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**ADMISSIONS AND CONTINUED
OCCUPANCY POLICY (ACOP)
FOR
BHA PUBLIC HOUSING
PROGRAMS**

Effective: ~~June 1, 2022~~
2024

Summary of changes for ACOP

Section	Change
1.1	Update regarding where to find information regarding BHA sites.
All Sections	Pronouns updated from he/she to their throughout document.
4.4.1 (b)	Removed Boston Residents, employed in Boston, offered employment in Boston. Added Displaced Boston Residents
4.4.2(b)	Removed Non Elderly Disabled Household not requiring Wheelchair Accessible units (Family Developments/AMP only). Added Single Elderly Disabled Preference. Changed preference point to 5 points to align with the Admin Plan.
4.4.2(b)	Removed residency preference points.
4.4.2(b)	Removed points for pro-rated residents in public housing. Added pro-rated residents to the administrative transfer category permitting a move to state-aided public housing.
4.5.4	Update regarding Priority 1 verification requirements and timeline. A determination of Priority 1 denial for Public Housing will apply to all relevant BHA programs.
4.5.5(a)(iii)	Updated language regarding the exception for no receipt of other subsidized housing in order to qualify for Priority 1.
4.5.5(g)	Copies of the Notice to Quit and Summons and Complaint are no longer required as long as Judgement of the Court verifies no fault.
4.5.5(h)	Added verification requirement to include rent receipts or bank statement as an acceptable verification to demonstrate the household has been displaced.
4.6.2	Changes the non-elderly disabled preference to a preference for single elderly disabled over other single persons to align with the Admin Plan.
4.6.5	Removed Residency Preference section
5.4.9	Removed Verification of Medical Deduction section due to duplication
5.5.3 (a)	Added language to clarify that an applicant will not be denied solely due to the presence of criminal activity.
5.6.1	Update to live-in aid section to provide clarity regarding the difference between a family member and a live-in aid.
7.1.1(j)	Addition of pro-rated status due to lack of eligible immigration status category allowing transfer to state-aided public housing.
Definition	Addition of "Near-Elderly" which is defined as 55 and older.

CHAPTER 1: INTRODUCTION AND GENERAL POLICY

1.1 Introduction

Boston Housing Authority's Mission Statement: It is the mission of the Boston Housing Authority ("BHA" or "the Authority") to provide stable, quality affordable housing for low- and moderate-income persons; to deliver these services with integrity and mutual accountability; and to create living environments, which serve as catalysts for the transformation from dependence to economic self-sufficiency.

This Admissions and Continued Occupancy Policy (ACOP) describes the admission, occupancy and transfer policies by which the BHA determines eligibility for admission, selects prospective residents, assigns apartments, admits residents, and processes transfers, in a fair and nondiscriminatory manner.

This ACOP is applicable to BHA Public Housing Developments only. The BHA has additional housing units within its portfolio. Application information for those sites is on the BHA website. ~~The BHA's Hope VI Program developments utilize a separate HUD approved admissions and occupancy system which can be obtained from the property management agent for those developments.~~

1.2 Statement of Nondiscrimination

1.2.1 Compliance with Federal and State Laws

It is the policy of the BHA to comply fully with existing Federal and State laws¹ protecting the individual rights of applicants, residents, or staff and any laws subsequently enacted.

1.2.2 Civil Rights and Fair Housing

The Authority does not discriminate because of race, color, sex, sexual orientation, gender identity, religion, age, handicap, disability, national origin, ethnicity, familial status or marital status, in the leasing, rental, sale or transfer of apartments, buildings, and related facilities, including land that it owns or controls.²

¹ Title VI of the Civil Rights Act of 1964 and the implementing regulations at 24 CFR Part 1; Title VIII of the Civil Rights Act of 1968 (as amended by the Fair Housing Amendment Act of 1988); Executive Order 11063 on Equal Opportunity in Housing and the implementing regulations at 24 CFR Part 107; Section 504 of the Rehabilitation Act of 1973 and the implementing regulations at 24 CFR Part 8; the Age Discrimination Act of 1975 and the implementing regulations at 24 CFR Part 146; and the implementing regulations at 24 CFR Parts 100, 108, 110, and 121. Title II of the Americans with Disabilities Act and the implementing regulations at 28 CFR Part 35 and M.G.L. Chapter 151B. For BHA's state-aided housing, applicable regulations are found at 760 CMR 4.00, 5.00 and 6.00 covering housing developed under the Chapter 200, Chapter 667 and Chapter 705 programs.

² Buildings must be owned by the Authority and covered by a contract for annual contributions under the United States Housing Act of 1937 for properties in the Federal program, and/or a Massachusetts

The BHA shall not, on account of race, color, sex, religion, age, sexual orientation, gender identity, disability, handicap, national origin, ethnicity, marital status or familial status:³

- (a) Deny to any Household the opportunity to apply for housing, or deny to any qualified Applicant the opportunity to lease housing suitable to ~~his/her~~their needs;
- (b) Provide housing which is different from that provided others except as required or permitted by law and in accordance with this Policy;
- (c) Subject any person to segregation or disparate treatment;
- (d) Restrict a person's access to any benefit enjoyed by others in connection with the housing program;
- (e) Treat a person differently in determining eligibility or other requirements for admission;
- (f) Deny a person access to the same level of services available to other similarly situated individuals; or
- (g) Deny a person the opportunity to participate in a planning or advisory group that is an integral part of the housing program.

1.2.3 Fair Admissions

The BHA shall not automatically deny admission to a particular group or category of otherwise eligible Applicants (e.g., Households with children born to unmarried parents or Households where the Head of Household or Co-Head of Household is a student). Each Applicant in a particular group or category must be treated on an individual basis in the normal processing routine.

1.2.4 Reasonable Accommodations

The BHA shall make reasonable accommodations in policies and procedures and, if necessary and reasonable, make certain structural modifications for persons with disabilities (Applicants or residents) in accordance with the BHA's **Reasonable Accommodation Policy**.

- (a) The BHA cannot refuse to make a Reasonable Accommodation in rules, policies, practices or services when such accommodation may be necessary to afford a person with a physical or mental impairment equal opportunity to use and enjoy a BHA apartment, including public and common use areas.

Department of Housing and Community Development Contract for Financial Assistance or operating funds for properties in the State program.

³ See M.G.L. Chapter. 151B, § 4 and 42 U.S.C. § 3601

4.4 Priorities and Preferences for Federal Programs

An Applicant for new admission or Transfer may qualify for a Priority and/or Preference that establishes their position on the waiting list and the order to which they are screened for program eligibility.

Preference points are cumulative and are added to Priority points (if any) to determine an Applicant's position on each BHA waiting list.

4.4.1 Definitions

(a) Priority

Priority is defined as a housing-related situation that affects a Household's present residential status. The BHA gives points to Applicants with a Priority that ranks those Applicants higher on each waiting list than Applicants without Priority. An Applicant can qualify for only one Priority at any given time. Certain priorities are given more points than others are. An Applicant will always be assigned to the highest Priority for which they qualify.

(b) Preference

Preference refers to points given to BHA Applicants who are veterans, ~~Boston Residents, employed in Boston, offered employment in Boston~~ Displaced Boston Residents, a Disabled Person (Family Developments/AMPs only) or Elderly Households who apply for certain developments in accordance with State regulations and the BHA's Designated Housing Program. An Applicant may qualify for more than one Preference at a time.

4.4.2 Points for Priorities and Preferences

(a) The BHA assigns Priority points to each Applicant for New Admission and Transfer on all Waiting Lists.

Federal Housing Program Priority	Points
Super Priority	75
Special Circumstances Transfers	67
Supported Housing Programs	50
Priority One Applicants <ul style="list-style-type: none">Displaced Due to DisasterDisplaced Due to Domestic Violence/ Dating Violence/Sexual Assault/ or Stalking	30

<ul style="list-style-type: none"> • Displaced due to Being a Victim of Hate Crime • Displaced due Avoidance of Reprisal/Witness Protection • Displaced due to Court Ordered no Fault Eviction • Displaced due to Government Action • For Disabled Persons only, Inaccessibility of a Critical Element of their current Dwelling Unit • Displaced due to Being Cost Burdened in Boston • Homeless 	
Standard Applicants	0

(b) The BHA assigns Preference points to each Applicant for New Admission.

