

Statute Citations

The Admission and Occupancy Requirements were established by the Quality Housing and Work Responsibility Act (QHWRA) of 1998 (Title V of the FY 1999 HUD Appropriations Act, Public Law 105-276, 112 Stat. 2518) which amended the United States Housing Act of 1937 (42 U.S.C. 1437, et seq., “the 1937 Act”). The statutory requirement is also codified at 24 CFR § 960.

In addition, the ACOP requirements are also required by section 5A of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) and section 5A(b) of the U.S. Housing Act of 1937 (42 U.S.C. 1437c-1(b)) which was amended by the 2008 Housing and Economic Recovery Act (HERA), sections 2701 and 2702, Small Public Housing Authorities Paperwork Reduction Act. This amendment provided an exemption of certain qualified PHAs from the annual plan requirement.

Most recently, the Housing Opportunity Through Modernization Act of 2016 (HOTMA), adds to the eligibility for admission and continued occupancy requirements by instructing PHAs to apply income limits, report on the number of over-income families and the number of families on their waiting list annually.

The statutory/regulatory authorities that support this occupancy and admission information collection are as follows:

- **Section 3- The United States Housing Act [42 U.S.C.1437] Declaration of Policy and Public Housing Agency Organizations**
- **Section 5- The United States Housing Act [42 U.S.C. 1437] Public Housing Agency Plan**
- **Section 6- The United States Housing Act [42 U.S.C. 1437] Availability of Records**
- **Section 16 - The United States Housing Act [42 U.S.C. 1437] Limitation on Public Housing Tenancy for Over-Income Families**
- **24 CFR 960 Admission to and Occupancy of Public Housing**

QHWRA

http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_8905.pdf

HERA

<http://www.govtrack.us/congress/billtext.xpd?bill=h110-3221>

HOTMA

<https://www.congress.gov/bill/114th-congress/house-bill/3700/text>

Section 103 – Limitation on Public Housing Tenancy for Over-Income Families

Regulations

Excerpts:

Title 24: Housing and Urban Development

PART 960—ADMISSION TO, AND OCCUPANCY OF, PUBLIC HOUSING

Subpart B—Admission

§ 960.200 Purpose.

§ 960.201 Eligibility.

(a) *Who is eligible?* (1) Basic eligibility. An applicant must meet all eligibility requirements in order to receive housing assistance. At a minimum, the applicant must be a family, as defined in §5.403 of this title, and must be income-eligible, as described in this section. Such eligible applicants include single persons.

(2) *Low income limit.* No family other than a low income family is eligible for admission to a PHA's public housing program.

(b) *Income used for eligibility and targeting.* Family annual income (see §5.609) is used both for determination of income eligibility under paragraph (a) and for PHA income targeting under §960.202

(c) *Reporting.* The PHA must comply with HUD-prescribed reporting requirements that will permit HUD to maintain the data, as determined by HUD, necessary to monitor compliance with income eligibility and targeting requirement.

§ 960.202 Tenant selection policies.

(a) *Selection policies, generally.* (1) The PHA shall establish and adopt written policies for admission of tenants.

(2) These policies shall provide for and include the following:

(i) Targeting admissions to extremely low income families as provided in paragraph (b) of this section.

(ii) Deconcentration of poverty and income-mixing in accordance with the PHA Plan regulations (see 24 CFR part 903).

(iii) Precluding admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the residents or the project environment;

(iv) Objective and reasonable policies for selection by the PHA among otherwise eligible applicants, including requirements for applications and waiting lists (see 24 CFR 1.4), and for verification and

documentation of information relevant to acceptance or rejection of an applicant, including documentation and verification of citizenship and eligible immigration status under 24 CFR part 5; and

(v) Policies of participant transfer between units, developments, and programs. For example, a PHA could adopt a criterion for voluntary transfer that the tenant had met all obligations under the current program, including payment of charges to the PHA.

(b) Targeting admissions to extremely low income families —(1) Targeting requirement. (i) Not less than 40 percent of the families admitted to a PHA's public housing program during the PHA fiscal year from the PHA waiting list shall be extremely low income families. This is called the “basic targeting requirement.”

(ii) To the extent provided in paragraph (b)(2) of this section, admission of extremely low income families to the PHA's Section 8 voucher program during the same PHA fiscal year is credited against the basic targeting requirement.

