

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

Rental Assistance Demonstration

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), of its intent to adopt the following proposed new Chapter 57 (Rental Assistance Demonstration Administrative Plan) and the following proposed amendments to Chapter 58 (Owner Eviction Guidelines and Grounds for Termination from the Housing Choice Voucher Program), Chapter 61 (Admission and Recertification) and Chapter 89 (Informal Hearing Procedures for Applicants and Participants of the Housing Choice Voucher and Moderate Rehabilitation Programs) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed amendments is to implement a Rental Assistance Demonstration Program while minimizing the impact on affected current Public Housing Tenants.

CHAPTER 57 Rental Assistance Demonstration Administrative Plan

- Secs.
- 5700 RAD-Converted Housing: General Provisions
- 5701 Amendment of Rules
- 5702 Implementation of Policies
- 5703 Waiver of Rules
- 5704 Rules Governing Administration of Section 8 Program
- 5705 Reserved
- 5706 Selection Of and Assignment To Rad Properties
- 5707 Eligibility
- 5708 Income Limits
- 5709 Subsidy Standards/Voucher Size
- 5710 Briefing
- 5711 Notification and Attendance
- 5712 Oral Briefing
- 5713 Briefing Packet
- 5714 Approval of Request for Tenancy
- 5715 Separate Agreements
- 5716 Housing Assistance Payment Contract Execution
- 5717 Rent Calculations
- 5718 Earned Income Disregard
- 5719 Changes in Rent
- 5720 Utility Allowance
- 5721 Excess Utility Charges
- 5722 Security Deposits

5723	Repayment of Security Deposits and Move-Out Inspections
5724	Rent Collection
5725	Returned Checks
5726	Retroactive Rent
5727	Abatement of Rent
5728	Reserved
5729	Reserved
5730	Grievance Policy
5731	Filing a Complaint
5732	Informal Settlement of Complaints
5733	Request for Hearing
5734	Selection of Hearing Officers
5735	Authority of Hearing Officers
5736	<i>Ex parte</i> Communications
5737	Rights of Complainants
5738	Nonpayment of Rent: Escrow Deposit Required
5739	Failure to Appear
5740	Hearing Procedures
5741	Transcript of Procedures
5742	Decision of the Hearing Officer
5743	Briefs in Support of or Taking Issue with the Decision of the Hearing Officer
5744	Effect of Decision
5745	Decision of the Executive Director of DCHA
5746	Notice to Vacate Premises
5747	Records
5748	Transfer Policy
5749	Mandatory Transfers
5750	Voluntary Transfers
5751	Family Right to Move
5752	Owner Termination of Tenancy
5753	DCHA Termination of Assistance
5754	Voluntary Termination of Tenancy
5755	Dwelling Lease: Lease Provisions
5756	Changes to the Lease
5757	Lessee Rights and Responsibilities
5758	DCHA Responsibilities
5759	Repair Procedure
5760	Charge to the Tenant for Repairs and Services
5761	Right to Enter Dwelling
5762	Move-In and Move-Out Inspections
5763	Annual Inspection
5764	Reasonable Accommodations: Introductions
5765	Reasonable Accommodations: Application of Reasonable Accommodations Policy
5766	Reasonable Accommodations: Person with a Disability
5767	Request for Reasonable Accommodations

5768	Request for Reasonable Accommodations by RAD/PBV Participants and Applicants
5769	Occupancy of Accessible Unit
5770	Grievances
5771	Service or Assistance Animals
5772	Recertification/Lease Renewal
5773	Barring Policy
5774	Vehicle Policy
5775	Achieving Your Best Life Program in RAD Covered Projects
5776	Resident Participation

CHAPTER 61 ADMISSION AND RECERTIFICATION

6101	Application for Assistance
6102	Application Process and Review
6103	Maintenance of Waiting List(s)
6104	Temporary Closure of the Waiting List
6105	Preferences for Public Housing
6106	Eligibility
6107	Eligibility Determination
6108	Income Limits
6109	Applicant Family Selection Criteria
6110	Occupancy Standards
6111	Tenant Assignment
6113	Tenant Admission and Occupancy: Redeveloped and Service Rich Properties

CHAPTER 64 PUBLIC HOUSING TRANSFER POLICY

6400.1	Transfer Policy
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**CHAPTER 89 INFORMAL HEARING PROCEDURES FOR APPLICANTS
AND PARTICIPANTS OF THE HOUSING CHOICE
VOUCHER AND MODERATE REHABILITATION
PROGRAMS**

8907	Additional Hearing Rights for RAD Residents
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CHAPTER 57, RENTAL ASSISTANCE DEMONSTRATION ADMINISTRATIVE PLAN, shall read as follows:

5700 RAD-CONVERTED HOUSING: GENERAL PROVISIONS

- 5700.1 This Chapter 57 of Title 14 supplements the Section 8 Administrative Plan and sets forth rules which govern the operation of housing converted under the Rental Assistance Demonstration (“RAD”) from public housing to housing funded by long-term, project-based Section 8 rental assistance contracts in the District of Columbia (hereinafter “RAD properties” or “RAD Covered projects”), under the authority of the District of Columbia Alley Dwelling Act of 1934 (D.C. Code §§ 5-101 to 5-116 (1981)).
- 5700.2 The rules set forth in this Chapter 57 shall reflect the requirements of Federal law as detailed by HUD in the Code of Federal Regulations; as well as the Violence Against Women Act (“VAWA”), as amended (42 U.S. Code § 13981 *et seq.*); the Fair Housing Act (42 U.S.C. §§ 3601, *et seq.*); and the Privacy Act of 1974 (5 U.S.C. § 552a); as well as the requirements of the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, approved November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Pub. L. No. 113-76, approved January 17, 2014), the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. No. 113-235, approved December 6, 2014), and Division L, Title II, Section 237 of the Consolidated Appropriations Act (Pub. L. No. 114-113, enacted December 18, 2015), collectively, the “RAD Statute.”
- 5700.3 In implementing these rules, DCHA is committed, wherever practicable, to ensuring that the residents’ transition from public housing to project-based voucher-funded housing is as seamless as possible and that the residents of a project maintain, to the extent practical and possible, those rights that they had as public housing residents.

5701 AMENDMENT OF RULES

- 5701.1 Any revision or amendment of this Chapter 57 shall be consistent with the provision of the District of Columbia Administrative Procedures Act (D.C. Official Code §§ 2-501 *et seq.* (2001), except as provided for in this section.
- 5701.2 The rules under this Chapter 57 may be amended by DCHA as follows:
- (a) By publication as a notice in the D.C. Register where amendments are required pursuant to Federal law and regulation, and where the Federal regulation has been issued pursuant to the Federal Administrative Procedure Act; or

(b) Where Federal regulation provides any discretionary element to DCHA in adopting a policy, amendments shall be published as rules.

5701.3 Any amendment to the rules pursuant to § 5701.2 shall be posted in all appropriate management offices of RAD Covered projects.

5702 IMPLEMENTATION OF POLICIES

5702.1 Whenever the policies established under this Chapter 57 require DCHA to provide additional procedural details affecting tenants of RAD Covered projects, the details provided by DCHA shall be consistent with the policies established by HUD, the rules under this Chapter 57, and other provisions of law. Action by DCHA to implement the policies shall be in accordance with this section.

5702.2 The following areas of policy established in this subtitle may be supplemented for implementation purposes by DCHA:

- (a) Section 5720 of this title, relating to the actual utility allowance established for particular property, and any subsequent revision of such allowances, consistent with the policies in § 5720;
- (b) Section 5721 of this title, relating to the actual excess utility charges established for major electrical appliances and for checkmeter charges, and any subsequent revision of the allowances, consistent with the policies in § 5721;
- (c) Section 5756 of this title, relating to changes in the standard form dwelling lease which may be required to implement the policies of this subtitle, and any subsequent revision of those chapters or HUD regulations or provisions of Federal law, consistent with the policies in § 5756 or HUD regulations; and
- (d) Section 5760 of this title, relating to charges to the tenant for costs of repair or other services in accordance with a standard schedule of charges or time required for maintenance activity, consistent with the policies in § 5760.

5702.3 DCHA issuances in areas of policy listed in § 5702.2 shall be as follows:

- (a) The issuance or other proposed action shall be developed in accordance with the policies of this subtitle and HUD regulations and guidance;
- (b) DCHA shall provide a thirty (30) day written notice of the proposed issuance or action to all affected tenants, setting forth the proposed action or modification, the reasons for the proposed action or modification, and provide the tenant an opportunity to present written comment. The notice shall be as follows:

(1) Delivered directly or mailed to each tenant; or

- (2) Posted in at least three (3) conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the management office of the affected property, if any; and
 - (3) Delivered to all members of the tenants' association of the affected property; and
- (c) DCHA shall take into consideration any comments received during the thirty (30) day comment period prior to the proposed issuance or action becoming effective.

5703 WAIVER OF RULES

5703.1 Upon determination of good cause, the Executive Director of DCHA may waive any provision of this subtitle, subject to statutory limitations of Federal and District law. Each waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds on which the waiver is based.

5704 RULES GOVERNING ADMINISTRATION OF SECTION 8 PROGRAM

5704.1 The District of Columbia Housing Authority pursuant to requirements and funding from the U.S. Department of Housing and Urban Development administers rental allowance programs under Section 8 of the Housing Act of 1937.

5704.2 HUD requires each public housing authority that manages a Section 8 program to adopt an administrative plan setting forth how it implements the requirements of the Section 8 program and any allowable local policies adopted for that program.

5704.3 The adopted plan for the District of Columbia is the District of Columbia Housing Authority's Administrative Plan for the Section 8 Certificate and Housing Voucher Programs. Copies of the plan are available for review at the District of Columbia Housing Authority, Office of the General Counsel, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002 and on the District of Columbia Housing Authority's website.

5705 Reserved

5706 SELECTION OF AND ASSIGNMENT TO RAD PROPERTIES

5706.1 Applicants that wish to reside in a RAD Covered Project must apply to either of the Public Housing Waiting Lists, in accordance with the procedures set forth in Chapter 61 of this Title 14.

5706.2 All vacant RAD units shall be assigned to applicants on the Public Housing Waiting Lists, in accordance with the preferences and procedures set forth in

Chapter 61 of this Title 14, except where alternative requirements or procedures are provided in this Chapter 57.

- 5706.3 For applicants that elect to apply to the First Available Waiting List in accordance with Section 6101.6, such applicant shall be considered for a vacancy at any public housing project or RAD Covered Project.
- 5706.4 For applicants that elect to apply to Site-Based Waiting Lists in accordance with Section 6101.7, such applicants shall be permitted to select from both public housing projects and RAD Covered Projects.
- 5706.5 For applicants applying to Private Mixed Finance Projects, participant selection and assignment shall be in accordance with Section 6113 of this Title 14.

5707 ELIGIBILITY

- 5707.1 The procedures for collecting required information, determining eligibility, and briefing applicants shall be governed by Sections 6106 and 6107 of this Title 14, except as otherwise provided in this Chapter 57. Applicants to Private Mixed Finance Projects shall also be subject to any additional eligibility requirements specified under Section 6113 of this Title 14.
- 5707.2 DCHA shall consider an applicant eligible for selection for a RAD unit if the applicant meets the following criteria:
- (a) Qualifies as a Family, as defined in Section 5705 of this chapter;
 - (b) Annual income does not exceed the income limits for admission under Section 5708 of this chapter;
 - (c) Family meets applicant family selection criteria under Section 6109 of this Title 14;
 - (d) Family size meets the occupancy standards established by DCHA under Section 5709 of this chapter; and
 - (e) Family provides all required information and signs all required documentation, including proof of citizenship or eligible immigrant status.

5708 INCOME LIMITS

- 5708.1 To be eligible for admission to the RAD program, an applicant's annual household income shall be within the income limits for low income families, as established by HUD.

5708.2 HUD establishes low income limits based on eighty percent (80%) of the area median income, very low income limits based on fifty percent (50%) of the area median income, and extremely low income limits based on thirty percent (30%) of the area median income.

5708.3 Income limits shall be applied at the time of eligibility determinations by the Client Placement Division.

5708.4 Based on HUD regulations, DCHA shall ensure that actual admission of eligible low income families from the waiting lists is as follows: at least seventy-five percent (75%) shall be families with extremely low incomes at the time of commencement of occupancy.

5709 SUBSIDY STANDARDS / VOUCHER SIZE

5709.1 The Voucher size is used to determine the maximum rent subsidy for a Family assisted in the HCVP.

5709.2 The following requirements apply when DCHA determines Voucher size under the subsidy standards:

- (a) The subsidy standards shall provide for the lowest number of bedrooms needed to house a Family without overcrowding;
- (b) The subsidy standards shall be consistent with space requirements under the Housing Quality Standards contained in § 5321;
- (c) The subsidy standards shall be applied consistently for all families of like size and composition;
- (d) A child who is temporarily away from the home because of placement in foster care is considered a member of the Family in determining the Voucher size;
- (e) A live-in aide, approved by DCHA, shall be counted in determining the Voucher size;
- (f) Foster children and adult wards shall be included in the determination of the Voucher size; and
- (g) The Voucher size for any Family consisting of a single person shall only be a one (1)-bedroom.

5709.3 DCHA shall assign one (1)-bedroom for the Head of Household and/or a Spouse and an additional bedroom for each two (2) persons within the household with the following exceptions:

- (a) Children of the opposite gender shall be allocated separate bedrooms once one of the children is over the age of five (5) or if one of the children will turn five (5) within the initial term of the voucher.
- (b) Children of the same gender shall be allocated one (1) bedroom. Beginning at age thirteen (13), if there is a difference of five (5) years or more, children of the same gender shall have separate bedrooms.
- (c) Adult Family members shall not be allocated a bedroom with a minor.
- (d) A bedroom shall not be assigned to an unborn child; and
- (e) A live-in aide approved by DCHA shall be allocated an individual bedroom.

5709.4 Considerations to persons attending school away from home shall be in accordance with DCHA policies regarding absent Family members under § 5319.

5709.5 In determining the Voucher size for a particular Family, DCHA may grant an exception to the subsidy standards set forth in this § 5709 if DCHA determines that the exception is justified by the age, sex, gender identity, health, or disability of one (1) or more of the Family members.

5709.6 For a single person who is not elderly, disabled, or a remaining Family member as explained in § 5317.8, an exception cannot override the regulatory limit of a one (1) bedroom unit.

5709.7 The Family shall request any exceptions to the Voucher sizes in writing to DCHA. The request shall explain the need or justification for a larger Family unit size, and shall include appropriate documentation. Family requests based on health-related reasons shall be verified by a knowledgeable professional source (such as a doctor or health professional).

5709.8 DCHA shall notify the Family of its determination within thirty (30) days of receiving the Family's request for an exception. If a participant Family's request is denied, the notice shall inform the Family of their right to an informal hearing under Sections 5730 through 5747 of this Chapter.

5710 BRIEFING

5710.1 The purpose of the briefing is to fully inform the applicant Family about the RAD Project-Based Program.

5710.2 DCHA shall give each Family accepted into the RAD Project-Based Program an oral briefing and provide the Family with a briefing packet containing written information about the RAD Project-Based Program.

5201.3 Families may be briefed individually or in groups. At the briefing, DCHA shall ensure effective communication in accordance with the requirements of relevant sections of the following federal and local statutes:

- (a) Section 504 of the Rehabilitation Act (29 U.S.C. §§ 701, *et seq.*);
- (b) The D.C. Language Access Act (D.C. Official Code §§ 2-1931, *et seq.* (2007 Repl.));
- (c) The Fair Housing Act (42 U.S.C. §§ 3601, *et seq.*);
- (d) The D.C. Human Rights Act (D.C. Official Code §§ 2-1401.01, *et seq.* (2011 Supp.)); and
- (e) The Americans with Disabilities Act (42 U.S.C. §§ 12101, *et seq.*).

5710.4 DCHA shall ensure that the briefing site is accessible to individuals with disabilities. Applicants with disabilities may request that DCHA provide other reasonable accommodations when conducting briefings.

5710.5 The Head of Household shall be required to attend the briefing. DCHA will encourage other adult Family members to participate in the briefing. All adult Family members are responsible for complying with RAD Project-Based Program rules even if they do not attend the briefing.

5710.6 Families that attend group briefings and still need individual assistance shall be referred to an appropriate DCHA staff person.

5711 NOTIFICATION AND ATTENDANCE

5711.1 The RAD Program shall notify Families in writing, by first class mail or hand delivery, of their eligibility for assistance at the time that they are invited to attend a briefing. The notice shall identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

5712 ORAL BRIEFING

5712.1 Each briefing shall provide information on the following subjects:

- (a) How the RAD Project-Based Program works;
- (b) Family and owner responsibilities;

5713 BRIEFING PACKET

5713.1

Documents and information provided in the briefing packet shall include the following:

- (a) A description of the method used to calculate the Housing Assistance Payment (HAP) for a Family, including:
 - (1) How DCHA determines the payment standard for a Family;
 - (2) How DCHA determines Total Tenant Payment (TTP) for a Family; and
 - (3) Information on the payment standard and utility allowance schedule;
- (b) An explanation of how DCHA determines the maximum allowable rent for an assisted unit;
- (c) The HUD-required Lease Addendum which shall be included in the lease.
- (d) A statement of DCHA policy on providing information about families to RAD Covered Project owners;
- (e) DCHA subsidy standards including when and how exceptions are made;
- (f) The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*;
- (g) Information on federal, state, and local equal opportunity laws and a copy of the housing discrimination complaint form;
- (h) Information on an applicant or participant's rights under VAWA, including the right to confidentiality and the exceptions;
- (i) Notice that if the Family includes a person with disabilities, the Family may request a list of available accessible units available in the RAD Project-Based Program;
- (j) The Family Obligations under the Program;
- (k) The grounds on which DCHA may terminate assistance or a lease for a Family because of Family action or failure to act;
- (l) RAD Project-Based informal hearing procedures including when DCHA and the owner of the RAD Covered Project are required to offer a Family the opportunity for an informal hearing, and how to request a hearing;

- (m) The publication *Things You Should Know (HUD-1140-OIG)* that explains the types of actions a Family shall avoid and the penalties for program abuse.

5714 APPROVAL OF REQUEST FOR TENANCY

5714.1 Prior to approving the assisted tenancy at a RAD property, DCHA shall ensure that all required actions and determinations have been completed. These actions include ensuring:

- (a) That the unit is eligible;
- (b) That the unit has been inspected by DCHA and meets the HQS;
- (c) That the lease offered by the owner is approvable and contains the following:
 - (1) The initial lease terms and the renewal term;
 - (2) Who is responsible for payment of utilities;
 - (3) The names of the occupants; and
 - (4) The required Tenancy Addendum;
- (d) That the rent to be charged by the owner for the unit is reasonable in accordance with Section 5717 of this Chapter 57;
- (e) Where the Family is initially leasing a unit and the gross rent of the unit exceeds the applicable payment standard for the Family, that the share of rent to be paid by the Family is set in accordance with Subsection 5717.2 of this Chapter 57;
- (f) That the owner is an eligible owner, has been neither disapproved by DCHA nor debarred by HUD, and has no prohibited conflicts of interest; and
- (g) That the unit is accessible when the tenant has a disability.

5714.2 DCHA shall complete its determination within ten (10) business days of receiving all required information listed in § 5212 of this Title 14.

5714.3 If the terms of the Request for Tenancy Approval or the proposed lease are changed for any reason, including but not limited to negotiation with DCHA, DCHA shall obtain corrected copies of the RTA and proposed lease.

- 5714.4 Corrections to the RTA or the proposed lease shall only be accepted as hard copies, in person, by mail, by fax, or electronically to an authorized DCHA email address.
- 5714.5 If DCHA determines that the tenancy cannot be approved for any reason, the owner and the Family shall be notified in writing and given the opportunity to address any reasons for disapproval. DCHA's notice shall instruct the owner and Family of the steps that are necessary to approve the tenancy.
- 5714.6 If the tenancy is not approvable due to rent affordability (including rent burden and rent reasonableness), DCHA shall attempt to negotiate the rent with the owner. If a new, approvable rent is negotiated, the tenancy shall be approved.