Federal Housing Program Preference	Points
Veteran	3
Non-Elderly Disabled Household not requiring Wheelchair Accessible units (Family Developments/AMP only) <u>Single Elderly Disabled Preference</u>	3 56
BHA Resident in Federal Housing Pro-Rated rent burden	3
Designated Housing not requiring Wheelchair Accessible units	100
Displaced Boston Tenant	2
Residency Preference	1

State Public Housing 760 CMR 5.09(1) – Priority Categories

Priority Categories. The BHA shall use the following priority categories in descending order in determining the order of tenant selection:

1st Priority. Homeless due to Displacement by Natural Forces an applicant, otherwise eligible and qualified, who has been displaced by:

1. fire not due to the negligence or intentional act of applicant or a household member;
2. earthquake, flood or other natural cause; or
3. a disaster declared or otherwise formally recognized under disaster relief laws.

2nd Priority. Homeless due to Displacement by Public Action (Urban Renewal) an applicant, otherwise eligible and qualified, who will be displaced within 90 days, or has been displaced within the three years prior to application, by:

1. any low rent housing project as defined in M.G.L. c. 121B, § 1;
2. a public slum clearance or urban renewal project initiated after January 1, 1947; or
3. other public improvement.

3rd Priority. Homeless due to Displacement by Public Action (Sanitary Code Violations) an applicant, otherwise eligible and qualified, who is being displaced, or has been displaced within 90 days prior to application, by enforcement of minimum standards of fitness for human habitation established by 105 CMR 410.000: Minimum Standards of Fitness for Human Habitation (State Sanitary Code: Chapter II) or local ordinances, provided that:

1. neither the applicant nor a household member has caused or substantially contributed to the cause of enforcement proceedings; and
2. the applicant has pursued available ways to remedy the situation by seeking assistance through the courts or appropriate administrative or enforcement agencies.

4th Priority. Other Priority situations as described in the Housing Situation Priority Policy established by the Department pursuant to 760 CMR 5.11 [or other housing situations requested by BHA and granted as a waiver by BHA]

5th Priority. AHVP Participant an applicant, otherwise eligible and qualified, who is living in a non-permanent, transitional housing subsidized by the AHVP.

6th Priority. Transfer for Good Cause.

7th Priority. Standard Applicant an applicant, otherwise eligible and qualified, who does not fit within any of the previous six priority categories.

4.5 Priority Categories and Verification Requirements

State Public Housing 760 CMR 5.05 (3)(a) - Determinations of Priority, Preference, Eligibility and Qualification.

(a) When an applicant approaches the top of a waiting list for a BHA program to which the applicant has applied, the BHA shall make a final determination of the applicant's priority, preference, eligibility and qualification. The applicant shall update the application and provide any additional information or verification reasonably required by the BHA.

Note: The BHA shall use the verification requirements outlined in the sections below as a guideline for verification for the State Public Housing programs.

4.5.1 Transfers

See Chapter on Transfers for explanation of Administrative Transfers and Special Circumstances Transfers.

4.5.2 Supported Housing Programs

See Chapter 10.

4.5.3 Super Priority

The BHA will admit an Applicant to the Public Housing program before all other Applicants on the waiting list if:

The Applicant was a resident in a BHA public housing site the has been converted to other low-income housing.

The Applicant Family is or will be temporarily displaced due to rehabilitation and modernization programs (an applicant family shall be deemed temporarily displaced from the time the family vacates the public housing unit until an offer is made to return to the site).

4.5.4 Priority 1 for Federal Housing Programs ("P1")

(a) Verification of Priority 1 Timeline Generally

The BHA grants Priority 1 status based on circumstances verified at two points:

(i) At the time of application with verification as determined by BHA, AND

(ii) immediately prior to the final eligibility interview for all relevant BHA programs by satisfying the verification requirements in the relevant section below.

(b) Changes of Priority 1 Status

Additionally, a change from one Priority 1 category to another Priority 1 category in between application and the final eligibility interview shall not disqualify an applicant from their original application date and time.

Displaced-Priority 1 status shall not be re-verified after a determination of eligibility is made during final eligibility screening. The BHA will verify non-receipt of subsidized housing as described in 4.5.5(a)(iii) below prior to leasing.

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(c) Determinations of Priority 1 Applicants on Multiple Waitlists

(i) Approval or Denial for Priority 1 on any BHA waiting list suffices as an approval or denial for Priority 1 on all applicable BHA waiting lists.

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4.5.5 Priority 1 Displaced Categories

The Displaced Priority categories are:

1. Government Action
2. Disaster
3. Domestic Violence
4. Victim of a Hate Crime
5. Fear of Reprisal / Witness Protection
6. Court Ordered No-Fault Eviction
7. Cost Burdened in Boston
8. Inaccessibility to the Dwelling Unit
9. Graduates of Project-Based Units Who Have Fulfilled Supportive Service Goals

(a) Displaced Category Threshold Verification Requirements

In order to qualify as Displaced in one of the categories detailed below, the Applicant must meet the following threshold verification requirements:

(i) Displaced or Imminent Danger of Displacement: the Applicant must have been Displaced from their residence or is in imminent danger of being Displaced due to one of the categories set forth below, AND

(ii) Proof of Address: the Applicant must verify proof of residence at the address of displacement by providing a lease, utility bill(s), official mail from a government agency, or a written certification from the owner of the property or other government official, AND

(iii) No Receipt of other Subsidized Housing: The Applicant must not be in receipt of adequate subsidized or other low-income housing from the BHA or another government agency. An applicant will continue to be considered displaced if they reside in subsidized

~~housing that is not permanent or is not accessible as defined below. Unless, the An exception to this provision applies if the Applicant qualifies for the Inaccessibility of a Critical Element of their Current Dwelling Unit, Priority as defined below, in Chapter 4.5.5(f).~~

An applicant will continue to be considered displaced if they reside in subsidized housing that is not permanent or is not accessible as defined in Priority Category 8 below:

(b) Displaced due to Government Action

(i) A Household is required to permanently move from their residence by a Federal, State or local governmental action such as code enforcement, public improvements or a development program.

(ii) Verification Requirements:

- third-party, written verification from the appropriate unit or agency of government certifying that the applicant has been displaced or will be displaced in the next ninety days, as a result of action by that agency; AND
- the precise reason(s) for such displacement.

(c) Displacement Due to a Disaster

(i) Applicant was Displaced due to a disaster such as flood or fire, that results in the uninhabitability of an Applicant's apartment or dwelling unit not due to the fault of the Applicant and/or Household member or beyond the Applicant's control;

(ii) Verification requirements:

- A copy of the incident report from the local Fire Department or other appropriate agency who deals with disasters, OR
- Written verification from the appropriate unit or agency of government certifying that the applicant has been displaced or will be imminently be displaced, as a result of action by that agency, AND
- Verification the appropriate agency that the dwelling unit is now uninhabitable AND
- If applicable, the cause of the disaster. If you or a household member or guest was the cause of the disaster, approval for priority status will be denied unless mitigating circumstances are established to the satisfaction of the reviewing department.

(d) Displacement Due to Domestic Violence/Dating Violence / Stalking/ Sexual Assault

(i) Displacement or threat of imminent displacement from an address due to continuing actual or threatened physical violence (including sexual abuse) directed against one or more of the Applicant Family members.

(ii) Verification requirements:

- Submission of a fully completed "Certificate of Involuntary Displacement Due to Domestic Violence/Dating Violence/ Stalking/ Sexual Assault" HUD Form 5382, OR
- A document, (1) signed by an employee, agent, or volunteer of a victim service provider, an attorney or medical professional or a mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, (2) signed by the applicant or tenant, (3) that specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault or stalking is the grounds for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault or stalking under 24 C.F.R. 5.2003; OR
- A record of a Federal, State, tribal, territorial, or local law enforcement agency (may include a police report), court, or administrative agency; OR
- At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.
- Verification will not be considered valid unless it: (1) supplies the name of the threatening or abusive Household Member or other legal occupant of the dwelling Unit if known is safe to do so, AND (2) describes how the situation came to certifier or verifier's attention, AND (3) Indicates that the Applicant was displaced because of the threats and/or violence and that the Applicant is in imminent danger where he/she/they now resides.

