

OVER INCOME IN PUBLIC HOUSING RULE AMENDMENT

JUNE 2023

I INTRODUCTION

Families participating in the public housing program must not have incomes that exceed the over-income limit as defined in the public housing over income rule for more than 24 consecutive months. The definition and relevant procedures are set forth herein.

For continued occupancy, after a family's annual income has exceeded the HUD established very low-income (VLI) level¹ for the area multiplied by 2.4 for two consecutive years, the HHA will terminate the family's tenancy in accordance with its continued occupancy policy for over-income families.

These over income over income as published by HUD annually and calculated by the HHA where applicable will be posted at the PHA's main office and are hereby incorporated into the ACOP.

II NOTIFICATIONS

A. INITIAL NOTICE OF OVER INCOME DETERMINATION (FIRST NOTICE) 24 CFR 960.507 (C) (1)

If the HHA determines the family has exceeded the over-income limit pursuant to an income examination, the HHA will provide written notice to the family of the over-income determination no later than 30 days after the income examination. The notice will state that the family has exceeded the over-income limit and continuing to exceed the over-income limit for a total of 24 consecutive months will result in the HHA following its continued occupancy policy for over-income families as set forth herein. Specifically, at the expiration of 24 months the family's tenancy will be terminated in accordance with the HHA's continued occupancy policy for over-income families.

¹ HUD's income limits are developed by HUD's Office of Policy Development and Research and are updated annually by HUD.

The HHA will afford the family an opportunity for a hearing if the family disputes within a reasonable time of the HHA's determination that the family has exceeded the over income limit.

B. EXAMINATION AND NOTIFICATION OF 12 MONTH OVER INCOME DETERMINATION (SECOND NOTICE) 24 CFR 960.507 (C) (2)

The HHA will conduct an income examination 12 months after the initial over income determination described in the prior section, unless the HHA determined the family's income fell below the over-income limit since the initial over income determination. If the HHA determines the family has exceeded the over income limit for 12 consecutive months, the HHA will provide written notification of this 12-month over-income determination no later than 30 days after the income examination that led to the 12-month over-income determination.

The notice will state that:

The family has exceeded the over-income limit for 12 consecutive months and continuing to exceed the over-income limit for a total of 24 consecutive months will result in the HHA following its continued occupancy policy for over-income families. Specifically, at the expiration of the 24 months the family's tenancy will be terminated in accordance with the HHA's continued occupancy policy for over- income families.

The HHA will afford the family an opportunity for a hearing if the family disputes within a reasonable time the PHA's determination that the family has exceeded the over-income limit.

C. EXAMINATION AND NOTIFICATION OF 24 MONTH OVER INCOME DETERMINATION (THIRD NOTICE)

The HHA must conduct an income examination 24 months after the initial over income determination unless the HHA determined the family's income fell below the over-income limit since the second over-income determination.

If the HHA determines the family has exceeded the over income limit for 24 consecutive months, then the HHA shall provide written notification of this 24-month over income determination no later than 30 days after the income examination that led to the 24- month over-income determination. The notice will state:

- (i) That the family has exceeded the over-income limit for 24 consecutive months;
- (ii) That the HHA will terminate the family's tenancy in accordance with its continued occupancy policy for over income families.
- (iii) The notice will state the period of time before tenancy termination. It is the policy of the HHA to terminate the tenancy at the expiration of the 24 consecutive months that the family is over income and the HHA will provide 30 advance days notice of such termination.

Where applicable, the HHA will continue to charge these families the family's choice of income-based, flat rent, or prorated rent for mixed families during the period before termination is effective and these funds will be accepted for use and occupancy only.

The HHA will give appropriate notice of lease/tenancy termination (notice to vacate) in accordance with State and local laws.

The HHA will afford the family an opportunity for a hearing if the family disputes within a reasonable time the HHA's determination that the family has exceeded the over-income limit.

III. NON-PUBLIC HOUSING OVER INCOME TENANCIES

It is the policy of the HHA not to offer Non-public housing over income tenancies. Therefore, there shall be no offer of an over income public housing tenancy lease or rent thereunder nor shall there be participation on public housing activities by said families

IV. BELOW OVER INCOME DURING GRACE PERIOD

If the family's income decreases to a level where they are below the

over income limit the 24 month grace period no longer applies as the family is no longer over income. The family is then entitled to a new 24-month grace period and new over income notices as applicable if the income later exceeds the applicable over income limit again.

V. THE PUBLIC HOUSING LEASE AS IT RELATES TO THE OVER INCOME IN PUBLIC HOUSING RULE

The Public Housing Lease shall include the lease requirements set forth in 24 CFR 966.4 Specifically that a tenancy may be terminated when a family is over income for the program as provided in 24 CFR 960.507.