5715 SEPARATE AGREEMENTS

- 5715.1 Owners and tenants may execute agreements for services, appliances (other than for range and refrigerator), and other items outside those which are provided under the lease if the agreement is in writing and approved by DCHA.
- 5715.2 Any appliance, service, or other item which is routinely provided to nonsubsidized tenants as part of the lease (such as air conditioning, dishwasher, or garage) or are permanently installed in the unit cannot be put under separate agreement and shall be included in the lease. For there to be a separate agreement, the tenant shall have the option of not utilizing the service, appliance, or other item.
- 5715.3 DCHA is not liable for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.
- 5715.4 If the tenant and owner have come to an agreement on the amount of Charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they shall be allowed. Costs for seasonal items can be spread out over twelve (12) months.
- 5715.5 Copies of all separate agreements shall be provided to DCHA.

5716 HOUSING ASSISTANCE PAYMENT CONTRACT EXECUTION

- 5716.1 Owners who have not previously participated in the voucher program shall attend a meeting with DCHA in which the terms of the Tenancy Addendum and the HAP contract shall be explained. DCHA may waive this requirement on a case-by-case basis, if it determines that the owner is sufficiently familiar with the requirements and responsibilities under the HCVP.

5716.2 The owner and the assisted Family shall execute the dwelling lease, and the owner shall provide a copy to DCHA with signatures. DCHA shall ensure that both the owner and the assisted Family receive copies of the dwelling lease.

5716.3 The owner and DCHA shall execute the HAP contract with notarized signatures. DCHA shall not execute the HAP contract until the owner has submitted IRS form W-9. DCHA shall ensure that the owner receives a copy of the executed HAP contract.

5717 RENT CALCULATIONS

5717.1 Initial Contract Rent. The amount to DCHA must not exceed the lowest of:

- (a) An amount determined by DCHA, not to exceed 110 percent of the applicable fair market rent for the unit bedroom size minus any utility allowance; or
- (b) The reasonable rent as determined in accordance with 24 CFR § 983.302; or
- (c) The rent requested by the owner.

5717.2 Tenant Rent. Notwithstanding provisions which may appear elsewhere in this subtitle, each tenant shall pay, as Tenant Rent, the greater of the following:

- (a) Income-based rent as the greater of one twelfth (1/12) of thirty percent (30%) of adjusted income; or
- (b) One twelfth (1/12) of ten percent (10%) of the annual income. The value of any assets or imputed income from assets shall not be used in the calculation of income based rent. Actual net income from assets greater than the threshold described above shall be included in the determination of adjusted income;
- (c) If the family is receiving payments for welfare assistance from a public agency and a part of those payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of those payments which is so designated; or
- (d) The minimum rent, as determined in accordance with Subsection 5717.3.

5717.3 Minimum Rent. Based on information provided pursuant to Sections 5717.1, 5717.2, and this subsection, rent charged shall be the lesser of:

- (a) An amount based on a percentage of household income pursuant to Subsection 5717.2 (a) or (b); or
- (b) \$0, for families which DCHA has determined do not have any adjusted income, as defined in Section 5705, as determined by DCHA at certification or recertification.

5718 EARNED INCOME DISREGARD

5718.1 Definitions. The following definitions apply for purposes of this section.

- (a) Baseline income. The annual income immediately prior to implementation of the disallowance described in Subsection 5718.3 of this section of a person who is a member of a qualified family.
- (b) Disallowance. Exclusion from annual income.
- (c) Previously unemployed includes a person who has earned, in the twelve months prior to employment, no more than would be received for ten hours of work per week for fifty weeks at the established minimum wage.

5718.2 Qualified family. A family residing in public housing:

- (a) Whose annual income increases as a result of employment of a family member who was unemployed for one or more years previous to employment;
- (b) Whose annual income increases as a result of increased earnings by a family member during participation in any economic self-sufficiency or other job training program; or
- (c) Whose annual income increases, as a result of new employment or increased earnings of a family member, during or within six months after receiving assistance, benefits or services under any state program for temporary assistance for needy families funded under Part A of Title IV of the Social Security Act, as determined by the PHA in consultation with the local agencies administering temporary assistance for needy families (TANF) and Welfare-to-Work (WTW) programs. The TANF program is not limited to monthly income maintenance, but also includes such benefits and services as one-time payments, wage subsidies and transportation assistance -- provided that the total amount over a six-month period is at least \$ 500.

5718.3 Disallowance of earned income

- (a) Initial 12-month exclusion. During the 12-month period beginning on the date on which a member of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, the PHA must exclude from the annual income of a qualified family any increase in the income of the family member as a result of employment over the baseline income of that family member.
- (b) Phase-in of rent increase. Upon the expiration of the 12-month period defined in paragraph (a) of this subsection and for the subsequent 12-month period, the PHA must exclude from the annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.
- (c) Maximum 2-year disallowance. The disallowance of increased income of an individual family member as provided in paragraph (a) or (b) of this subsection is limited to a lifetime 24-month period. It applies for a maximum of 12 months for disallowance under paragraph (a) of this subsection and a maximum of 12 months for disallowance under paragraph (b) of this subsection, during the 24-month period starting from the initial exclusion under paragraph (a) of this subsection.
- (d) No rent phase in. Upon the expiration of the Earned Income Disregard, the rent adjustment shall not be subject to rent phase-in. Instead, rent will automatically rise to the appropriate level.

5718.4 Inapplicability to admission. The disallowance of increases in income as a result of employment under this section does not apply for purposes of admission to the program (including the determination of income eligibility and income targeting).

5719 CHANGES IN RENT

- 5719.1 (a) Rent Phase-In. If a tenant's monthly rent increases by more than the greater of ten percent or \$25 purely as a result of conversion, the rent increase will be phased in over a period of five years.
- (b) Five Year Phase-in Formula:
 - (i) Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the Calculated RADTTP
 - (ii) Year 2: Year 2 annual recertification and any interim recertification prior to Year 3 annual recertification – 25% of

difference between most recently paid TTP and the Calculated RAD TTP

- (iii) Year 3: Year 3 annual recertification and any interim recertification prior to Year 4 annual recertification – 33% of difference between most recently paid TTP and the Calculated RAD TTP
 - (iv) Year 4: Year 4 annual recertification and any interim recertification prior to Year 5 annual recertification – 50% of difference between most recently paid TTP and the Calculated RAD TTP
 - (v) Year 5 annual recertification and all subsequent recertifications – Full Calculated RAD TTP
- (c) Once the Calculated RAD TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward.

5719.2 Any changes in Tenant Rent shall be stated in a special supplement to the lease, which shall, upon issuance, become a part of the dwelling lease. The special supplement to the lease shall constitute the tenants thirty (30) day written notice of an increase in Tenant Rent. The family shall be provided a copy of the special supplement to the lease.

5719.3 All changes in Tenant Rent, whether after an interim or regular recertification, shall be implemented in accordance with 14 DCMR §§ 6118, 6119, and this chapter.

5719.4 In properties where utilities and other essential services are supplied to the tenant by DCHA, Tenant Rent payable to DCHA under the dwelling lease shall be the same as total tenant payment.

5719.5 Tenant Rent shall be computed after both annual income and adjusted income have been verified.

5719.6 The tenant shall receive retroactive credit to credit an administrative error.

5719.7 Tenants occupying property for a portion of a month at the time of move-in shall be charged a pro-rata share of the full monthly rate determined by DCHA.

5719.8 Allowances and special deductions:

- (a) In properties where tenants are responsible for paying for their own utility bills, the utility allowance shall be subtracted from the total tenant payment to determine the Tenant Rent payable to DCHA. If the Tenant

Rent resulting from the subtraction of the utility allowance from the total payment is negative, DCHA shall send a monthly check in the amount of the difference to the tenant.

- (b) At Redeveloped Properties or Service Rich Properties, as defined in 14 DCMR Section 6113, which an Association Fee is assessed, residents at such properties may be required to pay an amount calculated to equal the Association Fee attributable to the unit and shall be granted an allowance reflecting the Association Fee payment. The allowance shall be subtracted from the Tenant Rent to determine the tenant payment as follows:
 - (1) Any utility allowance shall be deducted from the Tenant Rent first. The allowance for the Association Fee shall be deducted from any remaining positive amount. If the deduction of the utility allowance results in a negative rent there shall be no charge for an Association Fee and no deduction for the Association Fee allowance. If the deduction of the Association Fee allowance results in a negative amount, the required Association Fee payment from the tenant and its associated allowance shall be reduced so that the Tenant Rent is zero.
 - (2) If the tenant fails to pay the Association Fee on time, the fee shall be converted to rent, not to exceed 30% of adjusted income, when added to the monthly rent, for the month in which the fee was paid.
 - (3) If the Association Fee is paid after entry of judgment as part of the payment required to avoid eviction, the fee shall be recorded as the Association Fee, and the ledger shall be updated to reflect the tenant's payments.

5720 UTILITY ALLOWANCE

- 5720.1 DCHA shall establish on a project basis, in accordance with Federal regulations, appropriate utility allowances for tenants with individual utility meters.
- 5720.2 Allowances shall be based on average consumption levels and information provided by the D.C. Public Service Commission regarding rates approved for utility companies supplying electricity or gas to those dwelling units.
- 5720.3 Average consumption level calculations shall take into account major equipment provided by DCHA at the project or property and shall make allowance for minor equipment normally provided by the tenant, except that items provided by the tenant listed in § 5721.1 of this chapter shall not be considered in development of average consumption calculations.

- 5720.4 As utility rates in the District of Columbia are revised, DCHA shall revise its utility allowances when the computation of the rate change(s) in relation to DCHA's utility allowance results in a change in excess of ten percent (10%) in the monetary allowance for a specific utility. When DCHA revises a utility allowance, it shall do the following:
- (a) Provide notice to tenants regarding increases or decreases in Tenant Rent due to revised utility allowances;
 - (b) Make Tenant Rent increases effective at the start of the first month following thirty (30) day notice to the tenant, and make Tenant Rent decreases effective at the start of the first month following the change in utility allowance; and
 - (c) Prepare and execute a special supplement to the dwelling lease, with an explanation of the reason(s) for the change.
- 5720.5 Actual charges billed directly to the tenant shall be his or her responsibility, regardless of whether the charges are above or below the utility allowance approved by DCHA.
- 5720.6 The DCHA shall also establish appropriate utility allowances, on a project basis, for tenants with checkmeters where DCHA pays the utility supplier but individual units have checkmeters that measure consumption rates for the unit.
- 5720.7 The DCHA shall be authorized to obtain records of tenants' utility consumption and related charges billed data from utility companies for tenants with individual utility meters who pay for their own electricity or gas.

5721 EXCESS UTILITY CHARGES

- 5721.1 Tenants who do not pay for their own electricity shall be charged reasonable amounts for electricity consumed as a result of major electrical appliances which are not provided by DCHA. Major electrical appliances include the following:
- (a) Clothes dryer(s);
 - (b) Food freezer(s);
 - (c) Additional refrigerator/freezer(s);
 - (d) Air conditioner(s);
 - (e) Washing machine(s); and
 - (f) Dish washers.

- 5721.2 Excess utility charges for air conditioners shall only be applied during the months of May, June, July, August and September.
- 5721.3 Excess utility charges and any revisions to these charges, shall be established by DCHA on the basis of the provisions of § 5720 of this chapter, including consumption calculations.
- 5721.4 It is the responsibility of the tenant to obtain the approval of DCHA prior to the installation of any electrical appliance listed in § 5721. 1. Excess utility charges shall be incurred at the start of the month following installation. DCHA shall prepare and execute a special supplement to the lease to reflect excess utility charges.
- 5721.5 Excess utility charges required under §§ 5721.1 and 5721.7 shall not become due and collectible until the first (1st) day of the second month following the month in which the charge is incurred.
- 5721.6 Upon receipt of a report from a tenant indicating an appliance is inoperable in his or her unit, DCHA shall assess the applicable charge until such time as the appliance in question is removed from the dwelling unit.
- 5721.7 Tenants who do not pay for their own utilities, but who occupy a unit with a checkmeter system for individual units, shall be charged reasonable amounts for utility consumption in excess of the appropriate utility allowance established by DCHA for that unit.
- 5721.8 Where DCHA converts a specific property to a checkmeter system, there shall be a transition period of at least six (6) months during which no excess utility charges shall be charged against the tenant. During this transition period, DCHA shall do the following:
- (a) Advise the tenant of the amounts which would be charged, based on checkmeter readings;
 - (b) Advise tenants with high utility consumption rates on methods for reducing their usage; and
 - (c) Give specific thirty (30) day notice to the tenant of the effective date after which utility charges shall be assessed. DCHA shall prepare and execute a special supplement to the lease to implement excess utility charges related to checkmeter systems.

5722 SECURITY DEPOSITS

- 5722.1 Each new tenant household shall be required to make a security deposit to DCHA prior to the execution of the dwelling lease.

- 5722.2 The security deposit shall be a flat fee assessment as follows:
- (a) Fifty dollars (\$50) - elderly family households; or
 - (b) One hundred dollars (\$100) - family households.
- 5722.3 The security deposit shall be due in full at the time of the execution of the dwelling lease.
- 5722.4 The security deposit shall be retained by DCHA until the tenant vacates the unit.
- 5722.5 Whenever a tenant is relocated from one (1) DCHA unit to another, the tenant may choose to have the security deposit transferred to the new unit and dwelling lease agreement.
- 5722.6 If the unit from which the tenant is transferring has tenant-caused damages, or there are other unpaid charges due from the tenant, DCHA may deduct those amounts due as provided in § 5723 of this chapter, and require a new security deposit from the tenant prior to execution of a new lease for the unit to which the tenant is moving.

5723 REPAYMENT OF SECURITY DEPOSITS AND MOVE-OUT INSPECTIONS

- 5723.1 The amount of the security deposit to be refunded shall be based on the following:
- (a) Actual unpaid repair costs for damages to the premises beyond normal wear and tear;
 - (b) Total rent delinquency charges;
 - (c) Total unpaid service charges; and
 - (d) Proper notice by the tenant to DCHA of intent to vacate in accordance with §5723.5 of this chapter.
- 5723.2 If the security deposit is insufficient to cover those charges, the tenant shall be billed for the difference.
- 5723.3 If there are no charges, or if the charges are less than the security deposit, the difference shall be refunded to the tenant.
- 5723.4 In order to determine the amount of security deposit to be returned to the tenant, DCHA shall conduct a move-out inspection with the departing tenant.
- 5723.5 When tenants have provided thirty (30) day notice of intent to vacate their unit, DCHA shall notify the tenant in writing of the date and time of the move-out inspection at least ten (10) days before the intended inspection.

- 5723.6 If it is discovered that repairs to the unit are needed due to the tenant's abuse or neglect, DCHA shall assess the tenant for the cost of the repairs.
- 5723.7 At the time of the move-out inspection, the tenant shall be required to furnish a forwarding address for the purposes of either forwarding the tenant's refund check, or a bill for additional monies due. DCHA shall provide a written statement of deficiencies, and the amount of the charge for repair, to the tenant, and shall refund any security deposit due within forty-five (45) days of termination of tenancy.
- 5723.8 A tenant vacating a unit shall be eligible for a refund if that tenant has a credit balance after any charges have been deducted from the tenant's account.
- 5723.9 Tenants who vacate a unit without giving proper notice of intent to vacate shall relinquish any right to possession of the unit or the security deposit.
- 5723.10 The Lessee shall return all keys and other entry devices whenever the unit is vacated. Failure to return keys or other entry devices will result in a charge in accordance with a schedule of charges as posted in the property management office.

5724 RENT COLLECTION

- 5724.1 Rental payments and excess utility or other charges where applicable, for each month shall be due on the first (1st) day of each month. A payment received by the tenth (10th) day of the month shall not be considered delinquent.
- 5724.2 Current rent shall be the amount charged monthly as Tenant Rent to a tenant for the use and occupancy of a specified dwelling unit.
- 5724.3 The DCHA shall advise the tenant in writing of any other charge(s) being assessed and the amount due as follows:
- (a) Excess utility charges shall be assessed as provided in § 5714 of this chapter;
 - (b) Charges for services performed and for maintenance charges as a result of tenant damage (as provided in § 5753 of this subtitle) shall be due and payable the first day of the second month following completion of repairs or performance of service, provided the tenant was provided one (1) month notice of the charge prior to the due date; and
 - (c) Court costs shall be due and payable at the time the tenant is required to pay the amount which made the court charge necessary.
- 5724.4 All payments shall be submitted by the tenant to the location designated by DCHA, and shall be made only by check or money order.

5724.5 Rent payments, or excess utility or other charges where applicable, received after the tenth (10th) day of the month shall be considered delinquent, and a late charge of ten dollars (\$10) shall be assessed against the tenant. No more than one (1) late charge shall be assessed each month.

5725 RETURNED CHECKS

5725.1 Tenants whose checks are returned for insufficient funds shall be assessed a fifteen dollar (\$15) returned check fee, and shall be required to make payment within five (5) working days, from the date of the returned check notice, for the amount outstanding. This payment shall be in the form of a “money order” or “cashier’s check.”

5725.2 Each tenant having two (2) checks returned, within a twelve (12) month period, for insufficient funds, shall be required to submit all future payments in the form of a “cashier’s check” or “money order.”

5726 RETROACTIVE RENT

5726.1 Retroactive rent charges, determined in accordance with § 5719 of this subtitle, shall be due in full within thirty (30) days of notification.

5726.2 Partial payments of amounts due may be authorized by DCHA if it is determined that the tenant’s failure to promptly report the change(s) in income, which resulted in the retroactive rent, was not willful.

5727 ABATEMENT OF RENT

5727.1 In the event that a unit is rendered uninhabitable and repairs are not made as provided for in § 5758, DCHA shall abate the tenant's total tenant payment in proportion to the seriousness of the damage and loss in value as a dwelling.

5727.2 No abatement of rent shall occur if the tenant fails to cooperate with workmen seeking to make the repairs, rejects alternative accommodations, or if the damage was caused by the tenant, the tenant’s household, or guests.

5727.3 Evidence that a unit was uninhabitable under § 5758, and that abatement is required, may include a vacate order by a District Housing Inspector, or other substantial documentation.

5728 Reserved.

5729 Reserved.

5730 GRIEVANCE POLICY

- 5730.1 The rules of procedure outlined in Sections 5730 through 5747 shall govern conferences and hearings resulting from complaints filed by individual participants and applicants for housing in a RAD Covered Project, including RAD units within any Private Mixed Finance Project except as otherwise specified in a regulatory and operating agreement or RAD control agreement.
- 5730.2 The procedures shall provide a means for review of grievances through administrative means short of taking action through the appropriate judicial proceeding, but in no way waive the complainant's right to judicial proceedings.
- 5730.3 The grievance procedure shall not be used to review complaints or grievances related to initiating or negotiating changes to existing policies set forth in this chapter, class grievances, or disputes between residents that do not involve the Project Owner or contract administrator.

5731 FILING A COMPLAINT

- 5731.1 Any resident of or applicant for a RAD Covered Project may file with DCHA or the Project Owner a complaint requesting an administrative determination of his or her rights for any dispute he or she may have with respect to a Project Owner's action or failure to act in accordance with the individual's lease or the contract administrator's action or failure to act in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
- 5731.2 The complaint shall be mailed or personally presented either orally or in writing to the DCHA Office of Fair Hearings or to the office of the property in which the complainant resides during normal office hours, but not later than thirty-five (35) calendar days after the DCHA or Project Owner's act or failure to act that constitutes the basis for the grievance. For complaints concerning termination of assistance by DCHA, complainants shall request an informal hearing within thirty-five (35) calendar days of the date of the issuance of the recommendation for termination of assistance by DCHA.
- 5731.3 The complaint shall state the particular grounds on which it is based and the action or relief requested. Upon request, DCHA or office of the property in which the complainant resides will assist a complainant in putting his or her complaint in writing.
- 5731.4 Upon receipt of the complaint, the DCHA Office of Fair Hearings or the office of the property in which the complainant resides shall provide the complainant with a receipt indicating a complaint was filed and information explaining the complainant's right to a fair hearing and outlining the RAD Grievance Procedures. If the complaint is filed at the office of the property in which the complainant resides, that office shall provide a copy of the complaint to OFH.