(e) *Displaced Due to Being a Victim of a Hate Crime*

(i) The Applicant or a member of the Household has been a victim of one or more hate crimes AND the Applicant Family has vacated a dwelling Unit because of this crime OR the fear associated with the crime has destroyed the peaceful enjoyment of the dwelling Unit.

(ii) "Hate crime", is defined as any criminal act coupled with overt actions motivated by bigotry and bias including, but not limited to, a threatened, attempted or completed overt act motivated at least in part by racial, religious, ethnic, handicap, gender or sexual orientation, prejudice, or which otherwise deprives another person of his/her/their constitutional rights by threats, intimidation or coercion, or which seeks to interfere with or disrupt a person's exercise of constitutional rights through harassment or intimidation.

(iii) Verification must include:

- Submission the appropriate BHA form, OR
- Documentation from a law enforcement agency that the Applicant or a Household Member was a victim of such crime(s)

(f) *Displaced Due to Avoidance of Reprisal or Witness Protection*

(i) Relocation is required because an Applicant provided information or testimony on criminal activities to a law enforcement agency; and based upon a threat assessment, a law enforcement agency recommends the relocation of the Applicant to avoid or minimize risk of violence against Applicant as reprisal for providing such information.

(ii) Verification requirements:

- Submission of the appropriate BHA form or documentation from a law enforcement agency that the Applicant and/or a household member provided information on criminal activity; AND
- Documentation that, following a threat assessment conducted by the law enforcement agency, the agency recommends the relocation/re-housing of the household to avoid or minimize the threat of violence or reprisal to or against the household member(s) for providing such information.
- This includes situations in which the Applicant and/or Family member(s) are themselves the victims of such crimes and have provided information or testimony to a law enforcement agency.

(g) *Displaced Due to Court-Ordered No-Fault Eviction:*

(i) Eviction occurred pursuant to an Order for Judgment (or Agreement for Judgment) issued by a court because of:

- Landlord action beyond the applicant's ability to control or prevent, such as failure to accept an offer of a new lease; owner's desire to use the unit for personal use, or a non-residential purpose; a business or economic reason such as sale or renovation of the property or a desire to lease at a higher rent , AND
- the action occurred despite the applicant's having met all lawfully imposed lease conditions, AND
- Displacement was not the result of failure to comply with HUD and State policies in its housing programs with respect to occupancy of under-occupied and overcrowded units or failure to accept a transfer to another unit in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.

(i) Verification Requirements:

• ~~A copy of the Notice to Quit issued by the landlord or property manager; AND~~

• ~~a copy of the Summons and Complaint available from the court; AND~~

• ~~a copy of the Judgment of the Court (Agreement for Judgment, Order for Judgment and Findings of Fact, or Default Judgment); AND~~

• ~~If necessary, additional information to verify no fault if the judgment is not clean, such as the Summons and Complaint and or Notice to Quit.~~

• if applicable, a copy of the execution issued by the court.

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(iii) The information contained in the above-referenced documents must clearly establish to the satisfaction of the BHA that:

- the action taken by the landlord or property manager was beyond the Applicant's ability to control or prevent; AND
- the action by the landlord or property manager occurred despite the Applicant Household having met all previously imposed conditions of occupancy; AND
- displacement was not the result of failure to comply with HUD and State policies in its housing programs with respect to occupancy of under-occupied and over-crowded Apartments or failure to accept a Transfer to another Apartment in accordance with a court order or policies or procedures under a HUD-approved desegregation plan.

(h) *Displaced Due to Being Cost Burdened in Boston*

(i) The Applicant can demonstrate paying more than fifty (50) percent of their total household monthly gross income towards housing and utilities in a Boston residence (excluding internet and telephone).

(ii) Verification requirements:

- A Lease providing the rent amount and showing Applicant is or was a tenant and confirming the rent, OR
- Rent Receipts or Bank Statements providing the rent amount paid over time, OR
- A mortgage statement providing the monthly payment amount and showing the Applicant is or was the owner of the property, AND
- Verification of the gross income, including all earned income and benefits, for the Applicant and all household members, AND
- Utility bills paid for by the Applicant or Applicant household members, AND

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4.6 Preferences

Preference points apply only to Applicants for new admission on BHA waiting lists.

Preference points will be added to Priority points to determine an Applicants' placement on each BHA waiting list. For example, a Priority 1 Applicant with a residency Preference will be ranked above a Priority 1 Applicant with no Preferences. Preference points are cumulative meaning that an Applicant can receive points from more than one Preference category.

State Public Housing 760 CMR 5.09(2) – Preference Categories
<p>Preference Categories. Apart from the affirmative action preference to be applied pursuant to 760 CMR 5.10(3) the LHA shall apply the following preferences in descending order within each of the priority categories in determining the order of tenant selection:</p> <p>Veteran. Any veteran applying for elderly/handicapped housing receives this preference. A veteran applying for family housing receives this preference in all St. 1948, c. 200 units or, if the LHA has no St. 1948, c. 200 units, in all St. 1966, c. 705 units. In St. 1948, c. 200 and St. 1966, c. 705 units the order of preference is as follows:</p> <ol style="list-style-type: none">1. Veterans with service-connected disability;2. Families of deceased veterans whose death was service connected; and3. Other veterans. <p>Local Resident. Any Local Resident applying for public housing receives this preference.</p>

4.6.1 Veterans Preference

The Veterans' Preference shall be ranked above the residency Preference.

A "veteran", as used in this Admission and Continued Occupancy Policy (ACOP) shall include the Veteran, the spouse, surviving spouse, Dependent parent or child of a Veteran and the divorced spouse of a Veteran who is the legal guardian of a child of a Veteran.

Verification Requirement:

Applicants claiming a Veteran's Preference must provide a copy of the discharge documents of the Veteran for whom the Preference is claimed. The Veteran's Preference is only applicable to Veterans and/or immediate families of Veterans who were discharged under circumstances other than dishonorable.

4.6.2—~~Single Elderly and Disabled Preference~~~~Disabled Non-Elderly Persons~~

The Boston Housing Authority has an Admissions preference for a single person Applicant, who is Elderly or Disabled over other single persons. An Applicant will be given preference over an Applicant who is a Single Person who is not an Elderly or Disabled person within each waiting list Priority category. Applicants who require a wheelchair will not receive these preference points since they shall be matched to wheelchair accessible units through the offers process.

~~Disabled Non-Elderly Persons who do not require wheelchair accessible units will receive Preference points on Family development/AMP waiting lists. Households claiming this preference must verify their Household composition and show that the Head or Co-Head of Household is disabled.~~

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4.6.3 Designated Housing Preference

(a) Federal

(i) When Non-Elderly Disabled Resident Population is less than 20%

Disabled Head or Co-Head Applicants who are under 62 years of age and are on a Federal Elderly and Disabled Program designated development/AMP wait list where the non-elderly disabled resident population is less than 20% **AND** who ~~do not~~ require wheelchair accessible units will receive preference points. The Designated Housing Preference shall be further ranked in the following order:

- Among households (i.e. within the same housing Priority category), first Preference shall be given to non-elderly disabled households whose Head and/or Co-Head is/are under 62 years of age.
- Among households (i.e. within the same housing Priority category), second Preference shall be given to households whose Head and/or Co-Head is/are Elderly (62 years of age or older).

(ii) When Elderly Resident Population is less than 80%

Applicants who are 62 years of age or older and are on a Federal Elderly and Disabled Program designated development/AMP wait list where the elderly resident population is less than 80% **AND** who ~~do not~~ require wheelchair accessible units will receive preference points. The Designated Housing Preference shall be further ranked in the following order:

- Among households (i.e. within the same housing Priority category), first Preference shall be given to households whose Head and/or Co-Head is/are 62 years of age or older.
- Among households (i.e. within the same housing Priority category), second Preference shall be given to households whose Head and/or Co-Head is/are Non Elderly Disabled (<62 years of age).

