exception payment standard area, the PHA must use the appropriate payment standard for the exception payment standard area.

The payment standard for a family is the greater of:

* The payment standard at the commencement of homeownership assistance for occupancy of the home; or
* 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.

The PHA must use the same payment standard schedule, payment standard amounts, and subsidy standards pursuant to 24 CFR §§982.402 and 982.503 for the homeownership option as for the rental voucher program.

The PHA shall adopt policies for determining the amount of homeownership expenses to be allowed by the PHA in accordance with HUD requirements. Homeownership expenses for a homeowner (other than a cooperative member) may only include amounts allowed by the PHA to cover:

* Principal and interest on initial mortgage debt, any refinancing of such debt, and any mortgage insurance premium incurred to finance purchase of the home;
* Real estate taxes and public assessments on the home;
* Home insurance;
* The PHA allowance for maintenance expenses;
* The PHA allowance for costs of major repairs and replacements;
* The PHA utility allowance for the home;
* 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 the PHA 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
* Land lease payments (where a family does not own fee title to the real property on which the home is located; see 24 CFR §982.628(b)).

Homeownership expenses for a cooperative member may only include amounts allowed by the PHA to cover:

* The cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home;
* Principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt;
* Home insurance;
* The PHA allowance for maintenance expenses;
* The PHA allowance for costs of major repairs and replacements;
* The PHA utility allowance for the home; and
* 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 the PHA 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, in accordance with part 8 of this title.

If the home is a cooperative or condominium unit, homeownership expenses may also include cooperative or condominium operating charges or maintenance fees assessed by the condominium or cooperative homeowner association.

The PHA will pay the homeownership assistance payment to a lender on behalf of the family.

Homeownership assistance for a family terminates automatically 180 calendar days after the last homeownership assistance payment on behalf of the family.

## Approval of Financing

The PHA will only approve financing through FHA approved lenders, which will be subject to FHA mortgage insurance requirements, or lenders that meet the PHA guidelines for an affordable mortgage product. The PHA will not approve a mortgage that includes a balloon payment as part of the terms of the loan.

The PHA may review lender qualifications and the loan terms before authorizing homeownership assistance. The PHA may disapprove proposed financing, refinancing or other debt if the PHA determines that the debt is unaffordable, or if the PHA determines that the lender or the loan terms do not meet PHA qualifications. In making this determination, the PHA may take into account other family expenses, such as child care, unreimbursed medical expenses, homeownership expenses, and other family expenses as determined by the PHA.

Affordable Mortgage Product Requirements

Affordable first mortgages must meet all of the following requirements:

* Fixed-rate loan, maximum amortization of 30 years, and a minimum term of 15 years.
* Downpayment required by product cannot exceed 5 percent of sale price. (Note: This guideline does not preclude a buyer from making a larger downpayment if additional personal funds are available.)
* Preference is for below-market or market-rate loan products. The buyer’s first mortgage interest rate cannot exceed current market rate plus 1 percent.
* Housing expense and debt to income ratios of at least 28/36 allowed by the loan product (e.g., 29/41 is acceptable). Lenders are encouraged to use community homebuyer products with flexible underwriting guidelines.
* Closing costs (excluding prepaids) cannot exceed 3.5% percent of the loan amount. Note: This does not preclude buyers with liquid assets above $5,000 from using their excess funds to buy down the interest rate.
* Roll over loans are not acceptable. Roll over loans have a fixed interest rate, short maturity, and a term to be negotiated.
* Contract for deed sales are not eligible.
* Seller-financed loans are not eligible.

Further Purchasing Requirements

Any purchasing, down payment, financing and mortgage payment requirements will be determined by the mortgage product and lender the family chooses. The participant must comply with the terms set forth by the mortgage.