5732 INFORMAL SETTLEMENT OF COMPLAINTS

- 5732.1 Except for complaints filed by applicants that have already participated in an informal conference pursuant to Subchapter 6107 or for complaints concerning termination of assistance, within three (3) business days of receipt of the complaint, the Project Owner shall schedule a conference with the complainant to informally discuss the complaint with the objective of reaching a settlement without a formal hearing.
- 5732.2 The Project Owner shall convene the informal settlement conference within ten (10) business days of the date the complaint was filed.
- 5732.3 If a settlement is reached, within ten (10) business days of the conference, the terms of the settlement shall be put in writing by the Project Owner, signed by each party. A copy of the settlement shall be given to the complainant and DCHA, who shall retain a copy for the complainant's DCHA file.
- 5732.4 If a settlement cannot be reached, the Project Owner shall prepare and serve on the complainant a written answer to the complaint within ten (10) business days of the conference with the complainant. The answer shall specify the following:
- (a) The Project Owner's proposed disposition of the complaint and the specific reasons therefore;
 - (b) The right of the complainant to a hearing, and the procedure for requesting a hearing; and
 - (c) The time allowed to request a hearing.
- 5732.5 The answer shall be served upon the complainant as follows:
- (a) Where the complainant is a resident, by personally serving the answer on the complainant or leaving a copy at the dwelling unit with a person of suitable age, or posting on the door of complainant's unit if no one is at home; or
 - (b) Where the complainant is an applicant, by sending the answer by first class mail, postage prepaid, to complainant's address as it appears in the records of DCHA.

5733 REQUEST FOR HEARING

- 5733.1 If the complainant is not satisfied with the proposed disposition of his or her complaint, he or she may submit in person or by mail a written request for a hearing. Upon request, DCHA or the Project Owner will assist a complainant in putting his or her request for a hearing in writing. The written request shall be provided:

- (a) To the Office of Fair Hearings (OFH); or
- (b) To the OFH through the office of the property in which the complainant resides.

On determinations of ineligibility for applicants for RAD Covered Projects, the notice will include the complaint form by which families can request a hearing and return it to DCHA. The complaint form will also be available to applicants and residents at all DCHA offices.

For a determination to terminate assistance, the notice will include the complaint form by which families can request a hearing and return to DCHA.

5733.2 A complainant's request for a hearing shall be in writing and shall be filed as follows:

- (a) If the complainant is a resident, within seven (7) business days from the date the answer is served;
- (b) If the complainant is an applicant, within ten (10) business days from the date the answer is mailed; or
- (c) If the complainant's hearing request concerns a determination to terminate assistance, within thirty-five (35) calendar days from the date of the issuance of the recommendation for termination of assistance by DCHA.

5733.3 If the complainant does not request a hearing within the time specified in § 5733.2(a)-(b), the Project Owner's disposition of the complaint under § 5732.4 shall become final. If the complainant does not request a hearing within the time specified in § 5733.2(c), DCHA's determination to terminate assistance shall become final. This shall not constitute a waiver of the complainant's right to contest DCHA's or Project Owner's actions in an appropriate judicial proceeding.

5733.4 Once a timely request for a hearing has been filed, the Housing Assistance Payments (HAP) will continue to the current landlord in accordance with the current HAP contract in effect at the time of the request for a hearing until a final determination has been made in accordance with this chapter.

5733.5 Upon receipt of a request for a hearing, OFH shall assign a hearing officer to the complaint from the pool of hearing officers selected pursuant to § 5734.1, on a rotating basis to the extent possible.

5733.6 Within fifteen (15) business days, OFH shall schedule a hearing time, date and place, reasonably convenient to both the complainant and DCHA, and shall notify the complainant and DCHA.

5733.7 Within thirty (30) days of the date the hearing is scheduled, OFH shall convene the hearing, unless rescheduled for good cause.

5733.8 Requests to reschedule a Hearing shall be subject to the following conditions:

(1) Either party may request to reschedule an Informal Hearing any time prior to the first scheduled Informal Hearing date or prior to any subsequent hearing date, only if the requesting party can demonstrate good cause and if delay will not result in harm or prejudice to the other party.

(2) Notwithstanding the paragraph above, OFH will reschedule a Hearing as a reasonable accommodation if the complainant can demonstrate that a disability prevented them from rescheduling within the prescribed time periods.

5734 SELECTION OF HEARING OFFICERS

5734.1 The DCHA shall select six (6) impartial, disinterested members of any bar in good standing to be available to serve as hearing officers.

5734.2 If the complainant objects to the hearing officer, DCHA and the complainant shall attempt to agree upon another member of the pool of hearing officers.

5734.3 If DCHA and the complainant cannot agree, DCHA shall select any individual to serve as a member of the hearing panel, the complainant shall select any individual to serve as a member of the panel and these two (2) individuals shall select a third member. The choice of the individuals who comprise the hearing panel shall not be limited to the six (6) member pool of hearing officers.

5734.4 If the individuals selected by DCHA and the complainant cannot agree on a third member, such a member shall be selected by an independent arbitration organization as provided in 24 CFR § 966.55(b)(1)(2002).

5734.5 Any individual who made or approved the decision under review or a subordinate of that individual may not serve as a hearing officer pursuant to § 5734.1 or as a member of a hearing panel pursuant to § 5734.3 or § 5734.4.

5735 AUTHORITY OF HEARING OFFICERS

5735.1 The hearing officer shall have all powers necessary to conduct a fair and impartial hearing, including the following:

- (a) To administer or direct the administration of oaths and affirmations;
- (b) To examine witnesses and direct witnesses to testify;
- (c) To rule upon offers of proof and receive relevant evidence;

- (d) To regulate the course of the hearing and the conduct of the parties, other participants, and their counsel;
- (e) To arrange a conference for settlement or to simplify the issues by agreement of the parties;
- (f) To consider and rule upon procedural requests; and
- (g) To take any action authorized by this chapter.

5735.2 The hearing officer shall have the power to grant appropriate relief not in conflict with controlling law and regulations, including the following:

- (a) Rental abatements;
- (b) Monetary damages;
- (c) Relocation of residents to other DCHA owned or operated housing units;
- (d) The ordering of repairs and/or accessibility features by DCHA;
- (e) Remanding to a program specialist for further review or recalculation;
- (f) Granting a voucher or voucher extension;
- (g) Participant recertification;
- (h) Adjustment to total tenant payment;
- (i) Reversal of termination; and
- (j) Scheduling continuances and rescheduling.

5735.3 Temporary relocation of residents to private housing units available to the agency shall be authorized and may be ordered if the hearing officer finds that the unit is so seriously deficient that it poses a significant threat to the health or safety of the resident.

5735.4 If DCHA does not take immediate action to correct the threat and fails to demonstrate that suitable public housing is available, the hearing officer may order DCHA to temporarily relocate the resident to a suitable private housing unit, providing DCHA fails to demonstrate that suitable housing is available.

5736 EX PARTE COMMUNICATIONS

- 5736.1 The hearing officer shall not consult any person, or party on any fact at issue except after notice and opportunity for all parties to participate.
- 5736.2 No employee, or agent, of the District of Columbia government engaged in the investigation and prosecution of a case shall participate or advise in the proposed decision in that case except as a witness or counsel in the hearing or other public proceedings.

5737 RIGHTS OF COMPLAINANTS

- 5737.1 The complainant shall be afforded a fair hearing providing the basic safeguards of due process, which shall include the following:
- (a) The right to be represented by legal counsel or another person chosen as a representative; at their own expense, provided that if the family has not notified DCHA in writing at least three business days in advance of their intention to be represented, the hearing officer shall grant any request from DCHA for a continuance.;
 - (b) The right to a private hearing, unless the complainant requests a public hearing;
 - (c) The opportunity to examine, before the hearing, documents, records, and regulations of DCHA that are relevant to the hearing. Any document not so made available after a request for the document has been made by the complainant may not be used as evidence by DCHA at the hearing;
 - (d) When requested, DCHA shall provide to the complainant, at no charge, fifty (50) pages of documents, records, and unpublished regulations of DCHA relevant to the hearing. A reasonable charge of not more than twenty five (25) cents per page may be assessed for reproducing material in excess of fifty (50) pages requested by the complainant. If the documents are provided electronically or on a CD, DCHA is authorized to charge for the cost of the CD and the total number of pages produced electronically;
 - (e) The right to present evidence and arguments in support of his or her complaint, to controvert evidence relied on by DCHA, and to confront and cross-examine all witnesses on whose testimony or information DCHA relies;
 - (f) The right to a decision based solely upon the facts presented at the hearing;
 - (g) The right to arrange, in advance, and at his or her expense, to receive a transcript of the hearing;
 - (h) The right to request a reasonable accommodation for a disability.

5738 NONPAYMENT OF RENT: ESCROW DEPOSIT REQUIRED

- 5738.1 Before a hearing is scheduled in any grievance involving the amount of rent claimed due by DCHA, the complainant shall pay to the DCHA an amount equal to the amount of the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place.
- 5738.2 The complainant shall thereafter deposit the same amount of the monthly rent in the escrow account designated by DCHA monthly when due until the complaint is resolved as a result of the hearing.
- 5738.3 The failure to make the payments shall result in the termination of the grievance procedure and the Contract Administrator's or the Project Owner's proposed disposition of the complaint pursuant to subsection 5732.4 will become final.
- 5738.4 Failure to make payment shall not constitute a waiver of any right the complainant may have to contest DCHA's disposition of the complainant's grievance in an appropriate judicial proceeding.

5739 FAILURE TO APPEAR

- 5739.1 If either party fails to appear at a hearing, the hearing officer may do the following:
- (a) Postpone the hearing for up to five (5) business days;
 - (b) With the consent of both parties, reschedule the hearing for a later date;
 - (c) Make a determination that the complainant has waived his or her right to a hearing, if the complainant fails to appear. The waiver shall not constitute a waiver of complainant's right thereafter to contest DCHA's action in an appropriate judicial proceeding;
 - (d) Grant an exception if the family is able to document an emergency situation that prevented them from attending or requesting a postponement of the hearing or if requested as a reasonable accommodation for an individual with a disability.

5740 HEARING PROCEDURES

- 5740.1 At the hearing, the complainant shall make a showing of entitlement to the relief sought. If in the opinion of the hearing officer the complainant fails to do so, the hearing officer may render a decision in favor of DCHA without further presentation of evidence.

- 5740.2 If the hearing officer decides the complainant has made a sufficient showing, DCHA shall justify the action or inaction against which the complaint is directed or the proposed position in its answer to the complaint by a preponderance of the evidence.
- 5740.3 Both parties to the hearing may present evidence and arguments in support of their positions, controvert evidence and cross-examine all witnesses for the other side.
- 5740.4 The hearing shall be conducted informally by the hearing officer, and oral or documentary evidence relevant to the facts and issues raised by the complaint and answer may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- 5740.5 The hearing officer shall require DCHA, the complainant, counsel, and other participants or spectators to conduct themselves in an orderly manner.
- 5740.6 Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the hearing or in a decision adverse to the interest of the disorderly party and granting or denial of the relief sought, as appropriate.

5741 TRANSCRIPT OF PROCEDURES

- 5741.1 Normally, verbatim transcripts shall not be made of the proceedings. However, if either party desires a transcript, the party shall do the following:
- (a) Secure, at his or her own expense, the services of a qualified transcriber service, subject to the approval of the hearing officer;
 - (b) Pay all costs incurred directly to the reporting firm; and
 - (c) Furnish a copy of the transcript to the hearing officer for his or her certification and incorporation into the record of the proceedings.
- 5741.2 Either party may, at his or her own expense, make a tape recording of the proceeding upon disclosure to the hearing officer and the other party.

5742 DECISION OF THE HEARING OFFICER

- 5742.1 The hearing officer shall prepare a written decision, together with the reasons therefor, within ten (10) business days after the close of the hearing. Copies of the decision shall be mailed to the complainant, DCHA and OFH.
- 5742.2 The decision of the hearing officer shall be binding on DCHA, which shall take all actions, or refrain from actions, necessary to carry out the decision, unless the Executive Director or an official delegated by the Executive Director does the following:

- (a) Determines that the complaint does not concern a DCHA act or failure to act as prescribed by the complainant's lease or DCHA rules, policies or regulations, that adversely affect the complainant's rights, duties, welfare or status;
- (b) Determines that the decision of the hearing officer is contrary to applicable federal or District of Columbia law or regulations or requirements of the Annual Contributions Contract between HUD and DCHA; or
- (c) Determines that the decision of the hearing officer exceeds the authority of the hearing officer under the DCHA hearing procedures.

5742.3 The Executive Director or designee of the Executive Director shall make the determination within the time provided in § 5745.1, and promptly notify all parties to the hearing of his or her determination.

5743 BRIEFS IN SUPPORT OF OR TAKING ISSUE WITH THE DECISION OF THE HEARING OFFICER

5743.1 Any party may file a brief with OFH in support of or in opposition to the hearing officer's proposed decision within ten (10) business days after service of the decision;

5744 EFFECT OF DECISION

5744.1 A decision of the hearing officer may be appealed by filing a Petition for Review with the District of Columbia Court of Appeals.

5745 DECISION OF THE EXECUTIVE DIRECTOR OF DCHA

5745.1 Within seven (7) business days after expiration of the time for filing briefs as provided in § 5743, the Executive Director of DCHA, upon consideration of the record, together with any briefs, shall make a determination of the enforceability of the hearing officer's decision as provided in §§ 5742.2 (a) and (b) and (c).

5745.2 The Executive Director of DCHA may modify or set aside, in whole or in part, the decision of the hearing officer.

5745.3 In any case in which the Executive Director of DCHA proposes to modify or set aside all or any part of the hearing officer's decision, the Executive Director shall serve on each party a proposed decision, including findings of fact and conclusions of law.

5745.4 The parties shall be given fourteen (14) days from the date of receipt of the Executive Director's proposed decision to file exceptions. Each party may request oral argument when submitting exceptions.

5745.5 A final decision shall be made by the Executive Director of DCHA within fourteen (14) days after exceptions to the proposed decision have been filed, and an oral argument held, if requested. Copies of the final decision shall be served on all parties.

5746 NOTICE TO VACATE PREMISES

5746.1 If the complaint relates to the termination of a dwelling lease through the service of a Notice to Vacate upon the complainant, and the hearing officer's determination upholds the action to terminate the tenancy, DCHA shall take no further action to evict the resident until it has served upon the resident a Notice to Vacate; provided, that the notice shall not be subject to the filing of a complaint under the grievance procedure.

5746.2 A Notice to Vacate shall not be issued prior to the date that the Hearing Officer's final decision under § 5742.1 is delivered or mailed to the complainant.

5746.3 Whenever a Notice to Vacate is given to the complainant, he or she shall be informed in writing of the following:

- (a) If he or she fails to vacate the premises within the appropriate period, further appropriate legal actions shall be taken against him or her; and
- (b) If suit is brought against him or her, the resident may be required to pay court costs and attorney fees incurred.

5747 RECORDS

5747.1 The Central Grievance Files shall be maintained in a central location by the Office of Fair Hearings and shall be made promptly available to interested members of the public for inspection and copying pursuant to procedures established by the OFH.

5747.2 Subject to § 5737.1(d), a reasonable charge of not more than twenty-five (25) cents per page may be assessed for copying any document in the Central Grievance Files.

5748 TRANSFER POLICY

5748.1 It shall be the policy of the District of Columbia Housing Authority (DCHA) to transfer Families from one dwelling unit to another to alleviate conditions of hardship caused by physical conditions or to address changed family circumstances. Transfers may result from actions mandated by DCHA or result from requests by Families. To facilitate such transfer, DCHA may offer units in its traditional public housing or in its RAD inventory, excluding RAD units within any Private Mixed Finance Project. Notwithstanding the foregoing, Families residing within any Private Mixed Finance Project may also be transferred within or between any Private Mixed Finance Project in accordance with any applicable regulatory and operating agreement or RAD control agreement.

- 5748.2 It is DCHA’s policy that transfers will be made without regard to race, color, national origin, sex, religion, or familial status. Families can be transferred to accommodate a disability.
- 5748.3 Transfers will be processed by the Office of the Director of Property Management Operations. Families may apply to their property manager for a transfer, but all paperwork, verifications and unit assignments shall be processed by the Office of the Director of Property Management Operations. Applications for transfer must be made in writing, must state the reason(s) for requesting the transfer, and must provide any supporting documentation. Families may use the “Tenant Request for Transfer” form available in each property management office or at the DCHA central office.
- 5748.4 Mandatory Transfers and Priority Voluntary Transfers shall take precedence over new admissions. New admissions shall take precedence over Standard Voluntary Transfers. DCHA shall assign vacant units that it does not need to house Mandatory Transferees or Priority Voluntary Transferees, using a ratio of five units for initial occupancy by applicants on the Public Housing Waiting Lists, to one unit for a Family from the DCHA Transfer Waiting List.
- 5748.5 Upon acceptance of the new dwelling unit, the Lessee must execute a new lease agreement. All causes of action of any nature whatsoever available to DCHA or the Project Owner at the previous dwelling unit shall be actionable by DCHA or the Project Owner of the previous dwelling unit after transfer, whether such transfer is a Mandatory Transfer or a Voluntary Transfer. This regulation does not waive any statute of limitations otherwise applicable to such claims.
- 5748.6 Sections 5748 through 5751 govern all transfers initiated by DCHA or requested by participating Families in RAD Covered Projects.

5749 MANDATORY TRANSFERS

- 5749.1 The DCHA may initiate Mandatory Transfers for households in order to alleviate certain housing conditions. The following represent examples of such conditions:
- (a) To relocate Families that are living in dwelling units with conditions that represent an emergency or a threat to life, health, or safety (e.g., fire, flood, no water) as determined by DCHA, another governmental entity, or as a result of a judicial proceeding;
 - (b) To place households in units of the correct size when authorized members of a Family (i.e., household members listed on lease or certified by the DCHA) are under-occupying (assigned dwelling units are too large for the household) or over-occupying (assigned dwelling units are too small for the household) their assigned dwelling units in relation to the occupancy standards as set forth in Section 5709 of this chapter;

- (c) To relocate households to alleviate threat of attack by criminal elements as verified and documented by the DCHA Police Department or any other police department or law enforcement agency authorized to operate in the District of Columbia;
- (d) To permit Property Owner to make significant repairs, modernize, rehabilitate, or demolish dwelling unit(s) or apartment building(s);
- (e) To relocate households to facilitate the future rehabilitation of a dwelling unit;
- (f) To permit occupancy of a unit with accessibility feature by a transferring Family or eligible applicant with a verified need for such a unit;
- (g) To alleviate any other conditions of hardship as determined by DCHA or to effectuate DCHA goals and/or objectives.

5749.2 Families subject to a Mandatory Transfer shall receive a “Notice of Mandatory Transfer.” The Notice shall include the following:

- (a) Statement of the reason for the transfer;
- (b) Location of the new dwelling unit;
- (c) Statement regarding how the move will be financed; and
- (d) The specific date by which the move must occur.

5749.3 Families subject to a Mandatory Transfer will receive one offer of transfer. The offer of transfer shall be for a dwelling unit meeting the needs of the household in accordance with DCHA occupancy standards and, if the household includes a member with a disability, a dwelling unit that has features appropriate for the disability or one that is adaptable.