(iii) A PHA must comply with both the targeting requirement found in this part and the deconcentration requirements found in part 903 of this chapter.

(2) Credit for admissions to PHA voucher program. (i) If admissions of extremely low income families to the PHA's voucher program during a PHA fiscal year exceeds the 75 percent minimum targeting requirement for the PHA's voucher program (see 24 CFR 982.201(b)(2)), such excess shall be credited (subject to the limitations in paragraph (b)(2)(ii) of this section) against the PHA's basic targeting requirement for the same fiscal year.

(ii) The fiscal year credit for voucher program admissions that exceed the minimum voucher program targeting requirement shall not exceed the lower of:

(A) Ten percent of public housing waiting list admissions during the PHA fiscal year;

(B) Ten percent of waiting list admission to the PHA's Section 8 tenant-based assistance program during the PHA fiscal year; or

(C) The number of qualifying low income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low income family means a low income family other than an extremely low income family.

(c) Adoption and availability of tenant selection policies. These selection policies shall:

(1) Be duly adopted and implemented;

(2) Be publicized by posting copies thereof in each office where applications are received and by furnishing copies to applicants or tenants upon request, free or at their expense, at the discretion of the PHA; and

(3) Be consistent with the fair housing and equal opportunity provisions of §5.105 of this title; and

(4) Be submitted to the HUD field office upon request from that office.

§ 960.206 Waiting list: Local preferences in admission to public housing program.

(a) *Establishment of PHA local preferences.* (1) The PHA may adopt a system of local preferences for selection of families admitted to the PHA's public housing program. The PHA system of selection preferences must be based on local housing needs and priorities as determined by the PHA. In determining such needs and priorities, the PHA shall use generally accepted data sources. Such sources include public comment on the PHA plan (as received pursuant to §903.17 of this chapter), and on the consolidated plan for the relevant jurisdiction (as received pursuant to part 91 of this title).

(2) The PHA may limit the number of applicants that qualify for any local preference.

(3) PHA adoption and implementation of local preferences is subject to HUD requirements concerning income-targeting (§960.202(b)), deconcentration and income-mixing (§903.7), and selection preferences for developments designated exclusively for elderly or disabled families or for mixed population developments (§960.407).

(4) The PHA must inform all applicants about available preferences and must give applicants an opportunity to show that they qualify for available preferences.

(b) *Particular local preferences* —(1) *Residency requirements or preferences.* (i) Residency requirements are prohibited. Although a PHA is not prohibited from adopting a residency preference, the PHA may only adopt or implement residency preferences in accordance with non-discrimination and equal opportunity requirements listed at §5.105(a) of this title.

(ii) A residency preference is a preference for admission of persons who reside in a specified geographic area ("residency preference area"). A county or municipality may be used as a residency preference area. An area smaller than a county or municipality may not be used as a residency preference area.

(iii) Any PHA residency preferences must be included in the statement of PHA policies that govern eligibility, selection and admission to the program, which is included in the PHA annual plan (or supporting documents) pursuant to part 903 of this chapter. Such policies must specify that use of a residency preference will not have the purpose or effect of delaying or otherwise denying admission to the program based on the race, color, ethnic origin, gender, religion, disability, or age of any member of an applicant family.

(iv) A residency preference must not be based on how long an applicant has resided or worked in a residency preference area.

(v) Applicants who are working or who have been notified that they are hired to work in a residency preference area must be treated as residents of the residency preference area. The PHA may treat graduates of, or active participants in, education and training programs in a residency preference area as residents of the residency preference area if the education or training program is designed to prepare individuals for the job market.

(2) *Preference for working families.* The PHA may adopt a preference for admission of working families (families where the head, spouse, or sole member, is employed). However, an applicant must be given the benefit of the working family preference if the head and spouse, or sole member is age 62 or older, or is a person with disabilities.

(3) *Preference for person with disabilities.* The PHA may adopt a preference for admission of families that include a person with disabilities. However, the PHA may not adopt a preference for persons with a specific disability.

(4) *Preference for victims of domestic violence.* The PHA should consider whether to adopt a local preference for admission of families that include victims of domestic violence.

(5) *Preference for single persons who are elderly, displaced, homeless or a person with disabilities.* The PHA may adopt a preference for admission of single persons who are age 62 or older, displaced, homeless, or persons with disabilities over other single persons.