# UNIT REQUIREMENTS

When participants are ready to locate a property to be purchased, the unit must be approved by the RCHRA using the following guidelines:

* Only certain housing types are eligible (24 CFR §982.628)
* The unit must pass an HQS (see 24 CFR §§982.401 and982.631) inspection as well as an independent inspection
* The unit must be the participant’s primary place of residence

## Eligible Units

The PHA must determine that the unit satisfies all of the following requirements:

* The unit is eligible.
* The unit is either a one-unit property (including a manufactured home) or a single dwelling unit in a cooperative or condominium
* The unit has been inspected by a PHA inspector and by an independent inspector designated by the family (24 CFR §982.631)
* The unit satisfies the HQS (24 CFR§§982.401 and 982.631)

Purchase of home where family will not own fee title to the real property. Homeownership assistance may be provided for the purchase of a home where the family will not own fee title to the real property on which the home is located, but only if:

* The home is located on a permanent foundation; and
* The family has the right to occupy the home site for at least forty years.

## PHA Disapproval of Seller

The PHA may not commence homeownership assistance for occupancy of a home if the PHA has been informed (by HUD or otherwise) that the seller of the home is debarred, suspended, or subject to a limited denial of participation under 2 CFR part 2424.

The PHA will deny approval of a seller if the seller has been disapproved as an owner of the HCV program for any reason provided for in 24 CFR §982.306(c).

Homeownership assistance may be provided for the purchase of a unit that is owned by the PHA that administers the assistance under the consolidated ACC (including a unit owned by an entity substantially controlled by the PHA), only if all of the following conditions are satisfied:

* The PHA must inform the family, both orally and in writing, that the family has the right to purchase any eligible unit and a PHA-owned unit is freely selected by the family without PHA pressure or steering
* The unit is not ineligible housing

## Inspection

The PHA may not commence monthly homeownership assistance payments or provide a downpayment assistance grant for the family until the PHA has inspected the unit and has determined that the unit passes HQS.

Independent inspection. The unit must also be inspected by an independent professional inspector selected by and paid by the family.

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.

The PHA may not require the family to use an independent inspector selected by the PHA. The independent inspector may not be a PHA employee or contractor, or other person under control of the PHA. However, the PHA may establish standards for qualification of inspectors selected by families under the homeownership option.

The independent inspector must provide a copy of the inspection report both to the family and to the PHA. The PHA may not commence monthly homeownership assistance payments, or provide a down payment assistance grant for the family, until the PHA has reviewed the inspection report of the independent inspector. Even if the unit otherwise complies with the HQS (and may qualify for assistance under the PHA’s tenant-based rental voucher program), the PHA shall have discretion to disapprove the unit for assistance under the homeownership option because of information in the inspection report.

## Contract of Sale

Before commencement of monthly homeownership assistance payments or receipt of a downpayment assistance grant, a member or members of the family must enter into a contract of sale with the seller of the unit to be acquired by the family. The family must give the PHA a copy of the contract of sale (see 24 CFR§982.627(a)(7)).

The contract of sale must:

* Specify the price and other terms of sale by the seller to the purchaser.
* Provide that the purchaser will arrange for a pre-purchase inspection of the dwelling unit by an independent inspector selected by the purchaser.
* Provide that the purchaser is not obligated to purchase the unit unless the inspection is satisfactory to the purchaser.
* Provide that the purchaser is not obligated to pay for any necessary repairs.

A contract for the sale of units not yet under construction at the time the family is to enter into the contract for sale must also provide that:

* The purchaser is not obligated to purchase the unit unless an environmental review has been performed and the site has received environmental approval prior to commencement of construction in accordance with 24 CFR 982.628.
* The construction will not commence until the environmental review has been completed and the seller has received written notice from the PHA that environmental approval has been obtained. Conduct of the environmental review may not necessarily result in environmental approval, and environmental approval may be conditioned on the contracting parties' agreement to modifications to the unit design or to mitigation actions.
* Commencement of construction in violation of Federal Regulations, HUD standards, or PHA policies voids the purchase contract and renders homeownership assistance under 24 CFR part 982 unavailable for purchase of the unit.

# MOVES WITH CONTINUED TENANT-BASED ASSISTANCE

## Move to New Unit

A family receiving homeownership assistance may move to a new unit with continued tenant-based assistance in accordance with this section. The family may move either with voucher rental assistance (in accordance with rental assistance program requirements) or with voucher homeownership assistance (in accordance with homeownership option program requirements).