5749.4 Applications for a transfer must be made to the Property Manager of the Family's RAD Covered Project, but all paperwork verification and unit assignments shall be made by the Office of the Director of Property Management Operations, except in the case of a Family request for a transfer as a reasonable accommodation of a disability in which case the request will be processed by the Office of the ADA/504 Coordinator and the Client Placement Division.

5749.5 DCHA shall, at its sole discretion, elect to either bear the cost of a Mandatory Transfer by providing funds to the affected household or to move the household with its own resources, which may include the use of DCHA staff and/or a moving contractor.

5749.6 A Family that receives a written offer of a new dwelling unit and who refuses to move by the date specified in the Notice of Mandatory Transfer shall be issued a Notice to

Quit or Cure.

- 5749.7 DCHA shall relocate to a vacant, non-accessible unit, within six (6) months, the remaining household members occupying a unit with accessibility features after the death, or relocation for any other reason, of the disabled household member who required the accessibility features of such Unit.
- 5749.8 The decision to initiate a Mandatory Transfer pursuant to this chapter may be made only after review and approval by a supervisor in the Office of the Director of Property Management Operations.

5750 VOLUNTARY TRANSFERS

- 5750.1 DCHA will approve transfer requests for Families that are compliant with the terms and conditions of their leases and have resided in their dwelling units for at least one year. Families with a disabled household member that request reasonable accommodation transfers, as described below, are not subject to the one-year limitation.
- 5750.2 A Family is compliant with the terms and conditions of its lease if:
- (a) Current on rent payments and/or on any repayment agreement;
 - (b) Current with recertification process;
 - (c) Is not subject to a citation for any lease violation;
 - (d) Has a good housekeeping record as evidenced by a housekeeping inspection; and
 - (e) Is not subject to a Notice to Correct or Vacate or a Notice to Vacate.
- 5750.3 Any Family that is subject to a Notice to Vacate, is not compliant with terms of lease.
- 5750.4 Each member of the Family must be compliant with the terms and conditions of the lease.
- 5750.5 DCHA may deny requests for transfers by Families that are not compliant with the terms of their leases.
- 5750.6 Transfers processed under this section will not take priority over Mandatory Transfers or new admissions, except as provided under Section 5748.4.
- 5750.7 DCHA shall acknowledge receipt of each Tenant Request for Transfer. The date of acknowledgment shall serve as the Tenant Request for Transfer date, which will be used by DCHA to determine the Family's place on the Transfer Waiting List.

- 5750.8 DCHA shall notify the Family, in writing, in no more than 30 days from the date of acknowledgment, what action it has taken with regard to the Tenant Request for Transfer, *e.g.*, approval, disapproval, or further review of the Request is required. If further review is necessary due to a lack of supporting documentation, DCHA shall notify the Family, in writing, of what additional documentation is required. Once such documentation is received, DCHA shall notify the Family, in writing, in more than 30 days from the date of receipt, what action it has taken with regard to the Tenant Request for Transfer.
- 5750.9 Although DCHA approves a Tenant Request for Transfer, a unit may not be immediately available. When a unit is available, DCHA shall issue the Family a "Notice of Transfer Assignment." The Notice will direct the Family when and where to report to inspect the new dwelling unit.
- 5750.10 The Family must be compliant with the terms and conditions of the lease at the time that its name reaches the top of the Transfer Waiting List. If the Family is not compliant with the terms and conditions of the lease as outlined in Section 5750.2, DCHA may withdraw the Family's transfer approval.
- 5750.11 If the Family accepts the new dwelling unit, the Family shall execute a Notice of Lease Termination at the property from which he/she is moving, upon completion of the arrangement for transfer to the new location.
- 5750.12 Upon acceptance of the new dwelling unit, the Family must execute a new lease, which, if applicable, accepts liability for any outstanding conditions related to the prior lease agreement.
- 5750.13 Families who are approved for a Voluntary Transfer shall bear the cost of moving to the new dwelling unit. The new dwelling unit shall not be held for more than 15 calendar days from the date of the unit availability. If a Family, who has an approved transfer, does not move into the new dwelling unit within 15 calendar days from the date of the unit's availability, the unit offer shall be withdrawn and the Family's name shall be removed from the Transfer Waiting List.
- 5750.14 If a Family refuses a Voluntary Transfer to the property of his/her own choice, the Family's name shall be removed from the Transfer Waiting List and DCHA shall send the Family a notice of such action. If a Family did not identify a property, he/she may be offered up to two locations. If the Family refuses the first, his/her name may be returned to the Transfer Waiting List to await the availability of another unit. If the Family rejects the second assignment, his/her name will be removed from the Transfer Waiting List and DCHA shall send the Family a notice of such action.
- 5750.15 All actions or inactions by DCHA under this section are subject to the Family Grievance Procedure that is outlined in Section 5730 *et seq.*

5750.16 The following conditions shall represent Priority Voluntary Transfers. Families who are approved for a Priority Voluntary Transfer will be transferred based on the hierarchy set forth in Section 5748.4 and on the date that the “Family Request for Transfer” was acknowledged by the DCHA:

- (a) Families that have a verified and approved reasonable accommodation for a fully accessible unit or a unit with accessible features and that do not currently reside in a unit that provides the approved reasonable accommodation;
- (b) The Family or a member of the Family is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, as provided in 24 CFR part 5, subpart L, and the move is needed to protect the health or safety of the family or family member, or any family member has been the victim of a sexual assault that occurred on the premises during the 90-calendar-day period preceding the family’s request to move;
- (c) DCHA has terminated the HAP contract with the Property Owner.

5750.17 The following conditions shall dictate DCHA’s priority for Standard Voluntary Transfers. Families who are approved for a Voluntary Transfer will be transferred based on the hierarchy set forth below and on the date that the “Family Request for Transfer” was acknowledged by the DCHA:

- (a) First priority will be given to situations of a life threatening medical or public safety nature. These situations may include serious medical conditions, crimes, instances of domestic violence not covered under Section 5749.1(e), hate crimes, or other situations which endanger a Family or household member’s life from something other than the condition of the unit or the building. These life- threatening conditions must be documented and verified.
- (b) Second Priority shall be given to Families with an approved reasonable accommodation transfer who do not qualify for a Mandatory Transfer under Section 5749.1(c) . These transfers would include transferring Families to accessible or adaptable dwelling units or sites where conditions are documented to be more favorable for their disabilities than the unit or site from which they are seeking to transfer.
- (c) Third Priority shall be given to Families that are over or under housed. These transfers would permit Families to reside in dwelling units of the correct size for household members listed on their lease or those recognized by the DCHA as a result of its recertification process. To determine whether a dwelling unit is too small or too large, DCHA shall use the occupancy standards outlined at Section 5709 of this Chapter. If DCHA approves a Family’s request for transfer, the household must transfer as one unit. The DCHA will not split families.

- (d) Fourth Priority shall be given to issues of convenience as described by Families requesting transfers.

5751 FAMILY RIGHT TO MOVE

5751.1 The Family may terminate its assisted lease at any time after the first year of occupancy, subject to the terms of the lease. The Family must provide advance written notice of intent to vacate to the Property Manager of the RAD Covered Project (with a copy to DCHA), in accordance with the lease.

5751.2 Prior to or at the time of submitting a written notice of intent to vacate in accordance with Section 5751.1, the Family may request the opportunity for continued tenant-based rental assistance in the form of a tenant-based voucher under the Housing Choice Voucher Program. To request a tenant-based voucher, the Family must submit a written request to the Property Manager of the RAD Covered Project. Requests for continued tenant-based assistance will only be accepted from Families that meet the eligibility requirements of Section 5751.3.

5751.3 Tenants are eligible for continued tenant-based assistance, pursuant to Section 5751.2, only if:

- (a) By the date requested for lease termination, the Family will have resided continuously in a RAD unit for at least one calendar year; and
- (b) On the date of request for continued tenant-based assistance pursuant to Section 5751.2, the Family is compliant with the terms and conditions of its lease, in accordance with Sections 5750.2 – 5750.4.

5751.4 If, on the date of receipt of a request submitted pursuant to Section 5751.2, (i) the Family is deemed eligible, in accordance with Section 5751.3, and (ii) a tenant-based voucher is available, DCHA shall offer the Family a tenant-based voucher. Notwithstanding the foregoing, subject to applicable federal requirements, if DCHA has already issued 75% of its total turnover vouchers in any single calendar year to Families of RAD units, DCHA shall place the Family on the RAD tenant-based voucher transfer list governed in accordance with Section 5751.6.

5751.5 If, at the time of receipt of a request submitted pursuant to Section 5751.2, (i) the Family is deemed eligible, in accordance with Section 5751.3, and (ii) a tenant-based voucher is not available, DCHA shall place the Family on the transfer list governed in accordance with Section 5751.6.

5751.6 Families requesting continued tenant-based assistance shall be prioritized based on the date on which the Family submitted its request for continued tenant-based assistance pursuant to 5751.2. Families on the RAD/PBV tenant-based voucher transfer list shall take priority over all other applicants for tenant-based vouchers. Notwithstanding the foregoing, subject to applicable federal requirements, once DCHA has issued 75% of its

total turnover vouchers to Families of RAD units in any single calendar year, the priority given to Families placed on the RAD tenant-based voucher transfer list shall be governed by Chapter 76 of this title.

5751.7 If, at the time a Family reaches the top of the RAD tenant-based voucher transfer list, (i) a voucher is available and (ii) the Family has priority over all other applicants for tenant-based vouchers, based on the provisions of Section 5751.6, DCHA shall offer the Family a tenant-based voucher.

5751.8 When DCHA is required to offer a Family a tenant-based voucher pursuant to Sections 5748 through 5752, DCHA shall provide written notice of its offer to the Family. The Family must submit a written acceptance of the tenant-based voucher to DCHA within 30 days of the notice of offer. Failure to submit a written acceptance of the voucher to DCHA within 30 days of the notice of offer shall result in the Family being placed back on the RAD tenant-based voucher transfer list with a priority date set to the date of expiration of the notice of offer.

5751.9 If a Family timely accepts an offer to receive a tenant-based voucher, DCHA shall issue the Family a tenant-based voucher. Notwithstanding, if at the time of acceptance, the Family is not compliant with the terms and conditions of its lease, in accordance with Sections 5750.2 – 5750.4, DCHA may rescind its offer to issue a tenant-based voucher.

5751.10 Once issued, a tenant-based voucher shall expire at the earlier of 180 days from the date of its issuance, or the date DCHA has terminated the HAP Contract on the Family's existing unit with notice to the Household.

5751.11 If a Family locates a dwelling unit it wishes to lease, it shall be processed by DCHA as a new lease-up, including the following:

- (a) Provision of a lease-up packet;
- (b) Inspection of the new unit for compliance with HQS; and
- (c) Approval of the lease-up lease package and the lease terms, including the gross rent and the contract rent, subject to a rent reasonableness determination.

5751.12 If the tenant-based voucher expires before the Family initiates the lease-up process, pursuant to Section 5751.11:

- (a) The Family may continue its lease where it is currently leasing, provided that:
 - (1) The Family has not yet given notice to terminate its lease to the owner; or

- (2) The Family has delivered to the owner a notice rescinding the Family's earlier termination notice with a copy of such notice simultaneously delivered to DCHA; and
- (3) The HAP Contract has not otherwise been terminated by DCHA.
- (b) The Family is not required to provide new lease-up or other documents to DCHA, and the owner shall continue to receive Housing Assistance Payments as if the Participant had never requested the continued tenant-based assistance.
- (c) The Family's prior Total Tenant Payment continues in effect.
- (d) The Family shall not be eligible for another Tenant-Based voucher for 24 months from the issuance of the expired voucher.

5752 OWNER TERMINATION OF TENANCY

5752.1 The Project Owner may not terminate a participant's tenancy except on the following grounds:

- (a) Serious or repeated violation of the terms and conditions of the valid, written lease;
- (b) Violation of federal or local law that imposes obligations on the participant in connection with the occupancy or use of the premises;
- (c) Criminal activity or alcohol abuse pursuant to sections 5752.4 and 5757.9; or
- (d) Other good cause pursuant to section 5752.5.

5752.2 The Project Owner may only evict the participant from the unit by instituting a court action.

5752.3 Nonpayment by DCHA is not grounds for termination of tenancy.

- (a) The family is not responsible for payment of the portion of the rent to Project Owner covered by DCHA's payment under the HAP contract between the Project Owner and DCHA.
- (b) DCHA's failure to pay the HAP to the Project Owner is not a violation of the lease between the participant and the Project Owner.

5752.4 Evicting Participants for Criminal Activity

- (a) The Project Owner may terminate tenancy for any of the following types of criminal activity:
 - a. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including Project Owner staff residing on the premises);
 - b. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or
 - c. Any violent criminal activity on or near the premises by a tenant, household member, or guests, or any such activity on the premises by any other person under the participant's control.
- (b) The Project Owner may terminate tenancy if the participant is:
 - a. Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees; or
 - b. Violating a condition of probation of parole imposed under Federal or District of Columbia law.
- (c) The Project Owner may terminate tenancy, and evict by judicial action, a family for criminal activity by a covered person in accordance with this section if the Project Owner determines that the covered person has engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.
- (d) The Project Owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

5752.5 "Other Good Cause" for Termination of Tenancy

- (a) The Project Owner may not terminate the tenancy for "other good cause" during the initial lease term unless the Project Owner is terminating the tenancy based on the family's action or failure to act.
- (b) "Other good cause" for termination of tenancy by the Project Owner may include, but is not limited to, the following:
 - a. Failure by the participant to accept the offer of a new lease or revision after the initial lease term; or

- b. A family history of disturbances of neighbors or destruction or property, or of living or housekeeping habits resulting in damage to the unit or premises.
- (c) "Other good cause" for termination of tenancy by the Project Owner does not include:
 - a. The Project Owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
 - b. A business or economic reason for termination of tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rental rate).

5752.6 Notice of Termination of Tenancy

(a) Project Owner Notice of Grounds for Termination

- a. The Project Owner must give the participant written notice that specifies the grounds for termination of tenancy during the term of the lease.
 - i. The tenancy does not terminate before the Project Owner has given this notice, and the notice must be given before commencement of the eviction action.
 - ii. The notice of grounds may be included in, or may be combined with, any Project Owner eviction notice to the tenant.
- (b) If the Project Owner determines that a Participant is in violation of the Dwelling Lease, except for lease violations predicated on the performance of an illegal act or non-payment of rent, the Participant shall be issued a thirty (30) day notice to correct or vacate, stating in writing the violation(s) which provides the basis for the termination, the Participant's right to cure the violations, and instructions on how to cure the violations.
 - a. The notice shall inform the Participant of his or her right to file an administrative complaint in accordance with sections 5730 through 5747 of this Title; and
 - b. If a Participant has filed a complaint, in accordance with sections 5730 through 5747 of this Title, in response to service of a notice to correct or vacate or a notice of lease termination in the case of failure to pay rent and has not prevailed, the Participant shall be issued a notice to vacate. The Participant shall be subject to legal action to gain possession of the unit (eviction).
 - c. Project Owner shall issue a thirty day (30) written notice to correct or vacate in the case of failure to pay rent.

- d. Project Owner shall issue a thirty (30) day notice to vacate to the Participant, for lease violations, predicated on criminal activity that threatens the resident's health, safety or right to peaceful enjoyment of the Development or drug related criminal activity on or off the Leased Premises or the Development.
 - e. The Project Owner will not issue a thirty (30) day notice to correct or vacate, or notice to vacate, where the Project Owner has determined that the head of household responsible for the dwelling unit under the Dwelling lease is deceased and there are no remaining household members.
 - f. Project Owner shall give DCHA a copy of any eviction notice to the tenant.
 - g. Project Owner shall promptly notify DCHA when a Project Owner institutes legal action to gain possession of the dwelling unit (eviction).
- (c) DCHA will provide adequate written notice of termination of the lease.

5752.7 Termination of Tenancy Decisions

- (a) If the law and regulation permit the Project Owner to take an action, but do not require action to be taken, the Project Owner may take or not take the action in accordance with the Project Owner's standards for eviction. The Project Owner may consider all of the circumstances relevant to a particular eviction case, such as:
 - a. The seriousness of the offending action;
 - b. The effect on the community of denial or termination or the failure of the Project Owner to take such action;
 - c. The extent of participation by the leaseholder in the offending action;
 - d. The effect of denial of admission or termination of tenancy on household members not involved in the offending activity;
 - e. The demand for assisted housing by families who will adhere to lease responsibilities;
 - f. The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and
 - g. The effect of the Project Owner's action on the integrity of the program.
- (b) The Project Owner may require a participant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants terminations.

- (c) In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the Project Owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. The Project Owner may require the participant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.
- (d) The Project Owner's termination of tenancy actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105, and with the provisions of protections of victims of domestic violence, dating violence, or stalking in 25 CFR part 5, subpart L.

5752.8 Participants who refuse to vacate their unit after appropriate notice shall be subject to legal action to gain possession of the dwelling unit (eviction).

5752.9 Participants shall be solely responsible for the protection, care and disposition of the Participant's possessions during, and after an eviction.

5753 DCHA TERMINATION OF ASSISTANCE

5753.1 DCHA may terminate program assistance for the Participant for any grounds authorized in accordance with HUD requirements.

5753.2 If DCHA terminates program assistance for the Participant, the lease terminates automatically.

5753.3 Upon notification that Project Owner has instituted a legal action to gain possession of the dwelling unit, DCHA shall issue to the Participant a Recommendation for Termination of Assistance.

5453.4 Pursuant to 24 CFR § 983.258, Housing Assistance Payments shall continue until the Tenant Rent of a new admission to a RAD Covered Project equals the rent to the owner. The cessation of housing assistance payments at such point will not affect the family's other rights under its lease, nor will such cessation preclude the resumption of payments as a result of later changes in income, rents, or other relevant circumstances if such changes occur within 180 days following the date of the last housing assistance payment by the PHA. After the 180-day period, the unit shall be removed from the HAP contract pursuant to 24 CFR § 983.211.