(a) State

(i) General Provisions for Placements

Placements are to be made in elderly/disabled housing to achieve a mixed population of elderly households in 86.5% of the units and handicapped households in 13.5% of the units. The BHA shall place applicants in accordance with 760 CMR 5.10(2) in order to attain or to sustain these percentages. Such placements shall also be made in accordance with any applicable priority and preference categories.

Any accessible or modified unit shall be offered to an applicant household that includes a person, regardless of age, who has a physical handicap which handicap necessitates one or more of the special design features of the unit.

(ii) Placements by BHA in Elderly/Disabled Housing

Prior to making a placement in elderly/disabled housing, the BHA shall determine the BHA's current percentage of c. 667 units occupied by disabled households. In making this determination the BHA shall count all c. 667 units including c. 667 congregate units, c. 667 section 8 new construction or substantial rehabilitation units, c. 667 modified units, and c. 667 conventional units. The BHA shall then place applicants as follows:

If the percentage of units occupied by disabled households is less than 13.5%, the BHA shall place one eligible and qualified disabled household for each eligible and qualified elderly household placed until the percentage of disabled households equals or exceeds 13.5%.

If the percentage of the units occupied by disabled households equals or exceeds 13.5%, the BHA shall place eligible and qualified elderly households until the percentage of disabled households falls below 13.5%.

If the percentage of units occupied by disabled households equals or exceeds 13.5%, but the BHA has exhausted its waiting list of eligible and qualified elderly households, the BHA shall place those eligible and qualified disabled households whose members have attained the age of 50 but are less than 60 years old until such time as the percentage of disabled households falls below 13.5% or until there is an application from an eligible and qualified elderly household.

If the percentage of units occupied by disabled households equals or exceeds 13.5%, and the BHA has exhausted its waiting list of eligible and qualified elderly households and eligible and qualified disabled households whose members have attained the age of 50 but are less than 60 years old, the BHA shall place eligible and qualified disabled households, without regard to age, until there is an eligible and qualified elderly household or, in the absence of such an elderly household, an eligible and qualified disabled household whose members have attained age 50 but who are less than 60 years old.

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4.6.4 Displaced Boston Tenant Preference

The BHA shall give two (2) Preference points to an Applicant who was displaced from a unit within the City of Boston that was the Applicant's last permanent residence.

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(a) *No length of Residency Required*

This Preference is not based on how long an Applicant has resident of the City of Boston, but only upon the establishment and proper verification of residency within the City Of Boston.

(b) *Verification Requirements*

To receive this Preference, an Applicant must verify that: (1) they were displaced from a unit within the City of Boston, (2) that the unit was the Applicant's last permanent residence, and since the Applicant has been unable to obtain permanent housing.

The following documentation is a non-exhaustive list of documentation that may be used, in conjunction with Priority documentation that establishes displacement, will verify the Displaced Boston Tenant Preference:

- (i) Landlord verification
- (ii) A copy of a Lease
- (iii) Utility Bill (electric, gas, oil, or water)
- (iv) Mortgage Payments
- (v) Taxes
- (vi) Other verification deemed acceptable or necessary by BHA.

~~4.6.5 Residency Preference~~

~~(a) Residency Preference shall be given to BHA Applicants who are:~~

~~(i) Residents of the City of Boston, OR~~

~~(ii) Employed in the City of Boston, OR~~

~~(iii) Had their last permanent address in the City of Boston and has not claimed local residency preference in another community.~~

~~(b) Verification Requirements~~

~~(i) Proof of residency at an address within the Boston city limits (No length of stay verification will be imposed on Applicants claiming this Preference.); OR~~

~~(ii) Proof that the Applicant is currently employed or has obtained employment in the city;~~
~~or~~

~~(iii) Proof that the Applicant's last permanent address was within the Boston city limits;~~
~~and~~

~~(iii) Proof that an Applicant has not claimed local preference in another community.~~

4.7 Apartment Features Considered

Before applying Priorities and Preferences, BHA will determine the appropriate apartment size and special features based on Household composition and needs. In making the selection of a Household for an apartment with accessible features, the BHA will give preference to Households with the greatest number of Priority/Preference points, the earliest approval date for said Priority/Preference points and earliest application date that include a person with disabilities who has a specific need for the apartment features.

4.8 Changes in Priority and/or Preference

An Applicant is required to report any change in circumstances that may result in a change of priority or preferences.

Verification

To the extent that the verification determines that the Household does now qualify for a Priority and/or Preference, the Household will be moved up on any waiting list previously selected in accordance with its Priority and/or Preference(s), and the date such Priority and/or Preference(s) is approved.

Similarly, removal of a Priority and/or Preference (because a Household is discovered to be ineligible for a Priority and/or Preference) will result in a reduction of waiting list points, and therefore change of waiting list position, for the Household.

4.9 Applicant Family Break-Up Policy

An Applicant Family Break-Up occurs when a Head and Co-head of household will no longer reside together and/or there is a dispute as to who will retain the original Application date or any approved Priority and/or Preference(s). An Applicant Family Break-Up situation where only one individual signed the Application (i.e., where there is a Head but no Co-head of household) occurs in instances of domestic violence and where an Adult(s) who is/are not currently a household member(s) advance(s) a claim on behalf of a minor or incapacitated Head who is/are on the Application's household composition.

BHA may delay but not deny assistance to an Applicant during the pendency of the informal hearing process);

(vi) Assistance is prorated in accordance with the applicable Federal requirement; or

(vii) Assistance for a mixed Household is continued in accordance with applicable Federal requirements; or

(viii) Deferral of termination of assistance is granted.

(f) Preservation of Assistance

(i) Prorated Assistance

For Resident Households prorated Assistance is available for a mixed Household that qualifies other than a Household who requests and receives Temporary deferral of Termination Assistance. Proration is calculated in accordance with Federal requirements.

(ii) Temporary Deferral of Termination of Assistance

A mixed Household that qualifies for prorated assistance but decides not to accept prorated assistance may be granted a Temporary Deferral of Termination of Assistance. The BHA will notify a resident Household in writing at least 60 calendar days in advance of the expiration of a deferral period if termination will no longer be deferred. An applicant for refugee or asylum status may receive a Temporary Deferral of Termination of Assistance pending a determination of status.

5.4 Verification of Income and Deductions

Projections of annual income shall be based on the best available information, with due consideration to the past year's income of all household members, current income rate and effective date; and shall include projections for each income recipient in the household.

HUD mandates use of Enterprise Income Verification (EIV) for current residents. However, EIV is not available to verify income of applicants.

The following outlines the types of verification of income, deductions, exclusions and assets will be accepted.

5.4.1 Income from Employment

(a) Verification through the computer matching system employed by HUD (EIV) or a computer wage reporting system.

(b) A statement from the Employer stating the gross wages of the employee, including history or anticipated amounts of overtime or bonus to be earned by the employee, or

(c) Pay stubs showing gross income for each pay period and all deductions taken for four consecutive weeks;

(d) The income of workers employed on an irregular basis will be estimated based on the verification of the best information available, with due consideration to earning ability and work history.

5.4.2 Income from governmental agencies

(a) Verification through the computer matching system employed by HUD (EIV) or a computer wage reporting system.

(b) A statement from the appropriate agency (Social Security, Department of Transitional Assistance, Employment Security, etc.), stating the amount of annual or monthly income provided, including the gross amount and any deductions taken.

5.4.3 Income from Retirement Accounts

(a) A statement from the source stating the amount of annual or monthly income provided, including the gross amount and any deductions taken

5.4.4 Income from the operation of a business or profession

(a) Most recent audited financial statement of income and loss;

(b) Most recent tax return showing income and loss from the operation of a business or profession.

5.4.5 Zero Income

(a) When an adult Applicant household member reports zero income, the BHA will require the Applicant household to complete a budget or statement of financial responsibility. The sources of regular cash expenditures will be verified and will be used as income.