(c) *Selection for particular unit.* In selecting a family to occupy a particular unit, the PHA may match characteristics of the family with the type of unit available, for example, number of bedrooms. In selection of families to occupy units with special accessibility features for persons with disabilities, the PHA must first offer such units to families which include persons with disabilities who require such accessibility features (see §§8.27 and 100.202 of this title).

(d) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a resident family may not be provided a housing unit with two or more bedrooms.

(e) *Selection method.* (1) The PHA must use the following to select among applicants on the waiting list with the same priority for admission:

(i) Date and time of application; or

(ii) A drawing or other random choice technique.

(2) The method for selecting applicants must leave a clear audit trail that can be used to verify that each applicant has been selected in accordance with the method specified in the PHA plan.

§ 960.208 Notification to applicants.

(a) The PHA must promptly notify any applicant determined to be ineligible for admission to a project of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination.

(b) When a determination has been made that an applicant is eligible and satisfies all requirements for admission, including the tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined.

§ 960.259 Family information and verification.

(a) *Family obligation to supply information.* (1) The family must supply any information that the PHA or HUD determines is necessary in administration of the public housing program, including submission of required evidence of citizenship or eligible immigration status (as provided by part 5, subpart E of this title). "Information" includes any requested certification, release or other documentation.

(2) The family must supply any information requested by the PHA or HUD for use in a regularly scheduled reexamination or an interim reexamination of family income and composition in accordance with HUD requirements.

(3) For requirements concerning the following, see part 5, subpart B of this title:

(i) Family verification and disclosure of social security numbers;

(ii) Family execution and submission of consent forms for obtaining wage and claim information from State Wage Information Collection Agencies (SWICAs).

(4) Any information supplied by the family must be true and complete.

(b) *Family release and consent.* (1) As a condition of admission to or continued assistance under the program, the PHA shall require the family head, and such other family members as the PHA designates, to execute a consent form (including any release and consent as required under §5.230 of this title) authorizing any depository or private source of income, or any Federal, State or local agency, to furnish or release to the PHA or HUD such information as the PHA or HUD determines to be necessary.

(2) The use or disclosure of information obtained from a family or from another source pursuant to this release and consent shall be limited to purposes directly connected with administration of the program.

(c) *PHA responsibility for reexamination and verification.* (1) The PHA must obtain and document in the family file third party verification of the following factors, or must document in the file why third party verification was not available:

(i) Reported family annual income;

(ii) The value of assets;

(iii) Expenses related to deductions from annual income; and

(iv) Other factors that affect the determination of adjusted income or income-based rent.

Subpart D—Preference for Elderly Families and Disabled Families in Mixed Population Projects

§ 960.401 Purpose.

This subpart establishes a preference for elderly families and disabled families for admission to mixed population public housing projects, as defined in §960.405.

§ 960.403 Applicability.

(a) This subpart applies to all dwelling units in mixed population projects (as defined in §960.405), or portions of mixed population projects, assisted under the U.S. Housing Act of 1937. These projects formerly were known as elderly projects.

(b) This subpart does not apply to section 23 and section 10(c) leased housing projects or the section 23 Housing Assistance Payments Program where the owners enter into leases directly with the tenants, or to the Section 8 Housing Assistance Payments Program, the Low-Rent Housing Homeownership Opportunities Program (Turnkey III), the Mutual Help Homeownership Opportunities Program, or to Indian Housing Authorities. (For applicability to Indian Housing Authorities, see part 905 of this chapter.) Additionally, this subpart is not applicable to projects designated for elderly families or designated for disabled families in accordance with 24 CFR part 945.

§ 960.407 Selection preference for mixed population developments.

(a) The PHA must give preference to elderly families and disabled families equally in determining priority for admission to mixed population developments. The PHA may not establish a limit on the number of elderly families or disabled families who may be accepted for occupancy in a mixed population development.

(b) In selecting elderly families and disabled families to occupy units in mixed population developments, the PHA must first offer units that have special accessibility features for persons with disabilities to families who include persons with disabilities who require the accessibility features of such units (see §§8.27 and 100.202 of this title).