5754 VOLUNTARY TERMINATION OF TENANCY

- 5754.1 The Participant may terminate tenancy at any time after the first year of occupancy by giving advance written notice of intent to vacate to the Project Owner (with a copy to DCHA) in accordance with the lease.
- 5754.2 Termination of Tenancy by Participant requires that the Participant, all household members, guests as well as all others defined as any person under the Participant's control or on the Leased Premises with Participant's consent; including but not limited to, any individuals occupying or using the Leased Premises for any purpose with actual or implied consent of the Participant(hereinafter referred to collectively as "others"), vacate the Leased Premises on or before the date specified in Participant's written notice.
- 5754.3 Participant may terminate tenancy by giving:
- (a) At least thirty (30) days notice;
 - (b) The notice must be in writing;
 - (c) On forms approved by DCHA completed with the assistance of DCHA if necessary; and
 - (d) Submitted to the Project Owner.
- 5754.4 The Participant shall leave the Leased Premises in as clean and good condition as Participant received at the start of Lessee's occupancy; wear and tear excepted; and return all keys and all other entry devices to the Project Owner.
- 5754.5 If the Participant is no longer in occupancy of the unit or is deceased, a remaining household member, or another adult identified in 5754.5(c) below, must notify the Authority of the Participant's death or departure within 14 days of the date the Participant vacates the Leased Premises or dies. Within 30 days thereafter, or within 14 days of the Project Owner's issuance of a Notice to Vacate the premises, whichever is later, in order to sustain continued occupancy for the remaining household members at the Leased Premises, the remaining household member or other adult must submit a written application to become head of household. Details on the application process and exclusions from this rule are as follows:
- (a) This subsection does not apply if the head of household vacates the unit pursuant to the issuance of a notice to correct or vacate or a notice to vacate. In such circumstances, the remaining family members must vacate the unit. If the remaining family members do not vacate the unit, they shall be deemed unauthorized occupants;
 - (b) The applicant to be made Participant , and if applicable, the other remaining Household Members must be eligible for continued occupancy and not be in serious violation of the material terms of the Dwelling Lease. DCHA will

screen the application in accordance with federal law and regulations as well as DCHA's admissions and occupancy policies and regulations. Applicant(s) will be notified in writing of the disposition of the application:

- (1) If the application is approved, the new Participant shall enter into a new lease agreement with the Project Owner within seven (7) working days of the date of approval of the application;
 - (2) Any balance on the rental account existing prior to a remaining household member becoming the Participant is the responsibility of the newly designated Participant as head of household. Any obligations for rent, causes of action arising under the original Lease, stipulations of settlement, consent judgments, judgments, or repayment agreements of the prior Participant shall be deemed part of the new Dwelling Lease and tenancy and shall be the responsibility of the new Participant designated as head of household and actionable against such new Participant; or
 - (3) If the applicant and other remaining Household Members are not approved to continue to occupy the Leased Premises, and such remaining members do not vacate, they will be deemed unauthorized occupants and thus occupying premises without the consent of DCHA and the Project Owner and shall be subject to eviction by the Project Owner. The applicant may file a grievance regarding the denial of his or her application in accordance with DCHA's grievance procedures; and
- (c) If there are no remaining adult household members, or none who are able to serve as head of household, but the unit continues to be occupied by household members who are minor children and/or adults unable to serve as head of household, then an adult who is not listed on the lease may apply to become Participant and Head of Household. The following shall apply under these circumstances:
- (1) The applicant to be Participant must produce evidence of a care giving relationship with the remaining minor children or disabled adults. Such documentation may include, but is not limited to, court order; notarized authorization from the children's legal guardian; school or medical records; public benefit records; and sworn statements from medical, legal, or social service professionals;
 - (2) Where the remaining family members are minors, the applicant to be Lessee must either (i) obtain Custodial Power of Attorney; or (ii) commence legal proceedings to obtain legal guardianship or custody of the minor children. So long as such proceeding is pending, and the applicant has produced evidence of a caregiving relationship, and

meets DCHA's other screening criteria, DCHA shall consider the applicant to be eligible to be Participant and Head of Household;

- (3) In the case of (c)(2), above, the applicant's eligibility to be Participant and Head of Household is contingent on legal proceedings pending or being resolved in favor of the applicant. If a court of competent jurisdiction denies the applicant's petition for custody or guardianship, no appeal is pending, and the appeal period has expired, DCHA will determine the applicant ineligible to be Head of Household and DCHA and the Project Owner may issue a Notice to Vacate. In that event, another remaining adult household member may submit an application to be Participant and Head of Household within 30 days of the issuance of the Notice, and the DCHA will process such application in accordance with the requirements of this section; and
- (4) Where more than one adult have competing claims to become Participant and Head of Household as caregivers of the remaining minor children, DCHA shall follow the ruling of a court of competent jurisdiction regarding the custody or guardianship of the children.

5754.6 The Participant shall be liable for rent until the earlier of the time the Project Owner has taken possession of the Unit, or such time as all of the following are completed:

- (a) The proper written notice has been given;
- (b) The required vacate forms are completed with the assistance of DCHA if necessary;
- (c) The keys are turned in; and any other entry devices; and
- (d) Participant and all household members, guests as well as all others defined as any person under the Participant's control or on the Leased Premises with Participant's consent; including but not limited to, any individuals occupying or using the Leased Premises for any purpose with actual or implied consent of the Participant (hereinafter referred to collectively as "others"), have vacated the Leased Premises.

5755 DWELLING LEASE: LEASE PROVISIONS

5755.1 Each Dwelling Lease shall be administered in accordance with the provisions stipulated, and kept current at all times.

5755.2 Required Information. Each family admitted for occupancy in low rent housing operated by DCHA shall enter into a written dwelling lease with DCHA prior to occupancy of the leased premises. The lease must specify the following:

- (a) The names of DCHA and the tenant;
- (b) The unit rented (address, apartment number, if any, and any other information needed to identify the leased contract unit);
- (c) The term of the lease (initial term and any provision for renewal);
- (d) The amount of the Tenant Rent to DCHA. The rent to DCHA is subject to change during the term of the lease in accordance with HUD requirement;
- (e) A specification of what services, maintenance, equipment, and utilities are to be provided by DCHA;
- (f) The composition of the household as approved by DCHA (family members and any DCHA-approved live-in aide). The family must promptly inform DCHA of the birth, adoption, or court-awarded custody of a child. The family must request DCHA approval to add any other family member as an occupant of the unit; and
- (g) HUD's regulations in 24 CFR part 5, subpart L (Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking) apply.

5755.3 Term of Lease and Renewal

- (a) The initial lease term must be for at least 12 months.
- (b) The lease must provide for automatic renewal after the initial term of the lease. The lease may provide either:
 - (i) For automatic renewal for successive definite terms (e.g., month-to-month or year-to-year); or
 - (ii) For automatic indefinite extension of the lease term.
- (c) The term of the lease terminates if any of the following occurs:
 - (i) The DCHA terminates the lease for good cause;
 - (ii) The tenant terminates the lease;
 - (iii) The DCHA and the tenant agree to terminate the lease;
 - (iv) DCHA terminates assistance for the family.

5756 CHANGES TO THE LEASE

- 5756.1 DCHA shall add names to the lease after initial occupancy only in accordance with Section 6117 of this Title. Any person using or occupying the Leased Premises not in compliance with Section 6117 of this Title is an unauthorized occupant without tenancy or other rights under the Dwelling Lease, including any person using or occupying the Leased Premises without approval from DCHA.
- 5756.2 Changes to the Dwelling Lease shall be made only in writing and shall be signed by the Lessee, and an authorized representative of DCHA, except the following changes, which may be executed unilaterally by DCHA:
- (a) Any change in rent, either an increase or decrease, shall be stated in a special supplement which shall, upon issuance, become part of the lease;
 - (b) Changes to implement excess utility charges;
 - (c) Any revision to reflect change in family composition other than head of household, consistent with Subsections 5755.2 and 5755.3;
 - (d) Changes to implement Subsection 5752;
 - (e) Late charges assessed pursuant to Subsection 5724.5;
 - (f) Special supplements to a lease executed pursuant to Subsection 5756.6;
 - (g) Changes in the amount of security deposit provided in Section 5722;
 - (h) Changes in DCHA's policies, rules and regulations; and
 - (i) Charges assessed pursuant to the Schedule of Charges posted in the Property Manager's Office.
- 5756.3 The DCHA shall provide the Lessee with a copy of any changes to the Dwelling Lease made in accordance with Subsection 5756.2.
- 5756.4 Unless a shorter time period is provided, a new Dwelling Lease shall be executed, within thirty (30) days whenever the following conditions occur:
- (a) The status of the head of household is altered pursuant to Subsection 5752 of this Title 14; or
 - (b) When a family is transferred from one dwelling unit to another.

5756.5 Any Lessee wishing to vacate his or her unit shall do so in accordance with Sections 5748 to 5752 (*See* RAD Transfers) of this Title. Lessees wishing to vacate prior to the end of the month shall be liable for the entire month's rent.

5756.6 Lessees who execute a new lease as a result of a transfer from one unit to another, or as a result of any other requirement for a new lease, shall remain liable for any delinquent rent or other charges relating to the prior lease. The DCHA may unilaterally execute a special supplement to the new lease which assesses the amount due under the prior lease.

5757 LESSEE RIGHTS AND RESPONSIBILITIES

5757.1 Lessees shall be responsible for their actions and the actions of household members, guests, and any person under the Lessee's control or on the Leased Premises with Lessee's consent.

5757.2 Lessees are responsible for maintaining their units in accordance with the provisions of the lease, including but not limited to, the following responsibilities:

- (a) To comply with all obligations imposed upon Lessees by applicable provisions of building and other District of Columbia housing codes materially affecting health and safety;
- (b) To keep the premises (and such other areas as may be assigned for his or her exclusive use) in a clean and safe condition;
- (c) To dispose of all ashes, garbage, rubbish, and other waste from the premises in a sanitary and safe manner;
- (d) To use only in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air conditioning and other facilities and appurtenances, including elevators;
- (e) To refrain from, and to cause his or her household, guests and Others, to refrain from, destroying, defacing, and/or damaging/removing any part of the premises or project; including but not limited to storing, hanging or leaving household or other personal property of any type, including clothes, on the exterior of the Leased Premises unless the area is specifically designated for that purpose by DCHA. "Others" is defined as any person under the Lessee's control or on the Leased Premises with Lessee's consent, including but not limited to, any individuals occupying or using the Leased Premises for any purpose with actual or implied consent of the Lessee (hereinafter referred to collectively as "Others");
- (f) Not to assign the lease or to sublease the premises;

- (g) Lessee shall have no other primary residence;
- (h) Not to provide accommodations for boarders or lodgers;
 - (1) Each guest shall not stay overnight for more than ten (10) consecutive days without the prior written permission of DCHA;
 - (2) Each guest shall not stay overnight for more than thirty (30) non-consecutive days within a twelve (12) month period without the prior written permission of DCHA; and
 - (3) DCHA may deny permission for longer stays for the following reasons;
 - (i) Persons who have been barred from the property;
 - (ii) Persons who are on a lifetime sex offender list;
 - (iii) Persons fleeing prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the laws of the place from which the individual flees;
 - (iv) Persons whose past conduct has disturbed the peaceful enjoyment of DCHA residents;
 - (v) Persons who have damaged DCHA property; and
 - (vi) Persons with current restraining orders to stay away from the unit or the property;
- (i) To use the premises solely as a private dwelling for the Lessee and the Lessee's household as identified in the lease, and not to use or permit its use for any other purpose;
- (j) To abide by necessary and reasonable rules, regulations and policies, issued by DCHA for the benefit and well-being of the housing project and the Lessees, which shall be posted in the Development office and incorporated by reference in the lease;
- (k) To pay reasonable charges (other than normal wear and tear) for the repair of damages to the premises, project building, facilities or common areas caused by the Lessee, household members, guests and any Others under the Lessee's control or on the Leased Premises with Lessee's consent;

- (l) To conduct himself or herself, and cause other persons who are on the premises with his or her consent to conduct themselves, in a manner which will not disturb his or her neighbors peaceful enjoyment of their accommodations and will be conducive to maintaining the project in a decent, safe and sanitary condition; including but not limited to:
 - (1) By taking precautions to prevent fires and not using portable heating device unless they been provided by DCHA;
 - (2) By not disabling any fire alarm device or causing a false fire alarm;
 - (3) By not storing excess amounts of personal property; and
 - (4) By not removing or tampering with any smoke detector, including removing any working batteries, so as to render the smoke detector inoperative;
- (m) To keep no dogs, cats or other animals in or on the premises, unless specifically permitted by DCHA in writing;
- (n) Not to place fixtures, or fences in or about the premises without the prior written permission of DCHA. No repairs or alterations to the Leased Premises may be made, including, but not limited to, painting, wallpapering, doors, gates, window bars, carpets, storage sheds, and antenna or satellite dishes, without the prior written approval of DCHA. Upon completion, any such repairs or alterations, made with or without prior written consent, become part of the Leased Premises. If the Lessee changes locks, installs an alarm or security system, or adds locks to the dwelling unit, he or she shall notify DCHA and shall make duplicate keys available to and/or provide DCHA with access codes in order for DCHA to gain emergency access; and
- (o) Not to permit anyone who is currently barred from the Leased Premises or Development to occupy, stay overnight, or visit the Leased Premises, or to invite them to the Leased Premises or anywhere else on the Development at any time for any purpose, unless authorized in writing by DCHA in advance. Any person not identified in Subsection 5773.2 as an authorized person may be subject to the issuance of a Bar Notice for the period of time specified in the Bar Notice. DCHA will post a list of barred individuals in the property management office.

5757.3 The Lessee shall have the right to the exclusive use of the Leased Premises, including the dwelling unit identified in the lease and in the case of a townhouse, row house or single family home, all buildings or additional areas provided for the exclusive use of the Lessee, including the yard and any outbuildings, subject to the restrictions and obligations contained in the lease.

5757.4 At those properties where there is a defined front or rear yard assigned to the Lessee for his or her exclusive use, the Lessee shall be responsible for maintaining the

individually defined lawn areas around his or her respective dwelling unit, cutting the grass, and keeping his or her lawn free of trash and garbage.

- 5757.5 Lessees who do not maintain these areas shall be given forty-eight (48) hour notice by DCHA to correct unsightly lawn areas. Lessees who fail to comply within forty-eight (48) hours of being notified by DCHA shall be in violation of the lease.
- 5757.6 Lessees shall report immediately to DCHA of any need for repairs to the Leased Premises or of any unsafe conditions in the common areas or the grounds surrounding the Leased Premises. Notification of repairs shall be in writing or by a telephone call to DCHA's Control Center and the Lessee shall obtain a control number for each repair. The number for the Control Center can be obtained from the Management office or the Central Office. Lessees in Developments managed by companies under contract with DCHA will provide notice as reasonably required by the management companies
- 5757.7 Lessees shall take reasonable steps to conserve energy and water and avoid unreasonable use of water, gas and/or electricity including but not limited to non-routine washing of vehicles or any other unreasonable use of utilities.
- 5757.8 Lessees shall not have waterbeds on the Leased Premises without prior written approval of DCHA, which approval may be withheld in DCHA's sole discretion.
- 5757.9 Lessee is responsible for all actions or inactions of all guests, household members, and all others on the property with the consent of Lessee and/or the consent of household members. The aforementioned parties, including the Lessee, are obligated to the following:
- (a) To not engage in the manufacture, sale, or distribution of any alcoholic beverages or openly consume alcoholic beverages in any common areas in the Development or otherwise consume alcoholic beverages in a manner that impairs the physical environment of the Development or may be a threat to the health, safety or right to peaceful enjoyment of the Development by other residents, service providers, or DCHA staff;
 - (b) To not engage in:
 - (1) Any criminal activity that threatens residents' health, safety or right to peaceful enjoyment of the Development;
 - (2) Violent criminal activity or possess any firearm or ammunition for a firearm;
 - (3) Drug-related criminal activity on or near the premises, which is grounds for termination of tenancy.

- (c) The Project Owner may evict a family if the Project Owner determines that a household member is illegally using a drug or when the Project Owner determines that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.
- (d) Lessee shall not flee to avoid prosecution or custody or confinement after conviction for a crime or attempt to commit a crime that is a felony under the laws of the place from which the individual flees or violate a condition of probation or parole imposed under federal or state law.

5758 DCHA RESPONSIBILITIES

5758.1 DCHA shall be responsible for maintenance and repair of dwelling units in accordance with the provisions of the lease, including the following responsibilities:

- (a) To maintain the premises and the project in decent, safe and sanitary condition;
- (b) To comply with the requirements of the District of Columbia building codes, housing codes and appropriate regulations materially affecting health and safety;
- (c) To make necessary repairs to the premises;
- (d) To keep project buildings, facilities and common areas, not otherwise assigned to the tenants for maintenance and upkeep, in a clean and safe condition;
- (e) To maintain in good and safe working order and condition electrical, plumbing, sanitary, heating, ventilating, and other facilities and appliances, including elevators, supplied or required to be supplied by DCHA;
- (f) To provide and maintain appropriate receptacles and facilities (except containers for the exclusive use of an individual tenant family) for the deposit of ashes, garbage, rubbish and other waste removed from the premises by the tenant; and
- (g) To supply running water, hot water and heat at appropriate times of the year (according to the District of Columbia Housing Code) except where the building that includes the dwelling unit is not required by law to be equipped for that purpose or where heat or hot water is operated by an installation within the exclusive control of the tenant and supplied by a direct utility connection.

5759 REPAIR PROCEDURE

- 5759.1 Upon receipt of a repair request from a tenant, or in the case of a DCHA initiated repair, DCHA shall inspect the unit to determine the repair required. If the repair cannot be completed during the first visit, repairs shall be scheduled for a later time.
- 5759.2 When repair work is completed, the tenant shall be required to sign a DCHA form indicating that the work was performed and indicating whether the repair work was satisfactory or unsatisfactory.
- 5759.3 In the event the premises are rendered uninhabitable, as determined by DCHA, as a result of damages to the premises that create a hazard to life, health, or safety of the occupant, the following steps shall be taken:
- (a) The tenant shall immediately notify DCHA of the damage;
 - (b) The DCHA shall be responsible for repair of the unit within a reasonable time; provided, that if the damage was caused by the tenant, tenant's household or guests, the reasonable cost of the repairs shall be charged to the tenant; and
 - (c) DCHA shall offer standard alternative accommodations, if available, in circumstances where necessary repair cannot be made within a reasonable time.

5760 CHARGE TO THE TENANT FOR REPAIRS AND SERVICES

- 5760.1 Charges shall be assessed against the tenant for repairs to the dwelling unit beyond normal wear and tear, for damage caused by the tenant, members of the tenant's household, or guests.
- 5760.2 Where inspection of the unit indicates tenant-caused damage, DCHA shall advise the tenant of such finding, the reason why tenant cause was determined, and that the tenant shall be assessed repair costs.
- 5760.3 Repairs shall be performed in accordance with § 5759 of this chapter. After completion of repairs, DCHA shall determine the reasonable cost of the repair and shall notify the tenant in writing of the charge to be assessed in accordance with § 5724 of this title and of the tenant's right to contest the assessment under the DCHA grievance procedures set forth in Section 5730 *et seq.*
- 5760.4 The reasonable cost of repair shall be determined based on cost of materials and cost of labor. Cost of labor shall be the actual time spent on repairs, or the maximum time allowed under DCHA maintenance standards, whichever is less.
- 5760.5 Charges to tenants for other DCHA services, such as tenant lockouts, shall be determined on the same basis as § 5760.4.

5760.6 In the event of a fire caused intentionally or by the neglect or negligence of the Lessee, household members, guests or Others, Lessee is subject to the following:

- (a) Lessee is responsible for the payment of the lesser of the:
 - (1) Costs for the repair of the fire damage; or
 - (2) The insurance deductible, if any, afforded by any insurance policy held by DCHA and applicable to the damages caused by the fire at the Leased Premises or Development;
- (b) DCHA may terminate the Lease for any fire on the Leased Premises caused intentionally or negligently by the Lessee or Others that has resulted in a risk to the health or safety of any person or in damage to property.

5761 RIGHT TO ENTER DWELLING

- 5761.1 The DCHA shall, upon written notice to the Lessee of at least two (2) days, be permitted to enter the dwelling unit during reasonable hours for the purpose of performing routine inspections or maintenance, make improvements or repairs, take photographs or otherwise record and document the condition of the unit or repairs, or to show the Leased Premises for releasing.
- 5761.2 The DCHA shall enter the Leased Premises at any time without advance notice when it has reasonable cause to believe that an emergency exists, or when the Lessee has agreed to such entry.
- 5761.3 In the event that the Lessee and all adult household members are absent from the premises at the time of entry, DCHA shall leave on the premises a written statement specifying the date, time and purpose of entry prior to leaving the premises.
- 5761.4 If the Lessee changes or adds the following to the dwelling unit, he or she shall notify DCHA and shall make duplicate keys, entry codes, or any applicable access to the dwelling available to DCHA, within twenty four (24) hours of the change:
- (a) Any locks, and/or;
 - (b) Any entry devices, including but not limited to any and all security devices.

5762 MOVE-IN AND MOVE-OUT INSPECTION

- 5762.1 DCHA shall conduct a move-in inspection with the new tenant the same day as the Dwelling Lease is signed for occupancy. DCHA and the tenant shall sign the unit inspection form certifying the condition of the unit, and the equipment provided with the unit, at the end of the inspection.

- 5762.2 The DCHA shall conduct a move-out inspection within twenty-four (24) hours of becoming aware that a tenant has vacated a unit or with the tenant on the day the tenant is scheduled to vacate.
- 5762.3 Tenants shall be asked to explain the nature and cause of any damage to the premises not documented during prior unit inspections.
- 5762.4 The tenant and DCHA shall sign the unit inspection form certifying the condition of the unit, equipment in the unit and assigning tenant responsibility for repair as provided in § 5760 of this chapter.
- 5762.5 The DCHA shall furnish the vacated tenant with a statement of total charges for any damages within ten (10) working days after completion of the repairs.