5.4.6 Child Support, alimony, regular gifts and gambling proceeds

(a) A statement from the individual, business or agency providing the income and the frequency and amount of income provided; and/or

(b) Signed release form allowing the BHA to obtain information from the State Division of Child Support.

5.4.7 Income from Assets

(a) Income from assets shall be based on either the actual income received or imputed income based upon current passbook savings rates in accordance with federal and state regulations and guidance as applicable. For instance, actual interest received shall be used for interest bearing bank accounts, money market funds, rented property, etc.

Imputed income will be used for real property which is not rented, jewelry, coin collections, works of art and other non-income bearing assets. If the value of the asset is more than \$5,000 the higher of imputed income or actual income received will be used. Common household items such as furniture, clothing, and vehicles used for day-to-day transportation shall not be considered assets for the purposes of calculating income.

(b) Types of verification which will be accepted for purposes of determining the value and income received from an asset include:

(i) Two most recent statements for statement accounts, including bank accounts, money market funds, mutual funds, or other assets for which regular statements are issued;

(ii) Original passbook for passbook savings accounts;

(iii) Most recent (no older than one year) appraised value of real property owned provided it's reflective of fair market value, in the form of property tax bill or appraisal from a Real Estate Appraiser; and

(iv) Appraised valuations of any non-essential personal assets such as jewelry, coin collections, antiques or classic cars.

(v) For a family with net assets equal to or less than \$5,000, the BHA may accept a family's declaration that it has net assets equal to or less than \$5,000 without taking additional steps to verify the accuracy of the declaration. The BHA must obtain third-party verification of all family assets every three years.

5.4.8 Verification of childcare expenses or care of disabled household member deductions

(a) Statement from the provider of childcare or care of Disabled Person who is a household member of the amount of payment made on a periodic basis by the Applicant household.

(b) Filed income tax return stating the amount paid for childcare or care of a disabled household member and the person or agency to whom the expense was paid.

5.4.9 Verification of Medical Deductions

~~(a) Applicants must submit evidence of the following medical expenses for all household members paid within the last twelve months:~~

~~(i) Statement of the cost of medical insurance and the frequency of cost from the provider or in the form of deductions indicated on pay stubs or Social Security statements accompanied by proof of payment;~~

~~(ii) Receipts for payment of prescriptions and other health care needs. Non-prescription health care needs must be documented by both receipts and a statement from a Qualified Health Care Provider of the need for such items (including non-prescription medications, wheelchairs or other disability related aids, etc.);~~

~~(iii) Signed printout of prescription costs from a pharmacy accompanied by proof of payment~~

~~(iv) Medical or dental bills for a household member paid by a household member.~~

~~(v) Un-reimbursed reasonable attendant care and auxiliary apparatus expenses and for each member of the family who is a person with disabilities, to the extent necessary to enable any member of the family (including the member who is a person with disabilities) to be employed. This deduction may not exceed the earned income received by family members who are 18 years of age or older and who are able to work because of such attendant care or auxiliary apparatus.~~

5.4.910 Verification Medical Deductions

(a) Payments for necessary medical expenses (including co-payment amounts) which are not covered by insurance or otherwise reimbursed are deductions from income, provided that such expenses are in excess of 3% of annual gross household income and are paid by household members. Payments for medical health insurance are also considered medical expenses are a deduction. For federal programs, the medical deduction is limited to resident households where the head or spouse is not a person who is at least 62 years of age or a person with disabilities. For State programs, this deduction is applicable to all households.

Eligible residents must submit evidence of the following medical expenses for all household members paid within the last twelve months:

(i) Statement of the cost of medical insurance and the frequency of cost from the provider or in the form of deductions indicated on pay stubs or Social Security statements accompanied by proof of payment;

(ii) Receipts for payment of prescriptions and other health care needs. Non-prescription health care needs must be documented by both receipts and a statement from a Qualified Health Care Provider of the need for such items (including non-prescription medications, wheelchairs or other disability related aids, etc.);

(iii) Signed printout of prescription costs from a pharmacy accompanied by proof of payment;

(iv) Medical or dental bills for a household member paid by a household member;

(e) Comply with BHA policy and program requirements;

(f) Behave in a manner that will not adversely affect the health, safety, and welfare of BHA staff, its agents or invitees; and

(g) Not engage in criminal activity, including illegal drug-related activity, either on or off BHA premises.

The screening process may consider information, including, but not limited to the applicant's assets, income, criminal history, and housing history, and may be obtained from a variety of sources including credit reports, criminal records, rental references, criminal background reports, records of housing-related collections, evictions, and judgments.

5.5.2 Housing History

The Applicant Household shall provide a minimum of a one-year housing history upon request. The housing history shall be evaluated and verified for the criteria identified below to determine suitability for BHA housing. If the one-year housing history provides conflicting or insufficient or incomplete information, the BHA may request an additional two years of housing history from the Applicant. The BHA, at its discretion may request additional information from any of the verification sources provided or additional housing history beyond three years to clarify inconsistencies or to obtain sufficient information to evaluate an Applicant for suitability.

A BHA Applicant for the State Public Housing program shall be required to submit a five (5) year housing history in accordance with the current online application system and the State regulatory requirements.

5.5.3 Criminal History

(a) Use of Criminal History

A record of involvement in criminal activity by the Applicant or member of the Applicant Household in crimes of physical violence to persons or property, crimes of fraud, prostitution or larceny and other criminal acts including the use and/or distribution of an illegal drug, or the illegal use (or pattern of illegal use) and distribution of any illegal drug, or abuse (or pattern of abuse) of alcohol which may interfere with the health, safety, or right to peaceful enjoyment of the premises by other Residents, as prohibited by the BHA Lease will be considered in the screening process.

For State public housing, the criminal record will be considered if the applicant or a household member in the past has engaged in criminal activity, or activity in violation of section four of chapter one hundred and fifty-one B, which if repeated by a tenant in public housing, would interfere with or threaten the rights of other tenants to be secure in

their persons or in their property or with the rights of other tenants to the peaceful enjoyment of their units and the common areas of the housing development. See MGL 121B, Section 32(d).

BHA shall use Criminal Offender Record Information (CORI) provided by the Massachusetts Criminal History Systems Board, criminal histories provided by other states/jurisdictions, Federal authorities, court records, and other evidence of criminal activity including landlord references to prevent criminal activity that would adversely affect the health, safety or welfare or physical security of property of other Residents, BHA staff or guests.

BHA shall review both convictions and pending charges.

If the Criminal record information shows that a case is continued without a finding (CWOFF) or "placed on file" it cannot be used as a determination that the Applicant or household member, in fact, engaged in criminal activity without other independent evidence of the criminal activity charged. Independent evidence might include: police reports documenting criminal activity, statements from the arresting officer or other reliable information that the Applicant and/or a household member committed the crime charged.

Criminal record information shall be requested and maintained in accordance with guidance established by the Massachusetts Department of Housing and Community Development (DHCD) and 803 CMR 5.00 and any other applicable laws.

The Applicant Household is required to allow the BHA to review the criminal background history for all Applicant Household members who are 14 years of age or older. Criminal History may be reviewed for minors who are 14 or older if they were tried as an adult, otherwise known as youthful offender information. The BHA will not review any juvenile offender information.

(b) Mandatory Denial

(i) Lifetime Sex Offender Registration Requirement. BHA shall use Sex Offender Registry Information (SORI) as permitted by law in the eligibility determination process. Persons convicted of sexual offenses and subject to a lifetime sexual offender registration requirement are permanently prohibited from admission to Federally assisted developments/AMPs and they are only eligible for admission to State aided developments upon establishing acceptable Mitigating Circumstances. The BHA will conduct criminal history background checks sufficient to determine whether any household member is subject to such a registration requirement.

(ii) Conviction for Manufacture of Methamphetamine. Persons that have been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of Federally-assisted housing are permanently prohibited from admission to Federally assisted developments/AMPs and are only eligible for admission to State aided developments upon establishing acceptable Mitigating Circumstances.