[65 FR 16729, Mar. 29, 2000]

Subpart E—Occupancy by Over-Income Families or Police Officers

§ 960.505 Occupancy by police officers to provide security for public housing residents

(a) *Police officer.* For purpose of this subpart E, “police officer” means a person determined by the PHA to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any agency of these governments. An officer of an accredited police force of a housing agency may qualify.

(b) *Occupancy in public housing.* For the purpose of increasing security for residents of a public housing development, the PHA may allow police officers who would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit. The PHA must include in the PHA annual plan or supporting documents the number and location of the units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing residents.

The United States Housing Act of 1937- Section 3

§ 1437. Declaration of policy and public housing agency organization

(a) Declaration of policy

It is the policy of the United States—

(C) consistent with the objectives of this subchapter, to vest in public housing agencies that perform well, the maximum amount of responsibility and flexibility in program administration, with appropriate accountability to public housing residents, localities, and the general public;

(2) that the Federal Government cannot through its direct action alone provide for the housing of every American citizen, or even a majority of its citizens, but it is the responsibility of the Government to promote and protect the independent and collective actions of private citizens to develop housing and strengthen their own neighborhoods;

(2) Rental payments for public housing families.—

(A) Authority for family to select.—

(i) **In general.**— A family residing in a public housing dwelling shall pay as monthly rent for the unit the amount determined under clause (i) or (ii) of subparagraph (B), subject to the requirement under paragraph (3) (relating to minimum rents). Each public housing agency shall provide for each family residing in a public housing dwelling unit owned, assisted, or operated by the agency to elect annually whether the rent paid by such family shall be determined under clause (i) or (ii) of subparagraph (B). A public housing agency may not at any time fail to provide both such rent options for any public housing dwelling unit owned, assisted, or operated by the agency.

(ii) Income-based rents.—

(I) **In general.**— The monthly rental amount determined under this clause for a family shall be an amount, determined by the public housing agency, that does not exceed the greatest of the amounts (rounded to the nearest dollar) determined under subparagraphs (A), (B), and (C) of paragraph (1). This

clause may not be construed to require a public housing agency to charge a monthly rent in the maximum amount permitted under this clause.

(4) Occupancy by police officers.—

(A) In general.— Subject to subparagraph (B) and notwithstanding any other provision of law, a public housing agency may, in accordance with the public housing agency plan for the agency, allow a police officer who is not otherwise eligible for residence in public housing to reside in a public housing dwelling unit. The number and location of units occupied by police officers under this paragraph and the terms and conditions of their tenancies shall be determined by the public housing agency.

(B) Increased security.— A public housing agency may take the actions authorized in subparagraph (A) only for the purpose of increasing security for the residents of a public housing project.

(C) Definition.— In this paragraph, the term “police officer” means any person determined by a public housing agency to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a Federal, State, or local government or by any agency thereof (including a public housing agency having an accredited police force).

The United States Housing Act of 1937- Section 5

§ 1437c-1 Public Housing Agency Plans

(a) 5-year plan (1) In general Subject to paragraph (2), not less than once every 5 fiscal years, each public housing agency shall submit to the Secretary a plan that includes, with respect to the 5 fiscal years immediately following the date on which the plan is submitted - (A) a statement of the mission of the public housing agency for serving the needs of low-income and very low-income families in the jurisdiction of the public housing agency during such fiscal years; and (B) a statement of the goals and objectives of the public housing agency that will enable the public housing agency to serve the needs identified pursuant to subparagraph (A) during those fiscal years.

(2) Initial plan The initial 5-year plan submitted by a public housing agency under this subsection shall be submitted for the 5-year period beginning on October 1, 1999, or the first fiscal year thereafter for which the public housing agency initially receives assistance under this chapter. (b) Annual plan (1) In general Effective beginning upon October 1, 1999, each public housing agency shall submit to the Secretary an annual public housing agency plan under this subsection for each fiscal year for which the public housing agency receives assistance under section 1437f(o) or 1437g of this title. (2) Updates For each fiscal year after the initial submission of an annual plan under this subsection by a public housing agency, the public housing agency may comply with requirements for submission of a plan under this subsection by submitting an update of the plan for the fiscal year. (c) Procedures (1) In general The Secretary shall establish requirements and procedures for submission and review of plans, including requirements for timing and form of submission, and for the contents of such plans. (2) Contents The procedures established under paragraph (1) shall provide that a public housing agency shall - (A) in developing the plan consult with the resident advisory board established under subsection

(e) of this section; and (B) ensure that the plan under this section is consistent with the applicable comprehensive housing affordability strategy (or any consolidated plan incorporating such strategy) for the jurisdiction in which the public housing agency is located, in accordance with title I of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12701 et seq.], and contains a certification by the appropriate State or local official that the plan meets the requirements of this paragraph and a description of the manner in which the applicable contents of the public housing agency plan are consistent with the comprehensive housing affordability strategy.