5763 ANNUAL INSPECTION

- 5763.1 Each occupied unit shall be inspected annually by DCHA. A written notice of inspection shall be given to the tenant at least two (2) days in advance.
- 5763.2 Tenant-caused damage discovered during this inspection shall be assessed to the tenant after completion of the repairs in accordance with § 5760 of this chapter.

5764 REASONABLE ACCOMMODATIONS: INTRODUCTION

- 5764.1 The District of Columbia Housing Authority (DCHA) is committed to operating all of its housing programs in a fair and impartial way. In addition to requiring fairness and impartiality without regard to race, color, sex, sexual orientation, family responsibilities, national or ethnic origin, religion, age, personal appearance, familial status, marital status, political affiliation, source of income, matriculation and place of residence or business, DCHA is committed to providing programs in a way that does not discriminate against individuals with disabilities.
- 5764.2 A Reasonable Accommodation is a change, modification, alteration or adaptation in a policy, procedure, practice, program, or facility that provides a person with a disability the opportunity to participate in or benefit from, a program (housing or non-housing) or activity.

5765 REASONABLE ACCOMMODATIONS: APPLICATION OF REASONABLE ACCOMMODATION POLICY

- 5765.1 This chapter applies to individuals with disabilities in the following programs provided by the DCHA:
- (a) Applicants of all Rental Assistance Demonstration (RAD) and Project Based Voucher Programs (PBV);

- (b) Participants in the RAD and PBV Programs; and
- (c) Participants in all other programs or activities receiving Federal financial assistance that are conducted or sponsored by the DCHA, its agents or contractors including all non-housing facilities and common areas owned or operated by the DCHA.

5766 REASONABLE ACCOMMODATIONS: PERSONS WITH A DISABILITY

- 5766.1 A person with a disability means an individual who has a physical or mental impairment that substantially limits one or more major life activities.
- 5766.2 As used in this definition, the phrase “physical or mental impairment” includes:
 - (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
 - (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities, or
 - (c) Such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, drug addiction and alcoholism, among others.
- 5766.3 Major life activities means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- 5766.4 The definition of disability does not include any individual who is an alcoholic whose current use of alcohol prevents the individual from participating in the public housing program or activities, or whose participation, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others.

5767 REQUESTS FOR REASONABLE ACCOMMODATIONS

- 5767.1 A person with a disability may request a reasonable accommodation at any time during the application process or participation in the RAD/PVB Programs of DCHA. All requests must be reduced to writing by the individual, DCHA staff or any person identified by the individual.
- 5767.2 Reasonable accommodation methods or actions that may be appropriate for a particular program and individual may be found to be inappropriate for another program or individual. The decision to approve or deny a request for a reasonable accommodation is made on a case by case basis and takes into consideration the disability and the

needs of the individual as well as the nature of the program or activity in which the individual seeks to participate. The following provisions apply to Requests for Reasonable Accommodations:

- (a) All applicants will be provided the Request for a Reasonable Accommodation Form with the application, and upon request.
- (b) All participants will be provided the Request Form again at the time of recertification, and upon request.
- (c) DCHA will respond in writing to all requests for reasonable accommodation.
- (d) All decisions to grant or to deny reasonable accommodations will be communicated in writing and in the form requested by the individual.

5767.3 Examples of reasonable accommodations may include, but are not limited to:

- (a) Making a unit, part of a unit or public and common use element accessible for the head of household or a household member with a disability that is on the lease;
- (b) Permitting a family to have a service or assistance animal necessary to assist a family member with a disability;
- (c) Allowing a live-in aid to reside in an appropriately sized DCHA unit;
- (d) Transferring a participant to a larger size unit to provide a separate bedroom for a person with a disability;
- (e) Transferring a participant to a unit on a lower level or a unit that is completely on one level;
- (f) Making documents available in large type, computer disc or Braille;
- (g) Making interpreters available to meet with staff or at resident meetings;
- (h) Installing strobe type flashing lights and other such equipment for a family member with a hearing impairment;
- (i) Permitting an outside agency or family member to assist a participant or an applicant in meeting screening criteria or meeting essential lease obligations;

5768 REQUEST FOR REASONABLE ACCOMMODATION BY RAD/PBV PARTICIPANTS AND APPLICANTS

- 5768.1 Requested accommodations will not be approved if one of the following would occur as a result:
- (a) A violation of District of Columbia and/or federal law;
 - (b) A fundamental alteration in the nature of the RAD/PBV program;
 - (c) An undue financial and administrative burden on owner of the RAD/PBV property;
 - (d) A structurally unfeasible alteration; or
 - (e) An alteration requiring the removal or alteration of a load-bearing structural member.
- 5768.2 All requests for reasonable accommodation shall be reduced to writing on the reasonable accommodation form by the participant, applicant, DCHA staff, or any person identified by the individual. This form includes various forms of reasonable accommodations as well as the general principles of reasonable accommodation. The reasonable accommodation form shall be submitted to DCHA's Office of the 504/ADA Coordinator for processing.
- 5768.3 The 504/ADA Coordinator shall request documentation of the need for a Reasonable Accommodation as identified on the Request for Reasonable Accommodation form as well as suggested reasonable accommodations to assist the participant in the opportunity to fully enjoy the dwelling unit or non-housing program.
- 5768.4 The following may provide verification of a participant's disability and the need for the requested accommodation:
- (a) Physician;
 - (b) Licensed health professional;
 - (c) Professional representing a social service agency; or
 - (d) Disability agency or clinic.
- 5768.5 The participant will be notified in writing of the final reasonable accommodation determination by the ADA/504 Coordinator. If the accommodation is approved, the participant will be notified of the projected date for implementation. If the accommodation is denied, the participant will be notified of the reasons for denial.
- 5768.6 All recommendations that have been approved by the ADA/504 Coordinator will be forwarded to the Office of the Deputy Executive Director for Operations , in consultation with the PBV/RAD property owner, for implementation. All requests for

reasonable accommodation that are approved by the Office of the Deputy Executive Director for Operations will promptly be implemented or begin the process of implementation.

- 5768.7 If a request for a reasonable accommodation is denied pursuant to the reasons provided in § 5768.1, DCHA will seek to provide the individual with a disability an alternative opportunity to fully participate in the program or activity provided by DCHA.
- 5768.8 DCHA shall not require a participant with a disability to accept a transfer in lieu of providing a reasonable accommodation. However, if a RAD/PBV participant with a disability requests dwelling unit modifications that involve structural changes, including, but not limited to widening entrances, rooms, or hallways, and there is a vacant, comparable, appropriately sized UFAS compliant unit in that participant's project or an adjacent project, DCHA may offer to transfer the participant to the vacant unit in his/her project or adjacent project in lieu of providing structural modifications. However, if that participant rejects the proffered transfer, DCHA shall make modifications to the participant's unit unless doing so would be structurally impracticable or would result in an undue administrative and financial burden.
- 5768.9 If the participant accepts the transfer, DCHA will work with the participant to obtain moving expenses from social service agencies or other similar sources. If that effort to obtain moving expenses is unsuccessful within 30 days of the assignment of the dwelling unit, DCHA shall pay the reasonable moving expenses. Nothing contained in this paragraph is intended to modify the terms of DCHA's Tenant and Assignment Plan and any participant's rights thereunder.
- 5768.10 Reasonable Accommodations will be made for applicants during the application process. All applications must be taken in an accessible location. Applications will be made available in accessible formats. Interpreters and readers will be made available upon request.

5769 OCCUPANCY OF ACCESSIBLE UNIT

- 5769.1 DCHA has RAD/PBV units designated for persons with mobility, sight and hearing impairments referred to as accessible units.
- 5769.2 DCHA will offer these accessible units to families in the following order:
- (a) First: Current occupant of public housing or RAD/PBV unit who has a disability that requires the special features of that unit;
 - (b) Second: An eligible qualified applicant on the public housing waiting list having a disability that requires the special features of the unit; and
 - (c) Third: If there are no eligible qualified applicants on the public housing waiting list, a non-disabled applicant will be offered the unit. DCHA will

require that the non- disabled applicant agree to sign a lease that requires the applicant to move to an available non-accessible unit when either a current participant or applicant needs the special features of the unit.

- 5769.3 A Reasonable Accommodation Waiting List will be created and maintained by date and time of request pursuant to the order of families created by § 5769.2.
- 5769.4 The first qualified current participant in sequence on the list of participants seeking reasonable accommodations will be offered a unit of the appropriate size with the special features required. If more than one unit of the appropriate size and type is available, the first unit offered will be the first unit that is ready for occupancy.
- 5769.5 Upon inspection of the offered unit, the participant or applicant will be required to sign a Letter of Acceptance/Rejection of an Accessible Unit. DCHA will maintain a record of units offered, including location, date and circumstances of each offer, each acceptance or rejection and the reason for the rejection.
- 5769.6 A current participant will receive two (2) offers of accessible units before his/her name is moved to the end of the Reasonable Accommodation Waiting List.
- 5769.7 An applicant will receive two (2) offers of accessible units before his/her name is removed from the Public Housing Waiting List.

5770 GRIEVANCES

- 5770.1 The RAD/PBV applicant or participant complainant may file a complaint in accordance with DCHA's grievance procedure (Section 5730 *et seq.*) following a decision by the ADA/504 Coordinator.
- 5770.2 Rental Assistance Demonstration participant and applicant complainant may file a complaint in accordance with DCHA's grievance procedure (Sections 5730 through 5747) following a decision by the ADA/504 Coordinator.
- 5770.3 An applicant or participant may, at any time, exercise their right to appeal a DCHA decision through HUD or the Department of Justice.

5771 SERVICE OR ASSISTANCE ANIMALS

- 5771.1 Participants in DCHA programs, including RAD/PBV projects, with disabilities are permitted to have service animals, if such animals are necessary as a reasonable accommodation for their disabilities. RAD/PBV participants or applicants, who need a service animal as a reasonable accommodation must request the accommodation in accordance with the reasonable accommodation policy set forth in this Chapter.

5771.2 Participants at any PBV/RAD property who are approved to have a service animal as a reasonable accommodation may keep the animal provided they comply with the following requirements:

- (a) Register the animal with the property manager;
- (b) Update the registration for the animal annually;
- (c) Provide proof the animal has been vaccinated in accordance with applicable local law;
- (d) Execute a lease addendum providing for the proper care and maintenance of the animal and the unit occupied by the animal in accordance with the RAD/PBV project rules; and
- (e) Continuously provide the proper maintenance and care for the animal and assure that the animal does not otherwise impair the peaceful enjoyment of the property by other residents.

5771.3 DCHA requires that a PBV/RAD participant or applicant with a service animal provide written certification:

- (a) From a third party, such as a health care provider, that the participant or a member of his or her family is a person with a disability and that an animal of the type proposed is reasonably necessary to meet the needs of the person with disabilities; and
- (b) From a third party knowledgeable about the service animal, such as a trainer or veterinarian, that:
 - (i) The animal has the capability and individualized training, where necessary, such as for a Seeing Eye dog, to work for the benefit of the person with a disability;
 - (ii) The animal is a domesticated animal and does not pose a risk of serious bites or lacerations, nor is the animal considered to be dangerous, aggressive, vicious, intimidating or detrimental to the health and safety of other residents or employees.

5772 RECERTIFICATION/LEASE RENEWAL

5772.1 Thirty (30) days before the date for recertification/lease renewal for a participant in the RAD/PBV Program, the PBV/RAD property owner or manager will provide a notice along with a package to the family to initiate the recertification/lease renewal process.

- 5772.2 If requested as a reasonable accommodation by an individual with a disability, the PBV/RAD property owner or manager shall provide the notice of recertification/lease renewal in an accessible format.
- 5772.3 The PBV/RAD property owner or manager shall also mail the notice to a third party if requested as a reasonable accommodation for an individual with disabilities. This accommodation will be granted upon verification that it meets the need presented by the disability.
- 5772.4 The recertification/lease renewal package will include a Notice of Rights and Opportunities which will include a description of the following:
- (a) The right of a participant to request a reasonable accommodation for any member of the family who has a disability in order to allow the individual with a disability to better use the residence and DCHA's facilities and programs;
 - (b) The right to file a grievance in accordance with DCHA's Rental Assistance Demonstration Program; and
 - (c) The right of participants to request a grievance or informal hearing, as appropriate, in matters such as reasonable accommodations or any issue in which the participant feels that DCHA or the PBV/RAD property owner or manager has unfairly modified his/her rights, welfare, or status and about which the participant has been unable to resolve with the property manager, the ADA/504 Coordinator or the department involved.
- 5772.5 Where personal interviews are required as part of the recertification/lease renewal process, individuals with disabilities who are unable to come to PBV/RAD property manager's offices, will be granted an accommodation by conducting the recertification/lease renewal interview at the individual's home or by mail, upon verification that the accommodation requested meets the need presented by the disability.
- 5772.6 If the family does not cancel a recertification/lease renewal interview scheduled at the PBV/RAD property manager's offices or is not at home at the time of a scheduled home visit, PBV/RAD Property manager may initiate action to terminate the family's assistance. However, an exception may be granted if the family is able to document an emergency situation that prevented them from canceling or attending the interview or if requested as a reasonable accommodation for an individual with a disability.

5773 BARRING POLICY

- 5773.1 DCHA has the right to refuse entrance or access to any of its properties to any person not authorized under the meaning of § 5773.3.

5773.2 Definitions. For the purposes of this subchapter, the following definitions shall apply:

- (a) “DCHA property” is defined as RAD Covered Projects and related facilities that are either
 - (1) Owned, operated, or managed by DCHA; or
 - (2) Assisted in development or administration by DCHA.
- (b) “A resident’s guest” is any individual who is an invitee of, and can identify by name and unit number, an individual who is a member of a household under lease with DCHA, and such individual is available and willing to accept the guest and responsibility for the actions of the guest.

5773.3 No person may enter upon a DCHA property unless that person is authorized to be on the property. The only persons authorized to be on a DCHA property are:

- (a) Residents of the property;
- (b) Members of the resident's household;
- (c) A resident's guests, except as provided in § 5773.6;
- (d) Persons authorized under § 5773.4;
- (e) Organizations with a license to use a portion of a property for specified purposes, and including the invitees of a licensee;
- (f) Persons employed by or doing business with the property owner at the property; and
- (g) Persons engaged in the legal or law enforcement community who are engaging in activities directly related to civil or criminal matters, such as process servers, investigators, attorneys or other individuals legitimately on a property for such purpose.
- (h) Persons authorized after consultation with the Resident Council as provided under section 5773.4 below.

5773.4 Any person, not otherwise authorized under § 5773.3, seeking access to a DCHA property for legitimate business or social purposes shall be admitted as follows:

- (a) Any such person or organization shall submit a written request to the property management office of the respective DCHA property to which the person is seeking access.

- (b) The property owner, in consultation with the Resident Council of the respective property, shall review the request and respond to the request in writing within ten (10) business days of the request stating approval or disapproval of the request. If the property owner has not responded within ten (10) business days, the request is deemed approved.

5773.5 Any person not identified in § 5773.3 as an authorized person may be subject to the issuance of a Bar Notice for the period of time specified in the Bar Notice, not to exceed five years.

5773.6 Resident's guests may be subject to the issuance of a Temporary or Extended Bar Notice barring them from a specified development pursuant to the following:

- (a) Any resident's guest who engages in any activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or employees of the DCHA property or who violates DCHA policy may be barred for a temporary or extended period of time as specified in sub-sections (b) and (c) below.

- (b) A Temporary Bar Notice shall remain in effect for the first infraction for sixty (60) days, the second infraction for six (6) months, and the third infraction for one (1) year for the following infractions:

- (1) Entering DCHA property without presenting identification or properly signing the visitor log, unless identified as a guest by the resident they are visiting;
- (2) Being on DCHA property at a location or unit not specified on the guest pass or visitor log, unless the person is on the most direct route to or from such location, or accompanied personally by the resident being visited;
- (3) Residing as an unauthorized occupant in a DCHA property dwelling unit; or
- (4) Engaging in excessively loud or disruptive conduct or otherwise disturbing the peace of residents or employees of the DCHA property.

- (c) An Extended Bar Notice shall remain in effect for five (5) years for the following:

- (1) Persons issued more than four (4) bar notices for activities identified in § 5773.6(b);

- (2) Engaging in conduct that is dangerous to the health or safety of residents or employees of a DCHA property;
 - (3) Engaging in activities involving illegal drugs, violence, weapons, theft, assault, and serious damage to property; and
 - (4) Persons evicted from DCHA property on the basis of such person's criminal or illegal activity.
- (d) Nothing contained in this Chapter shall prevent a guest of a DCHA property resident from access or entry to the resident's dwelling unit for legitimate business or social purposes except as they may have been barred as provided in § 5773.6(b) or (c).

5773.7 Bar Notices issued to unauthorized persons under § 5773.5 or to guests under § 5773.6 may only be issued to bar such individuals from a particular DCHA property. Bar Notices may not be issued to bar persons from public streets or sidewalks, or from private property adjoining DCHA property.

5773.8 Bar Notices shall be served to persons pursuant to the following:

- (a) Personal delivery or attempted delivery in writing of Bar Notices shall be made to each person barred from a DCHA property.
- (b) The Bar Notice shall identify the basis for the issuance of the Bar Notice and the time period for which the person is barred from DCHA property. The Bar Notice shall reflect the date, method and manner of delivery upon the barred person. The Bar Notice does not have to be delivered to the person on DCHA property.
- (c) A copy of the Bar Notice issued to a guest will be provided to the resident, if the guest has identified the unit number and name of the resident. A resident may file a grievance pursuant to the provisions of Sections 5730 through 5747 of this Chapter if a guest of the resident has been barred.

5773.9 Bar Notices shall only be issued by the following persons:

- (a) Members of the DCHA Office of Public Safety including sworn officers and special police officers;
- (b) Members of the Metropolitan Police Department;
- (c) Members of cooperative law enforcement task forces as may be authorized by the Chief of DCHA Office of Public Safety; and
- (d) Private security providers contracted by DCHA or DCHA's agent.

5773.10 Bar Notices and Barring Policy information shall be made available as follows:

- (a) The DCHA Office of Public Safety shall keep copies of all Bar Notices and records of the expiration dates thereof;
- (b) A copy of the Barring Policy, as set forth in this Chapter, shall be provided to each applicant upon signing a lease for a unit at a DCHA property;
- (c) A copy of the Barring Policy, as set forth in this Chapter, shall be provided to the Resident Council for the property; and
- (d) A copy of the Barring Policy, as set forth in this Chapter, shall be available at the management office for each DCHA property.

5773.11 The issuance of a Bar Notice requires the following:

- (a) The barred person must immediately leave the DCHA property from which the person was barred and not return to that DCHA property for the period the Bar Notice remains in effect.
- (b) Should the barred person fail to leave the DCHA property after the issuance of the Bar Notice, or later return to the DCHA property noted on the Bar Notice at any time while the Bar Notice is in effect, the person may be arrested for "unlawful entry" pursuant to D.C. Code § 22-3302 (2001 ed.) as amended.

5773.12 Any barred person may submit a written request for a temporary lift of an Extended or Temporary Bar Notice to the Chief of the DCHA Office of Public Safety.

- (a) The written request shall state the specific location and time period during which the barred person is seeking access, and the reason for the request of the temporary lift, including any documentation of a request for a reasonable accommodation.
- (b) A temporary lift shall be for a period of not more than eight hours during one calendar day.
- (c) A barred person may only be granted two (2) temporary lifts during any calendar year of the imposition of a Bar Notice.
- (d) Any barred person who commits a subsequent infraction on DCHA property during a period of a temporary lift shall be prohibited from requesting additional requests for temporary lifts during the remaining term of the Bar Notice.