The PHA may not commence continued tenant-based assistance for occupancy of the new unit so long as any family member owns any title or other interest in the prior home.

The PHA will deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in the PHA’s jurisdiction.

The family will only be allowed to request one elective move during any 12-month period whether within the PHA’s jurisdiction or under portability. The PHA will issue only one voucher to a family in a 12-month period.

## Requirements for Continuation of Homeownership Assistance

The PHA must determine that all initial requirements listed in 24 CFR §982.626 (including the environmental requirements with respect to a unit not yet under construction) have been satisfied if a family that has received homeownership assistance wants to move to such a unit with continued homeownership assistance. However, the following requirements do not apply

* The requirement for pre-assistance counseling. However, the PHA may require that the family complete additional counseling (before or after moving to a new unit with continued assistance under the homeownership option).
* The requirement that a family must be a first-time homeowner.

**Denying permission to move with continued assistance**.

The PHA may deny permission to move to a new unit with continued voucher assistance as follows:

* Lack of funding to provide continued assistance. The PHA may deny permission to move with continued rental or homeownership assistance if the PHA determines that it does not have sufficient funding to provide continued assistance. The PHA must provide written notification to the local HUD Office within 10 business days of determining it is necessary to deny moves based on insufficient funding.
* Termination or denial of assistance under 24 CFR §982.638. At any time, the PHA may deny permission to move with continued rental or homeownership assistance in accordance with 24 CFR §982.638.

# TERMINATION POLICIES

The PHA shall terminate homeownership assistance for the family, and shall deny voucher rental assistance for the family, in accordance with this section.

Denial or termination of assistance under basic voucher program. At any time, the PHA may deny or terminate homeownership assistance in accordance with §982.552 (Grounds for denial or termination of assistance) or §982.553 (Crime by family members).

Failure to comply with family obligations of the Section 8 program. The PHA may deny or terminate assistance for violation of participant obligations described in §982.551 or §982.633.

Mortgage default. The PHA 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.

# INFORMAL HEARINGS

Participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by participants are discussed in this section.

The process for appeals of PHA decisions is called an “informal hearing.” PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA’s HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA’s decisions related to the family’s circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA 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:

* Refusing to enter into a HAP contract or approve a lease
* Terminating housing assistance payments under an outstanding HAP contract
* Refusing to process or provide assistance under portability procedures

**Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

* A determination of the family’s annual or adjusted income, and the use of such income to compute the housing assistance payment
* A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
* A determination of the family unit size under the PHA’s subsidy standards
* A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the PHA’s subsidy standards, or the PHA determination to deny the family’s request for exception from the standards
* A determination to terminate assistance for a participant family because of the family’s actions or failure to act
* A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
* A determination to terminate a family’s Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family’s escrow account [24 CFR 984.303(i)]

Circumstances for which an informal hearing is not required are as follows:

* Discretionary administrative determinations by the PHA
* General policy issues or class grievances
* Establishment of the PHA schedule of utility allowances for families in the program
* A PHA determination not to approve an extension or suspension of a voucher term
* A PHA determination not to approve a unit or tenancy
* A PHA determination that a unit selected by the applicant is not in compliance with the HQS
* A PHA determination that the unit is not in accordance with HQS because of family size
* A determination by the PHA to exercise or not to exercise any right or remedy against an owner under a HAP contract. The PHA will only offer participants the opportunity for an informal hearing when required to by the regulations

**Informal Hearing Procedures**

Prior to the informal hearing, the PHA will notify the family in writing on that they may discuss the matter with the PHA through an informal discussion. If the family wishes to schedule the informal discussion, the family must notify the PHA in writing within 10 days of the date of the notice. The PHA will schedule the informal discussion within a reasonable time after the family’s request. The PHA will mail the family notification of the scheduled discussion. If the family does not request an informal discussion, the family may still request an informal hearing. The family will meet with a PHA employee to discuss the PHA’s adverse action. Within 10 business days of the PHA’s decision, the family will receive a notice informing them of the results of the discussion and instructing them that they may request an informal hearing in writing within 10 days.