(c) Look back period

The review of criminal history shall be limited to a period of three (3) years for criminal activities which would be punishable as a misdemeanor or equivalent level of culpability under local law and seven (7) years (except where the Housing Authority has an obligation to ban applicants whose criminal activity is subject to mandatory denial) for an activity which would be punishable as a felony or equivalent level of culpability under local law. The look back period shall run from the date of conviction or the release date, whichever is later. The Housing Authority may deny an applicant whose criminal record shows a pattern of violent criminal activity, or activity that is inherently violent, even though the activity has occurred outside of the time frame set out above.

Once a criminal record has been sealed pursuant to G.L. c. 276, §100A, it may no longer be evaluated for the purposes of screening.

(d) Use of Illegal Drugs

(i) Current Use

BHA will not admit a current user of illegal drugs. The Fair Housing Act explicitly states that current users of illegal drugs are not a protected class. BHA will not exclude former users of illegal drugs solely because of their former illegal drug use.

(ii) Past Use Does Not Excuse Associated Behavior

The fact that an Applicant or household member may have been an illegal drug user in the past does not automatically excuse any disqualifying behavior that the Applicant or household member may have engaged in while an illegal drug user.

(iii) Documentation that a former illegal drug user is not currently using illegal drugs could include:

- Verification from a Qualified Health Care Provider stating that the former illegal drug user has been or is currently in treatment, that there is a reasonable probability that the Applicant will be successful in refraining from use of illegal drugs, that the Applicant is complying with the requirements of the treatment program, and is not currently using an illegal drug;
- Verification from a self-help program (for example, Narcotics Anonymous) stating that the former illegal drug user has been or is participating in their program, that there is a reasonable probability that the Applicant will be successful in refraining from use of illegal drugs, and is not currently using an illegal drug;
- Verification from a probation or parole officer stating that the former illegal drug user has met or is meeting the terms of probation or parole **and** that periodic screens have not revealed the presence of illegal drugs;
- Voluntary drug testing. An Applicant or household member cannot be required to undergo drug testing as a condition of eligibility. However, if ~~s/he~~they chooses to

be tested, testing shall meet the following requirements: the drug test must be conducted at facilities that use the National Institute of Drug Abuse Guidelines (implementing EO 12564 and Pub. L. 100-71; these guidelines were published April 11, 1988 in the Federal Register) The test must screen for illegal drugs only and the Applicant's use of prescription drugs that contain controlled substances must be taken into account; and the BHA will pay for all costs associated with drug testing unless the costs are otherwise reimbursed.

- If an Applicant or household member is currently in treatment for illegal drug use (as opposed to having successfully completed treatment) or if an Applicant or household member has a history of drug treatment followed by further illegal drug use, the Applicant or household member must demonstrate why current situation and claim of non-drug use is different from the previous unsuccessful efforts to stop using drugs and that the likelihood of a change greater than in the past.
- In such cases, an Applicant or household member should successfully complete the current treatment program and maintain acceptable behavior in the community for a reasonable period established by the BHA.

(e) *Treatment for Substance Abuse*

Information related to an Applicant's or a member of an Applicant's household treatment by a substance abuse treatment facility. The BHA requires any Applicant or member of Applicant's household to sign a consent form authorizing inquiry to a substance abuse treatment facility where the BHA :

- Receives CORI information that indicates evidence of a prior arrest or conviction for criminal activity which would be a basis for denial due to reasonably current illegal drug use, OR
- Receives information from records from a prior tenancy of the Applicant or household member that demonstrate ~~he or she was~~they were:
- Engaged in the destruction of property;
- Engaged in violent activity against another person;
- Interfered with the right to peaceful enjoyment of the premises by another tenant.

(f) *Alcohol Abuse and Screening*

An Applicant or household member who is an alcoholic may qualify as a person with a disability under State and Federal anti-discrimination laws and be entitled to certain protections afforded to Disabled Persons. If the abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents, an applicant may be disqualified.

(g) *Denial for Criminal Activity*

The BHA shall not automatically deny an applicant based on the presence of criminal history.

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If the Criminal record information indicates that an Applicant and/or household member has a record that would establish a basis for an Ineligibility finding, the Applicant will be notified of the negative information received, provided with an opportunity to review the information and to offer any information as a Mitigating Circumstance before a final determination of Ineligibility is made by the BHA.

(h) *Right to Dispute Accuracy of the Criminal Record*

If the Applicant believes that the Criminal record information is inaccurate, ~~he/she~~^{they} must submit to BHA a written notice to this effect. The notice must be provided to BHA within the time specified in BHA's notice to the Applicant. Upon receipt of the Applicant's written notice disputing the accuracy of Criminal record information, BHA will provide the Applicant a reasonable amount of time to provide credible evidence of the report's inaccuracy.

5.5.4 Evaluation of Screening Criteria

The BHA shall deny an Applicant if it finds any of the following conditions are present and there is reason to believe the future behavior of the Applicant or Applicant household members will exhibit the same behavior, unless there are acceptable Mitigating Circumstances.

The history of the Applicant household's conduct must demonstrate that the Applicant household can reasonably be expected not to:

- (a) Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises or to adversely affect their health, safety, or welfare or the security of their property.
- (b) Violate the civil rights of any person, while on BHA property, in accordance with the BHA's Zero Tolerance policy.
- (c) Cause damage to the property or fail to pay rent in full and on time.
- (d) Violate the terms and conditions of the BHA lease.
- (e) Require services from BHA staff that would alter the fundamental nature of the BHA's program.
- (f) Illegally use, possess or distribute a controlled substance,

(g) Give the BHA reasonable cause to believe that the illegal use (or pattern of illegal use) of a controlled substance, or abuse (or pattern of abuse) of alcohol may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.

5.5.5 Rehabilitation and Mitigating Circumstances

In the event of the receipt of unfavorable information with respect to an Applicant the BHA will notify the Applicant in writing, and the BHA shall permit the Applicant to show whether there are Mitigating Circumstances, which may include a showing of rehabilitation or rehabilitating efforts, sufficient so that when the potentially disqualifying conduct is weighed against the Mitigating Circumstances, the BHA is reasonably certain that the Applicant will not engage in any similar conduct in the future. In making this determination, the BHA shall consider all relevant circumstances, including the severity of the potentially disqualifying conduct, the amount of time which has elapsed since the occurrence of such conduct, the degree of danger, if any, to the health, safety and security of others or to the security of the property of others or to the physical conditions of the housing development/AMP and its common areas if the conduct recurred, the disruption and inconvenience which recurrence would cause the BHA, and the likelihood that the Applicant's behavior in the future will be substantially improved. The greater the degree of danger, if any, to the health, safety and security of others or to the security of property of others or the physical condition of the housing, the greater must be the strength of the showing that a recurrence of behavior, which would have been disqualifying, will not occur in the future.

5.5.6 Outcome of Screening Process

(a) Ineligible

An ineligible Applicant will be promptly notified. The Applicant will receive a Notice of Ineligibility from the BHA, stating the basis for such determination and advising them of the opportunity for an informal review of the determination. The ineligible Applicant will also be informed that they have a right to request reconsideration if the reason for denial of assistance is related to a disability and a reasonable accommodation on account of that disability may make it possible for them to be housed in accordance with the Screening Procedures.

(b) Eligible

Households determined to be Eligible and Qualified after screening will be notified by the BHA of the approximate date of occupancy insofar as that date can be reasonably determined. The BHA will make reasonable effort to estimate accurately an approximate date of occupancy. However, the date given by the BHA is not a guarantee that Applicants will be housed by that date. The availability of a suitable apartment to offer a Household is contingent upon factors not directly controlled by the BHA, such as turnover rates, and availability of apartments of the appropriate size and/or with special features.