(d) Contents An annual public housing agency plan under subsection (b) of this section for a public housing agency shall contain the following information relating to the upcoming fiscal year for which the assistance under this chapter is to be made available: (1) Needs A statement of the housing needs of low-income and very low-income families residing in the jurisdiction served by the public housing agency, and of other low-income and very low-income families on the waiting list of the agency (including housing needs of elderly families and disabled families), and the means by which the public housing agency intends, to the maximum extent practicable, to address those needs. (2) Financial resources A statement of financial resources available to the agency and the planned uses of those resources. (3) Eligibility, selection, and admissions policies A statement of the policies governing eligibility, selection, admissions (including any preferences), assignment, and occupancy of families with respect to public housing dwelling units and housing assistance under section 1437f(o) of this title, including - (A) the procedures for maintaining waiting lists for admissions to public housing projects of the agency, which may include a system of site-based waiting lists under section 1437d(r) of this title; and (B) the admissions policy under section 1437n(a)(3)(B) of this title for deconcentration of lower-income families. (4) Rent determination A statement of the policies of the public housing agency governing rents charged for public housing dwelling units and rental contributions of families assisted under section 1437f(o) of this title. (5) Operation and management A statement of the rules, standards, and policies of the public housing agency governing maintenance and management of housing owned, assisted, or operated by the public housing agency (which shall include measures necessary for the prevention or eradication of pest infestation, including by cockroaches), and management of the public housing agency and programs of the public housing agency. (6) Grievance procedure A statement of the grievance procedures of the public housing agency. (7) Capital improvements With respect to public housing projects owned, assisted, or operated by the public housing agency, a plan describing the capital improvements necessary to ensure long-term physical and social viability of the projects. (8) Demolition and disposition With respect to public housing projects owned by the public housing agency - (A) a description of any housing for which the PHA will apply for demolition or disposition under section 1437p of this title; and (B) a timetable for the demolition or disposition. (9) Designation of housing for elderly and disabled families With respect to public housing projects owned, assisted, or operated by the public housing agency, a description of any projects (or portions thereof) that the public housing agency has designated or will apply for designation for occupancy by elderly and disabled families in accordance with section 1437e of this title. (10) Conversion of public housing With respect to public housing owned by a public housing agency - (A) a description of any building or buildings that the public housing agency is required to convert to tenant-based assistance under section 1437z-5 of this title or that the public housing agency plans to voluntarily convert under section 1437t of this title; (B) an analysis of the projects or buildings

required to be converted under section 1437z-5 of this title; and (C) a statement of the amount of assistance received under this chapter to be used for rental assistance or other housing assistance in connection with such conversion. (11) Homeownership A description of any homeownership programs of the agency under section 1437f(y) of this title or for which the public housing agency has applied or will apply for approval under section 1437z-4 of this title. (12)