**Notice to the Family [24 CFR 982.555(c)]**

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

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, the PHA 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.

For decisions related to the termination of the family’s assistance, or the denial of a family’s request for an exception to the PHA’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.

In cases where the PHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

* The proposed action or decision of the PHA.
* A brief statement of the reasons for the decision, including the regulatory reference.
* The date the proposed action will take place.
* A statement of the family’s right to an explanation of the basis for the PHA’s decision.
* A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
* A deadline for the family to request the informal hearing.
* To whom the hearing request should be addressed.
* A copy of the PHA’s hearing procedures.

**Scheduling an Informal Hearing [24 CFR 982.555(d)]**

When an informal hearing is required, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

A request for an informal hearing must be made in writing and delivered to the PHA either in person, by first class mail, by fax, or email no later than 10 days from the date of the PHA’s decision or notice to terminate assistance.

The PHA must schedule and send written notice of the informal hearing to the family within 30 days of the family’s request.

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined only as circumstances that seriously affects or affected the health, safety or welfare of the family, thereby preventing their appearance at the hearing. Requests to reschedule a hearing must be made in writing prior to the hearing date. Evidence of the circumstances leading to the “good cause” must be submitted with the request to continue the hearing.

At its own expense, a lawyer or other representative may represent the family. Because the hearing officers are not employees of the PHA and scheduling is therefore dependent upon their schedule, any request to continue the hearing, due to the unavailability of counsel, must be made at least 7 days before the scheduled hearing.   No hearing will be rescheduled unless the request complies with this paragraph. Rescheduled hearings shall be held within 7 days of the original hearing date.

**Pre-Hearing Right to Discovery [24 CFR 982.555(e)]**

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine at least three days before the hearing any PHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA’s expense. Upon request of the PHA, the family must provide any family documents that are directly relevant to the hearing at least three days before the hearing.  If the family does not make the document available for examination upon request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, documents include records and regulations.

a. The family will be given the opportunity to examine before the hearing any PHA documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family’s expense. If the PHA does not make the document(s) available for examination on request of the family, the PHA may not rely on the document at the hearing.

b. The PHA will be given the opportunity to examine, at the PHA’s offices before the hearing, any family documents that are directly relevant to the hearing. The PHA will be allowed to copy any such document at the PHA’s expense. If the family does not make the document(s) available for examination on request of the PHA, the family may not rely on the document at the hearing..

**Participant’s Right to Bring Counsel [24 CFR 982.555(e)(3)]**

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

**Informal Hearing Officer [24 CFR 982.555(e)(4)]**

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

**Attendance at the Informal Hearing**

Hearings may be attended by a hearing officer and the following persons:

* PHA representative(s) and any witnesses for the PHA
* The participant and any witnesses for the participant
* The participant’s counsel or other representative
* Any other person approved by the PHA as a reasonable accommodation for a person with a disability

**Conduct at Hearings**

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA’s hearing procedures [24 CFR 982.555(4)(ii)].

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.

**Representation and Interpretive Services**

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.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

At the family’s request or when the PHA deems an interpreter necessary, the PHA will provide an interpreter for the family. If the family decides to furnish their own interpreter in addition to the interpreter provided by the PHA, the family will be responsible for the cost of the additional interpreter/**Evidence [24 CFR 982.555(e)(5)]**

The PHA 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.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence**: The testimony of witnesses

**Documentary evidence**: A writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence**: Evidence 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.

**Real evidence**: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer’s decision.

If either the PHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

**Hearing Officer’s Decision [24 CFR 982.555(e)(6)]**

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 copy of the hearing must be furnished promptly to the family.

In rendering a decision, the hearing officer will determine if the reasons for the PHA’s decision are factually stated in the Notice; if the PHA and the family were given the opportunity to examine any relevant documents in accordance with PHA policy; if the evidence supports the PHA’s decision to terminate; and if the termination of assistance is for one of the grounds specified in the HUD regulations or PHA policies.