- (e) The Chief of DCHA Office of Public Safety will review the request of temporary lift and respond in writing within ten (10) days of the submission.

5774 VEHICLE POLICY

5774.1 All RAD Covered Projects are private property and parking is prohibited unless approved by the owner. In addition, the owner has the right to tow any unauthorized vehicle on RAD Covered Projects as provided in this Chapter.

5774.2 Definitions

- (a) "Abandoned Vehicle" shall mean any motor vehicle, trailer, or semi-trailer that:
 - (1) Is inoperable and left unattended on public property for more than 72 hours;
 - (2) Has remained illegally on public property for more than 72 hours;
 - (3) Has remained on public property for more than 72 hours and is:
 - (i) Not displaying current valid registration; or
 - (ii) Displaying registration of another vehicle;
 - (4) Has remained on RAD Covered Project for more than 72 hours and is inoperable in that one or more of its major mechanical components, including, but not limited to, engine, transmission, drive train or wheels, is missing or not functional unless such vehicle is kept in an enclosed building completely shielded from view of individuals on the adjoining properties; or
 - (5) Has remained unclaimed on RAD Covered Project for 72 hours after proper notice as provided for in Section 5774.6 below.
- (b) "Junk Vehicle" shall mean any motor vehicle, trailer, or semi-trailer that is wrecked, dismantled, or in irreparable condition.
- (c) "Nuisance Vehicle" shall mean any motor vehicle, trailer, or semi-trailer that is a danger to the public health, safety, and welfare of residents or employees including, but not limited to, vehicles that are on cinder blocks/bricks, harbors rats, snakes or other vermin, have open and accessible interior or trunk, or exhibits broken windows, torn sheet metal, or exposed sharp metal.

- (d) "RAD Covered Project" shall mean all property, including parking lots, sidewalks or internal driveways or streets that is a part of DCHA's RAD Project-Based Program.
- (e) "Public Property" shall mean all property, including public streets, alleys, parking lots or other real property owned by the District of Columbia government.

5774.3 Vehicles on Public Property

- (a) If the RAD Covered Project owner observes an Abandoned, Nuisance, or Junk Vehicle on a public street or other public property, the owner of the RAD Covered Project may contact the District of Columbia Department of Public Works, Abandoned and Junk Vehicle Division to have the vehicle removed from public property within the RAD Covered Project.
- (b) Owners of a RAD Covered Project may not remove an Abandoned, Nuisance or Junk Vehicle located on Public Property. Only the District of Columbia Department of Public Works may remove such vehicles.

5774.4 Stolen Vehicles. If the owner of the RAD Covered Project determines that a vehicle is stolen, whether on RAD Project-Based Property or Public Property, the owner may notify the Metropolitan Police Department of the stolen vehicle or may request that DCHA's Office of Public Safety report the vehicle stolen on the requisite Metropolitan Police Department report form.

5774.5 Removal of Vehicles from RAD Covered Projects

- (a) If the owner of a RAD Covered Project determines that a vehicle is a Nuisance Vehicle located on the RAD Covered Project, the owner may immediately remove the vehicle from the RAD Covered Project.
- (b) If the owner determines a vehicle is an Abandoned or Junk Vehicle located on a RAD Covered Project for more than 72 hours, a Notice of Infraction may be issued and a Warning Notice to Remove the Vehicle affixed to the vehicle.
- (c) The Notice of Infraction may be issued and Warning Notice may be affixed by DCHA's Office of Public Safety, Metropolitan Police Department or other authorized appropriate District of Columbia officials.
- (d) The owner of the Abandoned or Junk Vehicle will have seventy-two (72) hours to remove the vehicle from the RAD Covered Project.
- (e) Prior to initiating towing procedures, the owner of a RAD Covered Project will attempt to identify and contact the owner of the vehicle via telephone. In

the event the RAD property owner is able to contact the vehicle owner, the RAD property owner will advise the owner of the following:

- (1) The owner's vehicle is parked on a RAD Covered Project;
- (2) The owner's timely removal of the vehicle is necessary to avoid the vehicle being towed;
- (3) The vehicle was issued a Notice of Infraction for being parked on a RAD Covered Project; and
- (4) The process for recovering the vehicle if towed from the RAD Covered Project.

5774.6 Towing of Vehicles

- (a) The owner of the RAD Covered Project will make two attempts to contact the owner of a vehicle that has been issued a Notice of Infraction for being parked on DCHA's Property as provided for above. The attempts will be no less than twenty-four (24) hours apart.
- (b) If the owner of the RAD Covered Project is unable to contact the owner of a vehicle after two attempts, the property owner will proceed with the removal of the vehicle from the RAD Covered Project.
- (c) If the vehicle is not removed from the RAD Covered Project within 72 hours of the issuance of the Notice of Infraction and Warning Notice, the owner of the RAD Covered Project will have the vehicle removed by contacting either:
 - (1) The District of Columbia Department of Public Works, Abandoned and Junk Vehicle Division; or
 - (2) A tow crane operator licensed with the District of Columbia.

5775 ACHIEVING YOUR BEST LIFE PROGRAM IN RAD COVERED PROJECTS

5775.1 Achieving Your Best Life (“AYBL”), governed by rules found at 14 DCMR 9800 *et seq.*, is a program that allows public housing residents in the District to increase earned income and to prepare to purchase a home or rent in the private market without government assistance.

5775.2 When a public housing project coverts under RAD, those tenants who have already entered into an AYBL contract as required under 14 DCMR 9817 will remain in the AYBL program until the AYBL contract terminates. The regulations enumerated at 14 DCMR 9800 *et seq.* will continue to govern these residents’ participation in the ABYL

program, even though DCHA will no longer be functioning as landlord for the property.

5775.3 Until the AYBL contract terminates, monthly tenant rent shall be reduced by the amount paid that month by a household member into an AYBL account.

5775.4 Residents of units funded by project-based voucher assistance are not eligible for admission to the ABYL program.

5776 RESIDENT PARTICIPATION

5776.1 The RAD Project-Based Property Owner shall recognize a legitimate resident organization and will give reasonable consideration to concerns raised by a legitimate resident organization.

5776.2 “Legitimate resident organization” is defined as a resident organization that

- (a) Has been established by the residents of a RAD Project-Based Property;
- (b) Meets regularly;
- (c) Operates democratically;
- (d) Is representative of all residents in the RAD Project-Based Property; and
- (e) Is completely independent of the property owner, management, and their representatives.

5776.3 Protected activities. Property owners must allow residents and resident organizations to conduct the following activities, and will not prior permission to conduct them.

- (a) Distributing leaflets in lobby areas;
- (b) Placing leaflets at or under residents' doors;
- (c) Distributing leaflets in common areas;
- (d) Initiating contact with residents;
- (e) Conducting door-to-door surveys of residents to ascertain interest in establishing a resident organization and to offer information about resident organizations;
- (f) Posting information on bulletin boards;
- (g) Assisting resident to participate in resident organization activities;

- (h) Convening regularly scheduled resident organization meetings in a space on site and accessible to residents, in a manner that is fully independent of management representatives. In order to preserve the independence of resident organizations, management representatives may not attend such meetings unless invited by the resident organization to specific meetings to discuss a specific issue or issues; and
- (i) Formulating responses to Project Owner's requests for:
 - (1) Rent increases;
 - (2) Partial payment of claims;
 - (3) The conversion from project-based paid utilities to resident-paid utilities;
 - (4) A reduction in resident utility allowances;
 - (5) Converting residential units to non-residential use, cooperative housing, or condominiums;
 - (6) Major capital additions; and
 - (7) Prepayment of loans;
- (j) Other reasonable activities related to the establishment or operation of a resident organization.

5776.4 Meeting space

- (a) Property owners must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:
 - (1) Residents or a legitimate resident organization and used for activities related to the operation of the legitimate resident organization; or
 - (2) Residents seeking to establish a legitimate resident organization or collectively address issues related to their living environment.
- (b) Resident and resident organization meetings must be accessible to people with disabilities.
- (c) Property owners may charge a reasonable, customary, and usual fee for the use of such facilities, if approved by HUD.

5776.5 Funding.

- (a) Property owners will provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate resident organization.
- (b) These funds must be used for:
 - (1) Resident education;
 - (2) Organizing around tenancy issues; or
 - (3) Training activities.
- (c) In the absence of a legitimate resident organization, property owners must make resident participation funds available to residents for organizing activities. Residents must make requests for these funds in writing to the project owner. These requests will be subject to approval by the property owner.

5776.6 Resident Organizers.

- (a) Property owners will allow resident organizers to assist residents in establishing and operating resident organizations.
- (b) Resident organizers are residents or non-residents who assist residents in establishing and operating a resident organization, and who are not employees or representatives of current or prospective property owners, managers, or their agents.

5776.7 Property Owner Responsibilities.

- (a) When requested by residents, a property owner shall provide appropriate guidance to residents to assist them in establishing and maintaining a resident organization.
- (b) A property owner shall provide the residents or any legitimate resident organization with current information concerning the owner's policies on tenant participation in management.
- (c) In no event shall a property owner recognize a competing resident organization once a legitimate resident council has been established. Any funding of resident activities and resident input into decisions concerning the property shall be made only through the officially recognized resident organization.
- (d) If requested, a property owner shall negotiate with the legitimate resident organization on all uses of community space for meetings, recreation and social services and other resident participation activities pursuant to HUD

guidelines. Such agreements shall be put into a written document to be signed by the property owner and the resident organization.

- (e) The property owner and resident organization shall put in writing in the form of a Memorandum of Understanding the elements of their partnership agreement and it shall be updated at least once every three (3) years.

5799 DEFINITIONS

5799.1 When used in this subtitle, the following terms and phrases shall have the meaning ascribed:

Adjusted Income - is annual income less the following amounts:

- (a) Four hundred eighty dollars (\$ 480) for each dependent;
- (b) Four hundred dollars (\$ 400) for any elderly family;
- (c) For any family that is not an elderly family but has a handicapped member other than the head of household or spouse, handicapped assistance expenses in excess of three percent (3%) of annual income, but this allowance shall not exceed the employment income received by family members who are eighteen (18) years of age or older as a result of the assistance to the handicapped or disabled person;
- (d) For any elderly family, one of the following:
 - (1) That has no handicapped assistance expenses, an allowance for medical expenses equal to the amount by which the medical expenses exceed three percent (3%) of annual income;
 - (2) That has handicapped assistance expenses greater than or equal to three percent (3%) of annual income, an allowance for handicapped assistance expenses computed in accordance with paragraph (c) of this definition, plus an allowance for medical expenses that is equal to the family's medical expenses; or
 - (3) That has handicapped assistance expenses that are less than three percent (3%) of annual income, an allowance for combined handicapped assistance expenses and medical expenses that is equal to the amount by which the sum of these expenses exceeds three percent (3%) of annual income; and
 - (4) Child care expense.

Annual Contributions Contract (ACC) - The written grant agreement between HUD and a PHA under which HUD agrees to provide funding for a program (e.g., public housing or Housing Choice Vouchers (HCV)) under the Act, and the PHA agrees to comply with HUD requirements for the program.

Annual Income - the anticipated total income from all sources received by the head of household and spouse (even if temporarily absent) and by each additional member of the family, including all net income derived from assets, for the twelve (12) month period following the effective date of initial determination or reexamination of income, exclusive of income that is temporary, nonrecurring or sporadic, and exclusive of certain other types of income specified in paragraphs (b) and (c) of this definition.

(a) Annual Income includes, but is not limited to, the following:

- (1) The full amount, before any payroll deduction, of wages and salaries, overtime pay, commissions, fees, tips, and bonuses, and other compensation for personal services;
- (2) The net income from operation of a business or profession. Expenditures for business expansion or amortization of capital indebtedness shall not be used as deductions in determining net income. An allowance for depreciation of assets used in a business or profession may be deducted, based on straight line depreciation, as provided in Internal Revenue Service regulations. Any withdrawal of cash or assets from the operation of a business or profession will be included in income, except to the extent the withdrawal is reimbursement of cash or assets invested in the operation by the family;
- (3) Interest, dividends, and other net income of any kind from real or personal property greater than \$ 1,000 per year. Expenditures for amortization of capital indebtedness shall be used as deduction in determining net income. All allowance for depreciation is permitted only as authorized in paragraph (a)(2) of this definition. Net income from assets will be included in Annual Income for the purposes of this title if net income from assets exceeds \$ 1,000. Notwithstanding this threshold, all assets with a value greater than \$ 15,000 must be reported annually. Regardless of the value of the assets, imputed income from assets will not be included in Annual Income.
- (4) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits and other similar types of periodic

receipts, including a lump-sum payment for the delayed start of a periodic payment;

- (5) Payments in lieu of earnings such as unemployment and disability compensation, worker's compensation and severance pay;
 - (6) Welfare Assistance. If the welfare assistance payment includes an amount specifically designated for shelter and utilities that is subject to adjustment by the welfare assistance agency in accordance with the actual cost of shelter and utilities, the amount of welfare assistance income to be included as income shall consist of the following:
 - (i) The amount of the allowance or grant exclusive of the amount specifically designated for shelter or utilities; plus
 - (ii) The maximum amount that the welfare assistance agency could in fact allow the family for shelter and utilities. If the family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated shall be the amount resulting from one application of the percentage;
 - (7) Periodic and determinable allowances, such as alimony and child support payments, and regular contributions or gifts received from persons not residing in the dwelling;
 - (8) All regular pay, special pay and allowances of a member of the Armed Forces (whether or not living in the dwelling) who is head of the family, spouse, or other person whose dependents are residing in the unit; and
 - (9) Any earned income tax credit to the extent it exceeds income tax liability.
- (b) Annual Income does not include such temporary, nonrecurring or sporadic income as the following:
- (1) Casual, sporadic or irregular gifts;
 - (2) Amount that are specifically for or in reimbursement of the cost of medical expenses;
 - (3) Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains and settlement for personal or property losses;

- (4) Amounts of educational scholarships paid directly to the student or to the educational institution, and amounts paid by the government to a veteran, for use in meeting the costs of tuition, fees, books and equipment. Any amounts of such scholarships, or payments to veterans not used for the above purposes that are available for substances are to be included in income; and
 - (5) The hazardous duty pay to a family member in the Armed Forces away from home and exposed to hostile fire.
- (c) Other types of income not included in Annual Income are as follows:
- (1) Income from employment of children (including foster children) under the age of eighteen (18) years;
 - (2) Payments received for the care of foster children;
 - (3) Amounts specifically excluded by any other Federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that include assistance under the 1937 Act. The following types of income are subject to such exclusion:
 - (i) Relocation payments made under title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4621-4638);
 - (ii) The value of the allotment provided to an eligible household for coupons under the Food Stamp Act of 1977 (7 U.S.C. §§ 2011-2029);
 - (iii) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. §§ 5044(f), 5058);
 - (iv) Payments received under the Alaska Native Claims Settlement Act (43 U.S.C. § 1626(a));
 - (v) Income derived from certain submarginal land of the United States that is held in trust for certain Indian Tribes (25 U.S.C. § 459e);
 - (vi) Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. §§ 8621-8629);

(vii) Payments received from the Job Training Partnership Act (29 U.S.C. 1552(b));

(viii) Income derived from disposition of funds of the Grant River Band of Ottawa Indians (Pub. L. No. 94-540, 90 Stat. 2503-2504); and

(ix) The first two thousand dollars (\$ 2,000) of per capital shares received from judgment funds awarded by the Indian Claims Commission or the Court of Claims (25 U.S.C. §§ 1407-1408) or from funds held in trust for an Indian Tribe by the Secretary of Interior (25 U.S.C. § 117).

(d) If it is not feasible to anticipate a level of income over a twelve (12) month period, the income anticipated for a shorter period may be annualized, subject to a redetermination at the end of the shorter period.

Applicant/Applicant Family - a person or a family that has applied for housing assistance as a familial unit.

Contract Administrator - HUD or DCHA (under an Annual Contributions Contract with HUD) that executes a HAP Contract with a Project Owner.

Contract Rent - The total amount of rent specified in the HAP Contract as payable to the Project Owner for a unit occupied by an eligible family. In PBV, the contract rent is referred to as “Rent to Owner.”

Days - calendar days, unless otherwise specified (where a specified number of days ends on a weekend or a holiday, the prescribed period shall end on the next working day following the weekend or holiday).

DCHA - the District of Columbia Housing Authority.

Dependent - a member of the family household (excluding foster children) other than the family head of household or spouse who is under eighteen (18) years of age or is a disabled person or handicapped person, or is a full time student.

Disabled Person - a person who is under a disability as defined § 233 of the Social Security Act (42 U.S.C. 423), or in § 102 of the Developmental Disabilities Services Facilities Construction Amendments of 1970 (42 U.S.C. 269(1)). Section 233 of the Social Security Act defines disability as follows:

(a) “Inability to engage in any substantial, gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be

expected to last for continuous period of not less than twelve (12) months; or

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

Displaced Person- a person(s) displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

Dwelling Lease - a written agreement between a tenant and owner of the RAD Covered project for the use and occupancy of a specific dwelling unit.

Elderly Family - a family whose head or spouse, or whose sole member, is at least sixty-two (62) years of age, or a disabled person or a handicapped person, and may include two (2) or more elderly, disabled or handicapped persons living together, or one (1) or more elderly, disabled or handicapped persons living together, or one (1) or more persons living with another person who is determined to be essential to his or her care or wellbeing.

Emergency Category- Applicants in this category are those who are:

- (a) Involuntarily displaced and not living in standard, permanent replacement housing (including applicants that are homeless (no fixed address), living in transitional housing, or living in a licensed shelter for the homeless); or the applicant will be involuntarily displaced within no more than six months from the date of any preference status certification by the family or verification of the family's status (An applicant may not qualify for this preference if he/she: (1) refused to comply with applicable polices for locally or federally assisted housing program(s), including notice of a mandatory transfer issued by DCHA or failure to comply with procedures with respect to the occupancy of under occupied or overcrowded public housing units; or (2) failed to accept a transfer to another housing unit in accordance with a court decree or HUD-approved desegregation plan; or (3) was displaced as a result of a DCHA initiated eviction; or (4) voluntarily left public housing in an effort to avoid the public or assisted housing waiting lists by claiming he/she is now in an emergency category status.);

- (b) Living in substandard housing as determined by a certified inspector pursuant to the building and/or housing codes of the District of Columbia (or other applicable jurisdiction), at the time of preference verification;
- (c) Paying more than 50% of income for rent for at least 90 days at the time of the preference verification. (Applicant family may not qualify for this preference if it is paying more than 50% of income for rent because the applicant's housing assistance was terminated as a result of the applicant family's failure to comply with local or federal housing program policies and procedures or if the applicant is paying more than 50% as a result of a DCHA initiated eviction);
- (d) Involuntarily displaced as a victim of recent or continuing domestic violence, i.e., actual or threatened physical violence directed against one or more members of the applicant family by a spouse or other member of the applicant's household;
- (e) Involuntarily displaced by recent or continuing hate crimes, i.e., actual or threatened physical violence or intimidation that is directed against a person or his/her property and that is based on the person's race, color, religion, sex, national origin, disability, sexual orientation, or familial status; or
- (f) Involuntarily displaced as a result of inaccessibility of a housing unit or a member of applicant family has mobility or other impairment that makes the member unable to use critical elements of the unit.

Family - the following person or persons:

- (a) Two (2) or more persons who are either related by blood, marriage or operation of law, or give evidence of a stable relationship which has existed over a period of time;
- (b) An elderly family as defined in this chapter (including disabled or handicapped persons);
- (c) A single person who is a displaced person as defined in this chapter.
- (d) The remaining member(s) of a HMA tenant family; or
- (e) A single person who is not an elderly family or a displaced person as defined in this chapter, where approved by HUD pursuant to 24 CFR, Part 912.3.