Community service and self-sufficiency A description of - (A) any programs relating to services and amenities provided or offered to assisted families; (B) any policies or programs of the public housing agency for the enhancement of the economic and social self-sufficiency of assisted families; (C) how the public housing agency will comply with the requirements of subsections (c) and (d) of section 1437j of this title (relating to community service and treatment of income changes resulting from welfare program requirements). (13) Safety and crime prevention A plan established by the public housing agency, which shall be subject to the following requirements: (A) Safety measures The plan shall provide, on a project-by-project or jurisdiction-wide basis, for measures to ensure the safety of public housing residents. (B) Establishment The plan shall be established in consultation with the police officer or officers in command for the appropriate precinct or police department. (C) Content The plan shall describe the need for measures to ensure the safety of public housing residents and for crime prevention measures, describe any such activities conducted or to be conducted by the agency, and provide for coordination between the agency and the appropriate police precincts for carrying out such measures and activities. (D) Secretarial action: If the Secretary determines, at any time, that the security needs of a project are not being adequately addressed by the plan, or that the local police precinct is not complying with the plan, the Secretary may mediate between the public housing agency and the local precinct to resolve any issues of conflict. (14) Pets: The requirements of the agency, pursuant to section 1437z-3 of this title, relating to pet ownership in public housing. (15) Civil rights certification A certification by the public housing agency that the public housing agency will carry out the public housing agency plan in conformity with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], and title II of the Americans with Disabilities Act of 1990 [42 U.S.C. 12131 et seq.], and will affirmatively further fair housing. (16) Annual audit The results of the most recent fiscal year audit of the public housing agency under section 1437c(h)(2) of this title. (17) Asset management A statement of how the agency will carry out its asset management functions with respect to the public housing inventory of the agency, including how the agency will plan for the long-term operating, capital investment, rehabilitation, modernization, disposition, and other needs for such inventory. (18) Other any other information required by law to be included in a public housing agency plan. (e) Resident advisory board (1) In general Except as provided in paragraph (3), each public housing agency shall establish 1 or more resident advisory boards in accordance with this subsection, the membership of which shall adequately reflect and represent the residents assisted by the public housing agency. (2) Functions: Each resident advisory board established under this subsection by a public housing agency shall assist and make recommendations regarding the development of the public housing agency plan for the agency.

The agency shall consider the recommendations of the resident advisory boards in preparing the final public housing agency plan, and shall include, in the public housing agency plan submitted to the Secretary under this section, a copy of the recommendations and a description of the manner in which the recommendations were addressed. (3) Waiver The Secretary may waive the

requirements of this subsection with respect to the establishment of resident advisory boards for a public housing agency if the agency demonstrates to the satisfaction of the Secretary that there exist resident councils or other resident organizations of the public housing agency that - (A) adequately represent the interests of the residents of the public housing agency; and (B) have the ability to perform the functions described in paragraph (2).

(f) (1) Notice and hearing (1) In general In developing a public housing agency plan under this section, the board of directors or similar governing body of a public housing agency shall conduct a public hearing to discuss the public housing agency plan and to invite public comment regarding that plan. The hearing shall be conducted at a location that is convenient to residents. (2) Availability of information and notice Not later than 45 days before the date of a hearing conducted under paragraph (1), the public housing agency shall - (A) make the proposed public housing agency plan and all information relevant to the hearing and proposed plan available for inspection by the public at the principal office of the public housing agency during normal business hours; and (B) publish a notice informing the public that - (i) that the information is available as required under subparagraph (A); and (ii) that a public hearing under paragraph (1) will be conducted. (3) Adoption of plan A public housing agency may adopt a public housing agency plan and submit the plan to the Secretary in accordance with this section only after - (A) conducting a public hearing under paragraph (1); (B) considering all public comments received; and (C) making any appropriate changes in the public housing agency plan, in consultation with the resident advisory board. (4) Advisory board consultation enforcement Pursuant to a written request made by the resident advisory board for a public housing agency that documents a failure on the part of the agency to provide adequate notice and opportunity for comment under this subsection and a finding by the Secretary of good cause within the time period provided for in subsection (i)(4) of this section, the Secretary may require the public housing agency to adequately remedy such failure before final approval of the public housing agency plan under this section. (g) Amendments and modifications to plans (1) In general Except as provided in paragraph (2), nothing in this section shall preclude a public housing agency, after submitting a plan to the Secretary in accordance with this section, from amending or modifying any policy, rule, regulation, or plan of the public housing agency, except that a significant amendment or modification may not - (A) be adopted, other than at a duly called meeting of board of directors (or similar governing body) of the public housing agency that is open to the public; and (B) be implemented, until notification of the amendment or modification is provided to the Secretary and approved in accordance with subsection (i) of this section. (2) Consistency and notice Each significant amendment or modification to a public housing agency plan submitted to the Secretary under this section shall - (A) meet the requirements under subsection (c)(2) of this section (relating to consultation with resident advisory board and consistency with comprehensive housing affordability strategies); and (B) be subject to the notice and public hearing requirements of subsection (f) of this section. (h) Submission of plans (1) Initial submission Each public housing agency shall submit the initial plan required by this section, and any amendment or modification to the initial plan, to the Secretary at such time and in such form as the Secretary shall require. (2) Annual submission Not later than 75 days before the start of the fiscal year of the public housing agency, after submission of the initial plan required by this section in accordance with subparagraph (A), each public housing agency shall annually submit to the Secretary a plan update, including any amendments or modifications to the public housing agency plan. (i) Review and determination of compliance (1) Review Subject to paragraph (2), after submission of the public housing agency plan or any amendment or modification to the plan