The hearing officer will notify the PHA of the results of review within 14 days. The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 7 business days of receiving the decision, to the applicant and his or her representative.

The decision will contain the following information:

Hearing information:

* Name of the participant;
* Date, time and place of the hearing;
* Name of the hearing officer;
* Name of the PHA representative; and
* Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

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 the greater weight of the evidence; that it is more likely true than not true. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.  Any believable evidence may be enough to prove a claim is more likely than not.

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 the PHA’s decision.

Order: The hearing report will include a statement of whether the PHA’s decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer’s determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant’s program status.

**Procedures for Rehearing or Further Hearing**

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

**PHA Notice of Final Decision [24 CFR 982.555(f)]**

The PHA is not bound by the decision of the hearing officer for matters in which the PHA 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 the PHA determines it is not bound by the hearing officer’s decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

The PHA will mail a “Service of Hearing Result” including the hearing officer’s report to the participant, or if they are represented by counsel to their representative. This notice will be sent by first-class mail. A copy of the “Service of Hearing Results” will be maintained in the PHA’s file.

**Hearing and Appeal Decisions for Noncitizens [24 CFR 5.514]**

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.

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 PHA hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

**Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.

The family may be eligible for proration of assistance.

In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].

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.

That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.

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.

**USCIS Appeal Process [24 CFR 5.514(e)]**

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 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 the PHA with a copy of the written request for appeal and the proof of mailing.

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

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.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

The PHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family’s immigration status.

# PORTABILITY

A family may qualify to move outside the initial PHA jurisdiction with continued homeownership assistance under the voucher program in accordance with this section.

Subject to §982.353(b) and (c), §982.552, and §982.553, a family determined eligible for homeownership assistance by the initial PHA may purchase a unit outside of the initial PHA's jurisdiction, if the receiving PHA is administering a voucher homeownership program and is accepting new homeownership families.

Applicability of Housing Choice Voucher program portability procedures. In general, the portability procedures described in §§982.353 and 982.355 apply to the homeownership option and the administrative responsibilities of the initial and receiving PHA are not altered except that some administrative functions (e.g., issuance of a voucher or execution of a tenancy addendum) do not apply to the homeownership option.

Family and PHA responsibilities. The family must attend the briefing and counseling sessions required by the receiving PHA. The receiving PHA will determine whether the financing for, and the physical condition of the unit, are acceptable. The receiving PHA must promptly notify the initial PHA if the family has purchased an eligible unit under the program, or if the family is unable to purchase a home within the maximum time established by the PHA.

# FAIR HOUSING AND EQUAL OPPORTUNITY

This chapter explains the laws and HUD regulations requiring PHAs to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the PHA’s housing choice voucher (HCV) operations.

This chapter describes HUD regulations and PHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the PHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the housing choice voucher program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition of Discrimination Against Limited English Proficiency Persons. This part details the obligations of the PHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates the Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons published January 22, 2007, in the *Federal Register.* **NONDISCRIMINATION**

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 on the basis of 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. The PHA 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:

* Title VI of the Civil Rights Act of 1964
* Title VIII of the Civil Rights Act of 1968 (as amended by the Community Development Act of 1974 and the Fair Housing Amendments Act of 1988)
* Executive Order 11063
* Section 504 of the Rehabilitation Act of 1973
* The Age Discrimination Act of 1975
* Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
* Violence Against Women Reauthorization Act of 2013 (VAWA)
* The Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Final Rule, published in the *Federal Register* February 3, 2012

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

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.

**NONDISCRIMINATION**

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

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

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

The PHA will not discriminate on the basis of marital status, gender identity, or sexual orientation [FR Notice 02/03/12]. The PHA will not discriminate on the basis of receipt of public assistance.