5.6 Personal Care Attendants (PCAs)/ Live-in Aides

5.6.1 Definition

Live-in Aide or Live-in Personal Care Attendant (PCA) is a person who:

- (i) Is determined by BHA based upon medical documentation from a Qualified Healthcare Provider to be essential to the care and wellbeing of an Elderly or Disabled Person or persons; AND
- (ii) Is not obligated to support the Elderly or Disabled Person or persons; AND
- (iii) Would not be living in the Apartment except to provide the necessary supportive care; AND
- (v) Has no right to the Apartment as a Residual Tenant, AND
- (vi) Does not have their income included in the Elderly or Disabled Participant's Household for the purposes of determining total Family income

A Personal Care Attendant ("PCA") or Live-in Aide is defined as a person who:

- ~~(a) is determined by BHA based upon medical documentation from a Qualified Healthcare Provider to be essential to the care and well-being of an Elderly or Disabled person or persons; AND~~
- ~~(b) may or may not reside with the Elderly or Disabled person or persons; AND~~
- ~~(c) is not obligated to support the Elderly or Disabled person or persons; AND~~
- ~~(d) in the case of a live-in PCA or Live-in Aide, would not be living in the apartment except to provide the necessary supportive care; AND~~
- ~~(e) has no right to the apartment as a Residual Tenant except as provided in 5.7.2 below.~~
- ~~(f) does not have his/her/their income included in Elderly or Disabled persons household for the purposes of determining total household income and rent except as provided in 5.7.2 below.~~

5.6.2 Policy on Addition of a licensed PCA or Live-in Aide to the Household

- (a) Any Live-in PCA OR Live-in Aide must meet the definition of a PCA OR LIVE-IN AIDE as stated above.
- (b) A Live-in PCA OR Live-in Aide can be a single person or a person with a household.

(c) No addition of a Live-in PCA OR Live-in Aide and ~~his/her~~their household, if applicable, shall result in overcrowding of the apartment.

(d) No Live-in PCA OR Live-in Aide and ~~his/her~~their household, if applicable, has/have the right to the apartment as a Residual Tenant ~~except as provided in Section 5.7.2~~

(e) Any Live-in PCA OR Live-in Aide and ~~his/her~~their household, if applicable, must sign a waiver of residual residency status, ~~except as provided in Section 5.7.2~~

(f) Any Live-in PCA OR Live-in Aide and ~~his/her~~their household, if applicable, must meet the criteria in the BHA's Screening Policy.

(g) Any Live-in PCA OR Live-in Aide and ~~his/her~~their household, if applicable, will be counted as a member of the resident's Household for the purposes of determining the appropriate apartment size ONLY

(h) A ~~relative family member~~ who satisfies the definition ~~above of Live-in PCA or Live-in Aide~~ will be notified in writing that ~~s/he~~they may be qualified as a PCA OR Live-in Aide and can choose one of the following two options:

(i) ~~S/he~~They can qualify as a PCA OR Live-in Aide, which is considered a household member, but not a family member and choose not to include ~~his/her~~their income as part of the Total Household Income and sign a waiver of residual residency status, OR

(ii) They can qualify as a ~~PCA OR Live-in Aide~~family member who cares for their disabled or elderly family member, and have their income included as part of the total Household income and retain rights as a ~~remaining member of the Household~~potential residual tenant.

CHAPTER 7: TRANSFERS

7.1 Transfer Categories

BHA divides transfer applicants into two separate categories: Administrative and Special Circumstances.

A resident of BHA Public Housing may request a transfer in accordance with the BHA lease.

State Public Housing – Transfers

The BHA ACOP waives State regulations with respect to transfers. This waiver will allow BHA to provide a singular transfer process across the BHA public housing portfolio, as residents transfer from state to federal properties and vice versa. Additionally the waiver enables a consistent interpretation of the BHA lease with respect regarding transfer rights and procedures regardless of the program funding source.

Specifically, the BHA ACOP waives the following regulatory provisions with respect to transfers.

1. The BHA policy waives the definition of a Transfer for Administrative Reasons as listed in 760 CMR 5.03 and substitutes with the definition below in Section 7.1.1.
2. The BHA policy waives the definition of a Transfer for Good Cause as listed in 760 CMR 5.03 and substitutes with the definition Special Circumstances Transfer as listed below in Section 7.1.2
3. The BHA will maintain waiting lists for all transfer applicants therefore, the 6th Priority as defined in 760 CMR 5.09(f) shall not be applied to applicants in CHAMP.

7.1.1 Administrative Transfer

An Administrative is a Transfer of a household from one unit to another within the BHA at the discretion of the Administrator for a sound administrative reason, including, but not limited to the reasons listed below:

(a) Uninhabitable

The current apartment has become uninhabitable and immediate relocation is required as a result of the following:

- (i) Destruction by fire or other disaster; or

(ii) The existence of a major maintenance problem that constitutes a substantial violation(s) of the state sanitary code and presents a serious danger to health and safety that cannot be repaired in a reasonable period of time or while the apartment is occupied.

(b) Capital Improvement

The apartment is located in a building or section of building scheduled for capital improvement pursuant to a funded capital improvement program or other major rehabilitation effort. (See BHA's [Residential Relocation & Rehousing Policy](#) for detailed procedures on transfers because of capital improvement programs.)

(c) Adaptive Features Required by Another Resident

The transfer is required to permit occupancy of an accessible apartment or apartment with adapted features by another resident or an Applicant with a disability.

(d) Temporary Relocation for Repairs

A temporary transfer is required to permit work required for a maintenance or repair problem that cannot be repaired while the apartment is occupied. The Resident will be returned to the same apartment if the apartment is of the appropriate size, following completion of the maintenance or repairs.

(e) Over-Under Housed Families

The BHA shall process over and under housed families as Administrative Transfers.

BHA may initiate an Administrative Transfers to bring residents into compliance with the BHA Occupancy Standards. On a regular basis, management will address over under transfer by reviewing the portfolio site by site and establishing a right sizing plan for review by the Administrator. Residents will be informed in writing that a transfer is necessary and pending. Residents who fail to transfer will be subject to eviction,

Generally, the BHA will attempt to resolve over and under housed families by relocating the most over and under housed families as a priority

Residents who are under-housed at sites where the correct unit size required does not exist shall be allowed to select other developments.

An elderly resident who is over housed by only one bedroom at a site that does not have the lower bedroom size necessary to accommodate the family will not be required to relocate to another site. See also Section 7.9 below.

(f) Domestic Violence

The relocation is necessary due to the household's current and on-going threat(s) as a result of domestic violence/sexual assault/dating violence/stalking which has been documented, investigated, and recommended by the BHA's Public Safety Department or other sources deemed acceptable by the BHA Director of Admissions or such other person as may be designated by the BHA Administrator.

The BHA shall attempt to relocate a household facing domestic violence using a tenant-based voucher and the project based programs in accordance with the Housing Choice Voucher program administrative plan. If the Applicant selects accepts a housing choice voucher or project based voucher, the Applicant is removed from all Public Housing transfer waiting lists. Any approved Domestic Violence transfer shall receive Housing Search Assistance.

BHA shall review data on an annual basis to establish the number of Domestic Violence Transfers as a way to plan for the coming year and set aside units.

(g) Medical Condition

A Household Member has a serious, medically determinable, physical or mental condition that is aggravated by the present housing such that the condition is life threatening or a condition not qualifying as life-threatening that can be alleviated and/or substantially improved only by relocation to another apartment; or

(h) Imminent Danger

The head or other Household Member is a victim of physical harassment, extreme or repeated vandalism to personal property and/or extreme and/or repeated verbal harassment, intimidation or coercion, which places them in imminent danger and that cannot be expeditiously remedied in any other way⁵; or

(i) Witness Protection

The Household needs to be relocated because of a Household Member's participation in a witness protection program or in order to avoid reprisal as a result of providing information to a law enforcement agency or participation in a witness protection program.

(j) Rent Burdened due to Proration

The Household is rent burdened due to one or more family members with lack of eligible immigration status and could benefit from a transfer to State aided Public Housing.

7.1.2 Special Circumstances

⁵ Transfers in this category will be processed pursuant to BHA's Civil Rights Protection Plan ("CRPP").

Special Circumstances Transfers are transfers necessary to the health and/or safety of one or more Household members.

The following are categories for Special Circumstances Transfers:

(a) Reasonable Accommodation

The transfer requested is for a person with a disability who requires reasonable accommodation to address dire circumstances posing serious and direct threat to health, life or safety which can only be alleviated by relocation to another apartment. The resident shall provide documentation of the disability and how the transfer will reasonably accommodate the disability.