to the Secretary, to the extent that the Secretary considers such action to be necessary to make determinations under this paragraph, the Secretary shall review the public housing agency plan (including any amendments or modifications thereto) and determine whether the contents of the plan - (A) set forth the information required by this section and this chapter to be contained in a public housing agency plan; (B) are consistent with information and data available to the Secretary, including the approved comprehensive housing affordability strategy under title I of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12701 et seq.] for the jurisdiction in which the public housing agency is located; and (C) are not prohibited by or inconsistent with any provision of this subchapter or other applicable law. (2) Elements exempted from review

The Secretary may, by regulation, provide that one or more elements of a public housing agency plan shall be reviewed only if the element is challenged, except that the Secretary shall review the information submitted in each plan pursuant to paragraphs (3)(B), (8), and (15) of subsection (d) of this section. (3) Disapproval The Secretary may disapprove a public housing agency plan (or any amendment or modification thereto) only if Secretary determines that the contents of the plan (or amendment or modification) do not comply with the requirements under subparagraph (A) through (C) of paragraph (1). (4) Determination of compliance (A) In general Except as provided in subsection (j)(2) of this section, not later than 75 days after the date on which a public housing agency plan is submitted in accordance with this section, the Secretary shall make the determination under paragraph (1) and provide written notice to the public housing agency if the plan has been disapproved.

If the Secretary disapproves the plan, the notice shall state with specificity the reasons for the disapproval. (B) Failure to provide notice of disapproval In the case of a plan disapproved, if the Secretary does not provide notice of disapproval under subparagraph (A) before the expiration of the period described in subparagraph (A), the Secretary shall be considered, for purposes of this chapter, to have made a determination that the plan complies with the requirements under this section and the agency shall be considered to have been notified of compliance upon the expiration of such period.

The preceding sentence shall not preclude judicial review regarding such compliance pursuant to chapter 7 of title 5 or an action regarding such compliance under section 1983 of this title. (5) Public availability A public housing agency shall make the approved plan of the agency available to the general public. (j) Troubled and at-risk PHAs (1) In general The Secretary may require, for each public housing agency that is at risk of being designated as troubled under section 1437d(j)(2) of this title or is designated as troubled under section 1437d(j)(2) of this title, that the public housing agency plan for such agency include such additional information as the Secretary determines to be appropriate, in accordance with such standards as the Secretary may establish or in accordance with such determinations as the Secretary may make on an agency-by-agency basis. (2) Troubled agencies The Secretary shall provide explicit written approval or disapproval, in a timely manner, for a public housing agency plan submitted by any public housing agency designated by the Secretary as a troubled public housing agency under section 1437d(j)(2) of this title. (k) Streamlined plan In carrying out this section, the Secretary may establish a streamlined public housing agency plan for - (A) public housing agencies that are determined by the Secretary to be high performing public housing agencies; (B) public housing agencies with less

than 250 public housing units that have not been designated as troubled under section 1437d(j)(2) of this title; and (C) public housing agencies that only administer tenant-based assistance and that do not own or operate public housing. (l) Compliance with plan (1) In general In providing assistance under this subchapter, a public housing agency shall comply with the rules, standards, and policies established in the public housing agency plan of the public housing agency approved under this section. (2) Investigation and enforcement In carrying out this subchapter, the Secretary shall - (A) provide an appropriate response to any complaint concerning noncompliance by a public housing agency with the applicable public housing agency plan; and (B) if the Secretary determines, based on a finding of the Secretary or other information available to the Secretary, that a public housing agency is not complying with the applicable public housing agency plan, take such actions as the Secretary determines to be appropriate to ensure such compliance.

The United States Housing Act of 1937- Section 6

§ 1437(q). Availability of records

(1) In general

(A) Provision of information

Notwithstanding any other provision of law, except as provided in subparagraph (C), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to public housing agencies regarding the criminal conviction records of adult applicants for, or tenants of, covered housing assistance for purposes of applicant screening, lease enforcement, and eviction.