The PHA will not use any of these factors to:

* 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
* Provide housing that is different from that provided to others
* Subject anyone to segregation or disparate treatment
* Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
* Treat a person differently in determining eligibility or other requirements for admission
* Steer an applicant or participant towardor away from a particular area based any of these factors
* Deny anyone access to the same level of services
* Deny anyone the opportunity to participate in a planning or advisory group that is an integral part of the housing program
* Discriminate in the provision of residential real estate transactions
* Discriminate against someone because they are related to or associated with a member of a protected class
* 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

**Providing Information to Families and Owners**

The PHA must take steps to ensure that families and owners are fully aware of all applicable civil rights laws. As part of the briefing process, the PHA must provide information to HCV applicant families about civil rights requirements and the opportunity to rent in a broad range of neighborhoods [24 CFR 982.301].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.

**Discrimination Complaints**

If an applicant or participant believes that any family member has been discriminated against by the PHA or an owner, the family should advise the PHA. HUD requires the PHA to make every reasonable attempt to determine whether the applicant’s or participant’s assertions have merit and take any warranted corrective action. In addition, the PHA is required to provide the applicant or participant with information about how to file a discrimination complaint [24 CFR 982.304].

Applicants or participants who believe that they have been subject to unlawful discrimination may notify the PHA either orally or in writing or may notify HUD’s Office of Fair Housing and Equal Opportunity (FHEO).

The PHA will attempt to remedy discrimination complaints made against the PHA.

The PHA will provide a copy of a discrimination complaint form to the complainant and provide them with information on how to complete and submit the form to HUD’s Office of Fair Housing and Equal Opportunity (FHEO).

**POLICIES RELATED TO PERSONS WITH DISABILITIES**

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.

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

The PHA will ask all applicants and participants if they require any type of accommodations in writing on the intake application and reexamination documents.

PHA staff will process requests for accommodation. The PHA staff may contact the knowledgeable professional of the person making the request to verify the requested accommodation is necessary.

The PHA will display posters and other housing information and signage in locations throughout the PHA’s office in such a manner as to be easily readable from a wheelchair.

**Definition of REASONABLE Accommodation**

A person with a disability may require certain types of accommodation in order to have equal access to the HCV program. The types of reasonable accommodations the PHA can provide include changes, exceptions, or adjustments to a rule, policy, practice, or service.

Federal regulations stipulate that requests for accommodations will be considered reasonable if they do not create an "undue financial and administrative burden" for the PHA, 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.

**Types of Reasonable Accommodations**

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

* Permitting applications and reexaminations to be completed by mail
* Conducting home visits
* Using higher payment standards (either within the acceptable range or with HUD approval of a payment standard outside the PHA range) if the PHA determines this is necessary to enable a person with disabilities to obtain a suitable housing unit
* 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
* Permitting an authorized designee or advocate to participate in the application or certification process and any other meetings with PHA staff

**Request for an ACCOMMODATION**

If an applicant or participant indicates that an exception, change, or adjustment to a rule, policy, practice, or service is needed because of a disability, HUD requires that the PHA treat the information as a request for a reasonable accommodation, even if no formal request is made [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

If the need for the accommodation is not readily apparent or known to the PHA, 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.

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

The family will be responsible for identifying the knowledgeable professional source to which the agency will send a reasonable accommodation verification form. The knowledgeable professional source must return the verification form within 30 days of the date the form is mailed. If the form is not returned within the PHA-designated time frame, the PHA will deny the request for a reasonable accommodation.

**Verification of Disability**

The regulatory civil rights definition for persons with disabilities is provided in Exhibit 2-1 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.

Before providing an accommodation, the PHA 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 the PHA’s programs and services.

If a person’s disability is obvious or otherwise known to the PHA, and if the need for the requested accommodation is also readily apparent or known, no further verification will be required [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].

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

When verifying a disability, the PHA will follow the verification policies provided in Chapter 7. All information related to a person’s disability will be treated in accordance with the confidentiality policies provided in Chapter 16. In addition to the general requirements that govern all verification efforts, the following requirements apply when verifying a disability:

* Third-party verification must be obtained from an individual identified by the family who is competent to make the determination. A doctor or other medical professional, a peer support group, a non-medical service agency, or a reliable third party who is in a position to know about the individual’s disability may provide verification of a disability [Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act].
* The PHA must request only information that is necessary to evaluate the disability-related need for the accommodation. The PHA will not inquire about the nature or extent of any disability.
* Medical records will not be accepted or retained in the participant file.
* In the event that the PHA does receive confidential information about a person’s specific diagnosis, treatment, or the nature or severity of the disability, the PHA will dispose of it. In place of the information, the PHA 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 [Notice PIH 2010-26].