(b) Designated Housing Transfer

(i) In accordance with the BHA's Designated Housing Plan, a Household with a Non-Elderly Disabled Head or Co-Head currently residing in the Elderly/ Disabled Federal Housing Program who wishes to transfer to the Federal Family Housing Program.

(ii) In accordance with the BHA's Designated Housing Plan, a Household with an Elderly Head or Co-Head currently residing in the Family Federal Housing Program who wishes to transfer to the Federal Elderly/Disabled Housing Program.

7.2 Transfer Process

7.2.1 Resident Initiated Transfer

A Transfer application may be initiated by a resident Head of Household occupying an apartment under a BHA lease, or under certain circumstances such as an apartment fire, under a Use and Occupancy Agreement pursuant to this Policy (Resident Initiated Transfer).

7.2.2 BHA Initiated Transfer

The BHA will initiate transfers required as a result of a scheduled capital improvement or building maintenance program; required use of an Accessible Apartment or an Apartment with adapted features by another resident or Applicant with a disability; Over or Under Housed Households; apartment conditions which seriously endanger health or safety and cannot be repaired in a reasonable period of time or while the apartment is occupied; or addition of a minor child to the Household at the future date specified by an Applicant during the final application process.

7.2.3 Transfer Review Process

To qualify for an On-Site or Special Circumstances Transfer, a Resident:

(a) Must have been in residence for at least one (1) year.

(b) Must be considered in "good standing" at the time of an Application for Transfer, at the time of determination of Transfer eligibility, and at the time of actual implementation. "Good standing" means the household is:

(i) Current in its rental payments unless it is legally withholding rent pursuant to the provisions of the Lease or applicable law.

(ii) Not currently under a Fourteen (14) Day or a Thirty (30) Day Notice to Quit, Summary Process Action or action pursuant to Mass. Gen. Laws, Chapter 139, section 19.3.2

Some or all of these requirements may be waived in certain situations pursuant to the provisions of this policy. For example, a resident in a situation which may constitute a life-threatening situation to the health, safety or well-being of the resident or a Household Member who does not meet all of the criteria may have some or all of these conditions waived⁶. If the resident is a party to or under a Use and Occupancy Agreement, ~~s/he/they~~ may be transferred and any legal action against the resident will continue.

Residents seeking non-Special Circumstances Transfers may apply for an On-Site transfer only. Residents seeking a Special Circumstances Transfer will be placed on all of the BHA's Public Housing waiting lists/AMPs for which their household meets the Threshold Eligibility Requirements exclusive of annual income limits (See 5.1.2) and in accordance with any approved requests for Good Cause and/or Reasonable Accommodation.

7.3 Good Cause or Reasonable Accommodation

In certain cases, residents seeking transfers may require special consideration regarding their transfer. This consideration is essential to address a particular verifiable need with respect to housing accommodations or to avoid a verified hardship. This documentation must be submitted with the transfer request. If the Authority determines, after reviewing the request for such consideration and the documentation submitted in support of it, that the Applicant or transfer applicant qualifies for such consideration, ~~he/she/they~~ will be approved for an assignment for **Good Cause or Reasonable Accommodation to a unit of appropriate size and type**. Good Cause or Reasonable Accommodation requests shall be submitted for review prior to a housing offer.

7.4 Verification of Reason for Transfer

(a) Residents will be asked to provide reliable documentation to verify and support the reasons for a Resident-Initiated transfer at the time the transfer is requested. Documentation may include, but not be limited to:

⁶ The Administrator or ~~his/her/their~~ designee may approve a waiver of any provision of this policy not required by law if the waiver of such provision would avoid substantial hardship or substantial injustice to a Transfer applicant (See Section 10.8 Waiver Provision).

BHA residents may have pets, in accordance with the BHA's current Pet Policy for the specific development(s)/AMP(s) at which they select to live. The Pet Policy is in accordance with HUD or DHCD requirements.

10.7 Policy Waivers

10.7.1 ACOP Waivers

The Administrator, or ~~his/her~~their designee who shall be a senior management employee, may approve a waiver of any provision of this policy not required by law if the waiver of such provision would avoid substantial hardship or substantial injustice to an Applicant or a transfer applicant. Each decision to waive a provision of the ACOP must be documented in writing. No waiver shall be contrary to federal, state, or local law. No waiver shall be in violation of Chapter 1, Section 1.1 of this ACOP. Examples of situations in which a waiver may be requested and approved include but are not limited to: individuals with a potentially terminal illness, for example, AIDS, who are experiencing a housing crisis, a Household which must abandon its current housing in a distant location in order to relocate to Boston so that a seriously ill Household Member can receive specialized medical treatment available at a Boston area medical facility.

10.7.2 Waiver of State Regulation

The BHA follows the code of Massachusetts regulation, 760 CMR 5.00 and 6.00 in administering state public housing. However, this policy waives certain provisions of state regulation with the purpose of increasing customer service and effective management of BHA programs. Specific waivers contained within this policy have been requested by BHA and authorized by DHCD. Waiver requests and approvals shall be posted on www.bostonhousing.org.

10.8 Non-Smoking Policy

The BHA has incorporated its non-smoking policy into the non-smoking Lease Addendum.

Region 1 – 617-988-5061 email: smokefree1@bostonhousing.org

Region 2 – 617-988-5062 email: smokefree2@bostonhousing.org

Region 3 – 617-988-5063 email: smokefree3@bostonhousing.org

Region 4 – 617-988-5064 email: smokefree4@bostonhousing.org

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CHAPTER 11: DEFINITIONS

screening process about an Applicant or Transfer Applicant.

Mixed Family

A family whose members include those with citizenship or Eligible Non-Citizen Status, and those without citizenship or Eligible Non-Citizen Status.

National

A person who owes permanent allegiance to the United States, for example, as a result because of birth in a United States territory or possession.

Near-Elderly Family

Near-elderly family means a family whose head (including co-head), spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62, living with one or more Live-in aides.

Non-Citizen

A person who is neither a citizen nor National of the United States.

Admissions Department

The department within BHA that is responsible for the admissions and screening process. The department has responsibility for marketing, intake, waiting list management, screening, and making offers of public housing apartments to qualified Applicants and transfer applicants. The Admissions Department administers the Admissions and Continued Occupancy Policy including eligibility for resident transfers.

Overcrowded

See Under-housed.

Over-housed

A condition of occupancy where too few people reside in an apartment according to BHA standards for occupancy.

Personal Care Attendant (PCA)

(or Live-In Aide) A person that regularly provides care and support and who may or may not reside with an Elderly, Handicapped, or Disabled person or persons. (See 5.5 for full definition)

Police Officer

For the purposes of this policy, a police officer is defined as a person to be employed on a full-time basis as a duly licensed professional police officer by a Federal, State or local government or by any

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means a project that has as its purpose facilitating the movement of homeless individuals and families to permanent housing within a reasonable amount of time (usually 24 months). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children

Transitional Housing Assistance

As defined by the Department of Housing and Community Development's (DHCD) statutory regulations for the state funded properties.

Unauthorized Occupants

Individuals or families who are staying in an apartment leased by a BHA resident who: (a) have not been approved in writing by the BHA as additions to the Household; (b) have applied but have not yet been approved by the BHA as additions to the Household; (c) are staying beyond the limits established in the lease for temporary visitors.

Under-housed

A condition of occupancy where too many people reside in an apartment according to BHA standards for occupancy.

Uniform Federal Accessibility Standards

Standards for the design, construction, and alteration of publicly owned residential structures to ensure that mobility and/or sensory impaired persons will have ready access to and use of such structures.

Use and Occupancy Agreement

A ~~temporary~~ agreement between BHA and the occupant of a BHA apartment whereby the occupant is entitled to use and occupy the apartment under specified conditions but is not entitled to reside as a tenant under a BHA lease or otherwise.

Utilities

Utilities means water, electricity, gas, other heating, refrigeration and cooking fuels, and sewerage services. Telephone service, laundry, and cable service are not included as utilities.

Vacancy Action Form

Document by which BHA staff report the status of a vacated apartment (see Section 6.2.3 for status categories).