(B) Requests by owners of project-based section 8 [42 U.S.C. 1437f] housing

A public housing agency may make a request under subparagraph (A) for information regarding applicants for, or tenants of, housing that is provided project-based assistance under section 1437f of this title only if the housing is located within the jurisdiction of the agency and the owner of such housing has requested that the agency obtain such information on behalf of the owner. Upon such a request by the owner, the agency shall make a request under subparagraph (A) for the information. The agency may not make such information available to the owner but shall perform determinations for the owner regarding screening, lease enforcement, and eviction based on criteria supplied by the owner.

(C) Exception

A law enforcement agency described in subparagraph (A) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

(2) Opportunity to dispute

Before an adverse action is taken with regard to assistance under this subchapter on the basis of a criminal record, the public housing agency shall provide the tenant or applicant with a copy of the criminal record and an opportunity to dispute the accuracy and relevance of that record.

(3) Fees

A public housing agency may be charged a reasonable fee for information provided under paragraph (1). In the case of a public housing agency obtaining information pursuant to paragraph (1)(B) for another owner of housing, the agency may pass such fee on to the owner initiating the request and may charge additional reasonable fees for making the request on behalf of the owner and taking other actions for owners under this subsection.

(4) Records management

Each public housing agency shall establish and implement a system of records management that ensures that any criminal record received by the public housing agency is—

(A) maintained confidentially;

(B) not misused or improperly disseminated; and

(C) destroyed, once the purpose for which the record was requested has been accomplished.

(5) Confidentiality

A public housing agency receiving information under this subsection may use such information only for the purposes provided in this subsection and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the agency and who has a job-related need to have access to the information in connection with admission of applicants, eviction of tenants, or termination of assistance. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this subsection to a public housing agency is used, and confidentiality of such information is maintained, as required under this subsection. The Secretary shall establish standards for confidentiality of information obtained under this subsection by public housing agencies on behalf of owners.

The United States Housing Act of 1937- Section 16

42 U.S.C. 1437n(a)

(5) Limitations on tenancy for over-income families.--

“(A) Limitations.--Except as provided in

subparagraph (D), in the case of any family residing in a dwelling unit of public housing whose income for the

most recent two consecutive years, as determined pursuant to income reviews conducted pursuant to section 3(a)(6), has exceeded the applicable income limitation under subparagraph (C), the public housing agency shall--

“(i) notwithstanding any other provision of this Act, charge such family as monthly rent for the unit occupied by such family an amount equal to the greater of--

“(I) the applicable fair market rental established under section 8(c) for a dwelling unit in the same market area of the same size; or

“(II) <<NOTE: Regulations.>> the amount of the monthly subsidy provided under this Act for the dwelling unit, which shall include any amounts from the Operating Fund and Capital Fund under section 9 used for the unit, as determined by the agency in accordance with regulations that the Secretary shall issue to carry out this subclause; or

“(ii) <<NOTE: Deadline.>> terminate the tenancy of such family in public housing not later than 6 months after the income determination described in subparagraph (A).

“(B) Notice.--In the case of any family residing in a dwelling unit of public housing whose income for a year has exceeded the applicable income limitation under subparagraph (C), upon the conclusion of such year the public housing agency shall provide written notice to such family of the requirements under subparagraph (A).

“(C) <<NOTE: Determination.>> Income limitation.--The income limitation under this subparagraph shall be 120 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income limitations higher or lower than 120 percent of such median income on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs, or unusually high or low family incomes, vacancy rates, or rental costs.

“(D) Exception.--Subparagraph (A) shall not apply to a family occupying a dwelling unit in public housing pursuant to paragraph (5) of section 3(a) (42 U.S.C.

1437a(a)(5)).

“(E) Reports on over-income families and waiting lists.--The Secretary shall require that each public housing agency shall--

“(i) submit a report annually, in a format required by the Secretary, that specifies--

“(I) the number of families residing, as of the end of the year for which the report is submitted, in public housing administered by the agency who had incomes exceeding the applicable income limitation under subparagraph (C); and

“(II) the number of families, as of the end of such year, on the waiting lists for admission to public housing projects of the agency; and

“(ii) <<NOTE: Public information.>> make the information reported pursuant to clause (i) publicly available.”.