**Approval/Denial of a Requested Accommodation**

[Joint Statement of the Departments of HUD and Justice: Reasonable Accommodations under the Fair Housing Act, Notice PIH 2010-26].

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

* The request was made by or on behalf of a person with a disability.
* There is a disability-related need for the accommodation.
* The requested accommodation is reasonable, meaning it would not impose an undue financial and administrative burden on the PHA, or fundamentally alter the nature of the PHA’s HCV operations (including the obligation to comply with HUD requirements and regulations).

Requests for accommodations must be assessed on a case-by-case basis, taking into account factors such as the overall size of the PHA’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.

Before making a determination whether to approve the request, the PHA 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 the PHA may verify the need for the requested accommodation.

After a request for an accommodation is presented and all documentation that is required by the PHA is received, the PHA will respond, in writing, within 10 business days.

If the PHA 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 the PHA’s operations), the PHA 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.

If the PHA believes that the family has failed to identify a reasonable alternative accommodation after interactive discussion and negotiation, the PHA 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.

**Program Accessibility for Persons with Hearing or Vision Impairments**

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

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

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

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

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

**Physical Accessibility**

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

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

The PHA’s policies concerning physical accessibility must be readily available to applicants and participants. They can be found in three key documents:

* + This plan describes the key policies that govern the PHA’s responsibilities with regard to physical accessibility.
  + Notice PIH 2010-26 summarizes information about pertinent laws and implementing regulations related to nondiscrimination and accessibility in federally-funded housing programs.
  + The PHA Plan provides information about self-evaluation, needs assessment, and transition plans.

The design, construction, or alteration of PHA 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.

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

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.

**Denial or Termination of Assistance**

A PHA’s decision to deny or terminate the assistance of a family that includes a person with disabilities is subject to consideration of reasonable accommodation [24 CFR 982.552 (2)(iv)].

When applicants with disabilities are denied assistance, the notice of denial must inform them of the PHA’s informal review process and their right to request a hearing. In addition, the notice must inform applicants with disabilities of their right to request reasonable accommodations to participate in the informal hearing process.

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

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

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

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. This part incorporates the Final Guidance to Federal Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons, published January 22, 2007, in the *Federal Register.*

The PHA 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).

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 administrative plan, LEP persons are HCV applicants and participants, and parents and family members of applicants and participants.

In order to determine the level of access needed by LEP persons, the PHA will balance the following four factors: (1) the number or proportion of LEP persons eligible to be served or likely to be encountered by the Housing Choice Voucher program; (2) the frequency with which LEP persons come into contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the PHA and costs. Balancing these four factors will ensure meaningful access by LEP persons to critical services while not imposing undue burdens on the PHA.

**ORAL INTERPRETATION**

In a courtroom, a hearing, or situations in which health, safety, or access to important benefits and services are at stake, the PHA will generally offer, or ensure that the family is offered through other sources, competent services free of charge to the LEP person.

The PHA 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.

Where feasible, the PHA will train and hire bilingual staff to be available to act as interpreters and translators, will pool resources with other PHAs or other County departments, and will standardize documents. Where feasible and possible, the PHA will encourage the use of qualified community volunteers.

Oral interpretation services may be provided through the use of informal and formal interpreters including telephone interpretation services, contracted in-person interpreters, informal interpreter networks (outside resources), and bilingual staff (if available). Oral interpretation services will be provided free of charge.

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 the PHA. The interpreter may be a family member or friend.

**WRITTEN TRANSLATION**

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

In order to comply with written-translation obligations, the PHA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 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

**IMPLEMENTATION PLAN**

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

If the PHA 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 the PHA’s Housing Choice Voucher program and services.

The PHA has developed a written LEP plan.

The PHA has taken the following five steps: (1) identifying LEP individuals who need language assistance; (2) identifying language assistance measures; (3) training staff; (4) providing notice to LEP persons; and (5) monitoring and updating the LEP plan.

# APPENDIX A: DEFINITION OF A PERSON WITH A DISABILITY UNDER FEDERAL CIVIL RIGHTS LAWS[24 CFR Parts 8.3 and 100.201]

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

* Has a physical or mental impairment that substantially limits one or more of the major life activities of an individual, or
* Has a record of such impairment, or
* Is regarded as having such impairment

The phrase “physical or mental impairment” includes:

* 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
* 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.

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

“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.

“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 the PHA) 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.

The definition of a person with disabilities does not include:

* Current illegal drug users
* People whose alcohol use interferes with the rights of others
* 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

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.

The HUD definition of a person with a disability is much narrower than the civil rights definition of disability. The HUD definition of a person with a disability is used for purposes of receiving the disabled family preference, the $400 elderly/disabled household deduction, the $480 dependent deduction, the allowance for medical expenses, or the allowance for disability assistance expenses.

The definition of a person with a disability for purposes of granting a reasonable accommodation request is much broader than the HUD definition of disability. Many people will not qualify as a disabled person under the HCV program, yet an accommodation is needed to provide equal opportunity.

# APPENDIX B: SECTION 8 HOMEOWNERSHIP PROGRAM FAMILY OBLIGATIONS

§982.633 Homeownership option: Continued assistance requirements; Family obligations.

Occupancy of home. Homeownership assistance may only be paid while the family is residing in the home. If the family moves out of the home, the PHA may not continue homeownership assistance after the month when the family moves out. The family or lender is not required to refund to the PHA the homeownership assistance for the month when the family moves out.

Family obligations. The family must comply with the following obligations.

(1) Ongoing counseling. To the extent required by the PHA, the family must attend and complete ongoing homeownership and housing counseling.

(2) Compliance with mortgage. The family must comply with the terms of any mortgage securing debt incurred to purchase the home (or any refinancing of such debt).

(3) Prohibition against conveyance or transfer of home. (i) So long as the family is receiving homeownership assistance, use and occupancy of the home is subject to §982.551(h) and (i).

(ii) The family may grant a mortgage on the home for debt incurred to finance purchase of the home or any refinancing of such debt.

(iii) Upon death of a family member who holds, in whole or in part, title to the home or ownership of cooperative membership shares for the home, homeownership assistance may continue pending settlement of the decedent's estate, notwithstanding transfer of title by operation of law to the decedent's executor or legal representative, so long as the home is solely occupied by remaining family members in accordance with §982.551(h).

(4) Supplying required information. (i) The family must supply required information to the PHA in accordance with §982.551(b).

(ii) In addition to other required information, the family must supply any information as required by the PHA or HUD concerning:

(A) Any mortgage or other debt incurred to purchase the home, and any refinancing of such debt (including information needed to determine whether the family has defaulted on the debt, and the nature of any such default), and information on any satisfaction or payment of the mortgage debt;

(B) Any sale or other transfer of any interest in the home; or

(C) The family's homeownership expenses.

(5) Notice of move-out. The family must notify the PHA before the family moves out of the home.

(6) Notice of mortgage default. The family must notify the PHA if the family defaults on a mortgage securing any debt incurred to purchase the home.

(7) Prohibition on ownership interest on second residence. During the time the family receives homeownership assistance under this subpart, no family member may have any ownership interest in any other residential property.

(8) Additional PHA requirements. The PHA may establish additional requirements for continuation of homeownership assistance for the family (for example, a requirement for post-purchase homeownership counseling or for periodic unit inspections while the family is receiving homeownership assistance). The family must comply with any such requirements.

(9) Other family obligations. The family must comply with the obligations of a participant family described in §982.551. However, the following provisions do not apply to assistance under the homeownership option: §982.551(c), (d), (e), (f), (g) and (j).

(c) Statement of homeowner obligations. Before commencement of homeownership assistance, the family must execute a statement of family obligations in the form prescribed by HUD. In the statement, the family agrees to comply with all family obligations under the homeownership option.