The term "Family" does not include a non-immigrant student alien (and related family members) as defined by HUD pursuant to § 101(a)(15)(F)(i) of the Immigration and Nationality Act (8 U.S.C 1101(a)(15)(i)).

Fair Market Rent (FMR) - The cost in a particular housing market area of privately owned, decent, safe and sanitary rental housing. HUD establishes and publishes in the Federal Register FMRs for dwelling units of varying sizes for each metropolitan area. FMRs are gross rent estimates, i.e., they include the cost of tenant-paid utilities. See 24 CFR part 888 subpart A.

First Available Unit - An Applicant with an application date earlier than an Applicant on a Site-Based Waiting List at a development with an available unit shall be selected from the waiting list for a unit at that property. For example, an eligible Applicant with an application date of March 1, 2008 who has selected the "First Available Unit Option" shall be selected from the waiting list before any eligible Applicant on the Site-Based Waiting List with an application date and time after March 1, 2008. (This assumes that the selection is for the appropriate bedroom size and any other relevant unit features).

Full Time Student- a person who is carrying a subject load that is considered full time for day students under the standards and practices of the educational institution attended. An educational institution includes a vocational school with a diploma or certificate program, as well as an institution offering a college degree.

Handicapped Assistance Expenses - reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a handicapped or disabled family member and that are necessary to enable a family member (including the handicapped or disabled member) to be employed; Provided, that the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Handicapped Person- a person having a physical or mental impairment as follows:

- (a) Is expected to be of long, continued and indefinite duration;
- (b) Substantially impedes his or her ability to live independently; and
- (c) Is of such a nature that such ability could be improved by more suitable housing conditions.

Head of Household- the family member who is held responsible and accountable for the family (and whose name is identified as responsible on the dwelling lease).

Housing Assistance Payment (HAP) - The payment made by the Contract Administrator to the Project Owner of an assisted unit as provided in the HAP Contract. Where the unit is leased to an eligible household, the payment is the difference between the contract rent for a particular assisted unit and the tenant rent payable by the family.

Housing Choice Voucher Program (HCVP) – a program that provides tenant-based rental assistance pursuant to Section 8 of the Housing Act of 1937.

Housing Quality Standards (HQS) - Standards set forth in 24 CFR § 982.401 that must be met by all units in the HCV program before assistance can be paid on behalf of a household. The HQS in 24 CFR § 982.401 apply to PBV, in accordance with 24 CFR § 983.101. Generally, Voucher Agencies must conduct HQS inspections of PBV projects not less than biennially during the term of the HAP Contract.

HAP Contract - The contract entered into by the Project Owner and the contract administrator that sets forth the rights and duties of the parties with respect to the Covered Project and the payments under the contract.

HUD - the U.S. Department of Housing and Urban Development.

Leased Premises - Leased Premises includes the Lessee's dwelling unit as specified in the lease and any other buildings or areas that are provided for the exclusive use of the Lessee.

Lessee - The "Lessee" is the individual(s) that sign(s) the Lease with the owner of the RAD Covered project. Each Lessee is individually, jointly and severally responsible for performance of all obligations under the lease including, but not limited to, the payment of rent and other charges, as defined herein. No individual, other than the signatory to the lease, is deemed to be a Lessee or have any rights of a Lessee.

Low Rent Housing - housing owned by DCHA under the United States Housing Act of 1937.

Lower Income Family- a family whose annual income does not exceed eighty percent (80%) of the median income for the area, as determined by HUD, with adjustments for smaller and larger families.

Medical Expenses - those medical expenses, including medical insurance premiums, that are anticipated during the twelve (12) month period for which annual income is computed, and that are not covered by insurance.

Mixed Finance Project – A project developed under 24 C.F.R. § 905.604.

Net Family Assets- the value of equity in real property, savings, stocks, bonds and other forms of capital investments, excluding equity accounts in HUD homeownership programs. The value of necessary items of personal property such as furniture and automobiles shall be excluded. (In cases where a trust fund has been established and the trust is not revocable by, or under the control of any member of the family or household, the value of the trust fund will not be considered an asset so long as the fund continues to be held in trust. Any income distributed from the trust fund shall be counted as part of annual income.) In determining net family assets, HMA shall include the value of any assets disposed of by an applicant or tenant for less than fair market value (including a disposition in trust, but not in a foreclosure or bankruptcy sale) during the two (2) years preceding the date of application for admission or reexamination, as applicable, in excess of the consideration received therefore. In the case a disposition as part of a separation or divorce settlement, the disposition shall not be considered to be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms.

Notice to Correct or Vacate - a written notice of termination of the lease advising the tenant that if he or she does not correct violations of his or her lease as stated in the notice, his or her tenancy will terminate on the effective date indicated in the notice and he or she will be required to vacate the premises. This notice shall serve as the notice required for eviction by District law and by 24 CFR 966.4.

Notice to Vacate- a written notice of termination of the lease, as of the effective date of the notice, for reasons set forth in the notice, and specifying a period of time by which the tenant shall vacate the premises to prevent initiation of appropriate legal action to recover the premises.

Prepayment - The satisfaction (i.e., payment in full) of the underlying mortgage prior to its maturity date. Prepayment is one of the eligibility triggering events for RAD conversion under Section III of this Notice.

Private Mixed Finance Project – A Mixed Finance Project whose owner is not substantially controlled by DCHA or a wholly-owned subsidiary of DCHA. For the purposes of this definition, “substantial control” is defined as greater than 50% voting power.

Priority Applicant- an applicant for admission to housing who meets the criteria of § 6105 of this title.

Project - For purposes of determining a RAD transaction, a “project” is a structure or group of structures that in HUD’s determination are appropriately managed as a single asset. In determining whether a combination of structures constitute a project, HUD will take into account types of buildings, occupancy, location, market influences, management organization, financing structure or

other factors as appropriate. For a RAD PBV conversion, the definition of “project” in 24 CFR § 983.3 continues to apply for all references to the term in 24 CFR § 983.

Project-Based Voucher (PBV) - A component of a PHA’s HCV program, where the PHA attaches voucher assistance to specific housing units through a PBV HAP Contract with an owner. Unlike a tenant-based voucher, the PBV assistance remains attached to the unit when the family moves, and assists the next eligible family to move into the PBV unit. The PBV program is administered by HUD’s Office of Public and Indian Housing.

Project Owner - For purposes of Chapters 5700 through 5775, the term Project Owner refers to the owner of the Covered Project, including but not limited to any owner pursuant to a HAP Contract. For purposes of HAP Contracts, an Owner is a private person, partnership, or entity (including a cooperative), a non-profit entity, a PHA or other public entity, having the legal right to lease or sublease the dwelling units subject to the HAP Contract.

Public Housing - see Low Rent Housing.

Public Housing Advisory Board (Resident Advisory Board) - District of Columbia Public Housing Advisory Board, established by Mayor's Order 86-1.

Public Housing Agency (PHA) - A Public Housing Agency that administers programs under the Act, which could include public housing and HCVs. In addition to this general definition, the term PHA, as used in this Notice, refers to the owner of a First Component Converting Project (even if the project is a Mixed Finance Project and the PHA does not own ACC units).

Public Housing Project - Per 24 CFR § 905.108 the term “public housing” means low-income housing, and all necessary appurtenances thereto, assisted under the Act, other than assistance under 42 U.S.C. § 1437f of the Act (Section 8). The term “public housing” includes dwelling units in a Mixed Finance Project that are assisted by a PHA with public housing Capital Fund assistance or Operating Fund assistance. When used in reference to public housing, the term “project” means housing developed, acquired, or assisted by a PHA under the Act, and the improvement of any such housing. Each public housing project has a project identification number in the Public and Indian Housing Information Center (PIC), though a PHA may propose to convert individual sites within the public housing project.

RAD Covered Project - The post-conversion property, including but not limited to buildings, the common areas of the buildings and grounds associated with all the buildings, with assistance converted from one form of rental assistance to another under the Rental Assistance Demonstration.

Site-Based Waiting Lists - An Applicant who has applied to be placed on the Site-Based Waiting List at multiple developments will be selected from those respective lists by date and time of application. (This assumes that the selection is for the appropriate bedroom size and any other relevant unit features).

Tenant - a lessee under the dwelling lease.

Tenant Rent - the amount payable monthly by a tenant as rent to the owner of the RAD converted project under a dwelling lease as defined in 24 CFR Part 5. Where all utilities and other essential housing services are supplied the tenant by the owner, Tenant Rent shall be the same as total tenant payment. Where some or all utilities and other essential housing services are not supplied to the tenant by the owner, and the cost is billed directly to the tenant, Tenant Rent shall be the amount of the total tenant payment less applicable utility allowances. Tenant rent shall be reduced by any amount paid that month by a household member into an Achieving Your Best Life (AYBL) escrow account, until the AYBL contract terminates. *See* 14 DCMR 5775.

TTP - The total tenant payment as calculated pursuant to 24 CFR Part 5.

Uniform Federal Accessibility Standards (UFAS) - Construction standards with minimum requirements for accessibility for dwelling units constructed or substantially altered with the assistance of federal funds as detailed at 24 CFR Part 8 and the addendums thereto.

Utility Allowance - As defined in 24 CFR Part 5, the amount that a PHA or Project Owner determines is reasonable for tenant-paid utility costs. In the case where the utility allowance exceeds the Total Tenant Payment (as defined at 24 CFR § 5.613), the tenant is reimbursed in the amount of such excess.

CHAPTER 61, ADMISSION AND RECERTIFICATION, Sections 6100 through 6111 are amended to read as follows:

6101 APPLICATION FOR ASSISTANCE

6101.1 DCHA maintains the following waiting lists:

- (a) Public Housing Waiting Lists:
 - (1) First Available Waiting List; and
 - (2) Site-Based Waiting List;
- (b) Housing Choice Voucher Program Wait List – including applicants for tenant-based voucher assistance and project-based voucher assistance

under the Partnership Program (operated in accordance with the rules set forth in Chapter 93 of this Title 14); and

(c) Moderate Rehabilitation Program Wait List.

- 6101.2 Each Applicant seeking public housing assistance owned, operated or administered by DCHA, or rental assistance through the Housing Choice Voucher Program, Moderate Rehabilitation Program, or the Rental Assistance Demonstration must submit a completed application with DCHA.
- 6101.3 Applications must be returned to DCHA via the methods as determined by DCHA at the time of the opening of the waiting list(s) pursuant to Section 6104.
- 6101.4 An Applicant may apply for one, some or all of the programs that DCHA owns and operates or administers.
- 6101.5 If an Applicant applies for public housing, the Applicant shall select to be on either the First Available Waiting List or the Site-Based Waiting list.
- 6101.6 If an Applicant for public housing chooses to be on the First Available Waiting List then his or her application shall be considered for a vacancy at any public housing or RAD Covered Project.
- 6101.7 If an Applicant for public housing chooses to be on the Site-Based Waiting List, Applicants shall select up to three (3) individual public housing or RAD Covered Projects where they wish to reside.
- 6101.8 As part of the Housing Choice Voucher and Moderate Rehabilitation Programs application process, Applicants shall be given the opportunity to select the Housing Choice Voucher Program and/or the Moderate Rehabilitation Program for housing assistance.
- 6101.9 A review of all applications shall be conducted by DCHA based on the data contained in the application. This review is limited to determining the completeness of the application.
- 6101.10 Only completed applications will be accepted by DCHA for processing.
- 6101.11 If DCHA determines that an application is incomplete, DCHA shall return the incomplete application to the Applicant to the address listed on the application and advise the Applicant that the application is incomplete and what missing information is required to complete the application.
- 6101.12 Once the completed application is submitted to DCHA, the Applicant shall receive a confirmation of receipt either electronically, in person or via first class mail.

- 6101.13 DCHA shall record the date and time that the completed application was received.
- 6101.14 Applicants shall be placed on the DCHA waiting list(s) based on date and time of their completed application and any program preferences selected on the application pursuant to Sections 6102, 6103, 6105, and 6111 of this chapter.
- 6101.15 A person with a disability may request a reasonable accommodation at any time during the application process pursuant to Chapter 74 of Title 14.

6102 APPLICATION PROCESS AND REVIEW

- 6102.1 Upon receipt of a completed application, DCHA shall place the Applicant on the selected waiting list(s) based on the date and time that the application was received, the type and unit size required based on occupancy guidelines and applicable Special Programs and/or allocations, and any preference(s) established by DCHA.
- 6102.2 Each Applicant shall be assigned a unique Client Identification Number (CIN) for identification purposes.
- 6102.3 Placement on DCHA's waiting list(s) does not guarantee the family admission to public housing, RAD, the Housing Choice Voucher Program, or the Moderate Rehabilitation Program.
- 6102.4 Periodically, as vacancies occur or are anticipated at DCHA owned and operated public housing projects or at RAD Covered Projects, or as Housing Choice Vouchers become available or units become available in the Moderate Rehabilitation Program, Applicants near the top of the applicable waiting list(s) shall be interviewed in order to obtain and verify any and all information necessary to make an eligibility determination in accordance with Sections 6106, 6107, 6108, and 6109.
- 6102.5 Public housing and Moderate Rehabilitation Applicants who have been deemed eligible shall be placed in the selection pool.
- 6102.6 DCHA shall review the application for any current debt owed to any public housing authority, Project Owner, or Housing Choice Voucher programs via the HUD Enterprise Income Verification system "EIV" or any other income or debt verification source.
- 6102.7 If a current debt is found, DCHA shall notify the Applicant of the debt amount, to whom it is owed and the consequences of an unresolved debt at the time of the eligibility determination.
- 6102.8 If the current debt is unresolved at the time of the eligibility determination the

Applicant may be deemed ineligible.

- 6102.9 The Applicant shall be allowed to submit mitigating circumstances to demonstrate an Applicant's suitability to receive housing assistance.
- 6102.10 Applicants in the public housing selection pool shall be offered housing units that meet their occupancy and accessibility needs as the appropriately sized units become available.
- 6102.11 Eligible Applicants for the Housing Choice Voucher Program are offered a voucher as vouchers become available pursuant to Chapter 76.
- 6102.12 Eligible Applicants for the Moderate Rehabilitation Program shall be placed in a selection pool and offered a unit as units become available pursuant to Chapter 76.
- 6102.13 The determination of eligibility and the process for the ultimate determination of ineligibility, including the informal conference and the option to request a review by an independent third party reviewer, are found in Section 6107 of this chapter.

6103 MAINTENANCE OF THE WAITING LIST(S)

- 6103.1 The waiting list(s) shall be maintained to ensure that Applicants are referred to appropriate developments, unit types (for example for public housing, RAD, Mixed Population, General Population or accessible) and sizes or housing programs.
- 6103.2 Applicants are responsible for updating their application when there are changes in the family composition, income, address, telephone number, and acceptance of housing assistance. Failure to update the application timely may result in a delay in housing, being deemed eligible for housing or the Applicant being changed to inactive status from the waiting list(s).
- 6103.3 DCHA shall update its waiting list(s) periodically and to meet the needs of those requiring housing assistance, as needed. When this occurs, DCHA will send update forms to the affected Applicants.
- (a) The request for an update to a housing application shall provide a deadline by which the Applicant must respond and shall state that failure to respond shall result in the Applicant's being withdrawn from the waiting list(s) or changed to inactive status.
 - (b) Applicants must complete an update form electronically, by telephone or mail, or by any other means established by DCHA within the time frame specified in the request for update package. Once the update is received the appropriate changes shall be made to the Applicant's file and the Applicant

shall maintain their application date and time.

- 6103.4 Applicants who do not return the completed update form within the specified time frame shall have their waiting list status changed to inactive:
- (a) An Applicant whose status is inactive will not be actively considered for DCHA housing assistance.
 - (b) If an inactive Applicant submits a completed update form at any time after the expiration of the specified update time frame, then the Applicant shall be restored to an active status on the waiting list based on the Applicant's original application date and time provided that the Applicant was deemed inactive after October 1, 2003.
- 6103.5 Changes in an Applicant's circumstances while on any of DCHA's waiting list(s) may affect the family's qualification for a particular development, bedroom size or entitlement to a preference. When an Applicant reports a change that affects their placement on the waiting list(s), the waiting list(s) shall be updated accordingly.
- 6103.6 When selecting Applicants from the Public Housing Waiting Lists, DCHA shall use the Applicant's family composition and any reasonable accommodations requests to determine the appropriate bedroom size and unit characteristics.
- 6103.7 Applicants on the wait list(s) who have requested a fully accessible unit, a unit with accessible features or any other reasonable accommodation through the reasonable accommodation process, must meet all requirements of the accommodation prior to being deemed eligible. All reasonable accommodations shall be verified and approved by the Office of the ADA/504 Coordinator prior to a unit offer.
- 6103.8 Applicant families with members with disabilities who have verified and approved reasonable accommodations for fully accessible units or units with accessible features shall receive priority for those units that are designated as fully accessible units or designed with specific accessibility features.
- 6103.9 The only other system for assigning priority to eligible public housing Applicants is date and time of application, unless otherwise specified in this chapter under, for example, Sections 6111, 6112 or 6113.
- 6103.10 Applicants housed in public housing, RAD, Housing Choice Voucher or Moderate Rehabilitation programs do not qualify for the "homeless" preference category and shall have the preference removed.
- 6103.11 Selection for Public Housing and RAD:

- (a) Applicants seeking housing assistance in the public housing or RAD programs shall choose either the First Available Unit Waiting list or the Site-Based Waiting list.
- (b) Applicants shall not be placed on the First Available Unit waiting list and the Site-Based Waiting List at the same time. Applicants who select both shall be listed only on the Site-Based Waiting lists that the Applicant selected.
- (c) Applicants who do not select developments on the Site-Based Waiting List or the First Available Waiting Unit Waiting List shall be placed automatically on the First Available Unit Waiting list.
- (d) Applicants shall only be listed at developments that have bedroom size and unit characteristics for which the family is authorized to occupy based on family composition and any reasonable accommodation requests.
- (e) Applicants may select up to three (3) developments on the Site-Based Waiting list. An Applicant who has selected multiple developments on the Site-Based Waiting List, and has the earliest application date and time, shall be offered the first available unit of their site(s) selection.
- (f) An Applicant who has selected the Site-Based Waiting List may not change his/her development selection after the application is received unless there is a change in their family circumstances that would require a change in bedroom size or unit characteristics. However, if the site selected can accommodate the required change, DCHA shall not approve a change in the site selection. The Applicant shall maintain his/her original application date and time for the newly selected site.
- (g) An Applicant on the Site-Based Waiting List may elect to voluntarily remove their selection from the Site-Based Waiting List to the First Available Waiting List and maintain their original application date and time.
- (h) Any Applicant on the First Available Waiting List may not change their selection from the First Available Waiting List to the Site-Based Waiting List.

6104 TEMPORARY CLOSURE OF THE WAITING LIST

6104.1 If the number of families on the Public Housing Waiting Lists or Housing Choice Voucher Program Waiting List is such that there is no reasonable prospect that additional applicants for specific units types or sizes can be housed within the next twelve (12) months, the Executive Director, DCHA may approve action to do the following:

- (a) Suspend the taking of further applications for certain unit types, unit sizes, or projects developed for special purposes; and
- (b) Limit application taking to certain specified periods of the year.

6104.2 When action is taken to suspend, limit or reopen the taking of applications, DCHA shall make known to the public through publication of notice in the *D.C. Register* and in newspaper(s) of general circulation, minority media, and other suitable means the following:

- (a) The nature of the action; and
- (b) The effective date of the action.

6104.3 Action to suspend, limit or reopen the taking of applications shall not take effect without at least ten (10) calendar days advance notice to the public in accordance with Subsection 6104.2.

6104.4 Notwithstanding the suspension of application taking, DCHA may continue to take applications from priority applicants eligible for priority placement on the waiting list pursuant to Subsection 6105.2 of this chapter.

6105 PREFERENCES FOR PUBLIC HOUSING

6105.1 At the time of application, applicants self-certify their preference. Verification of a preference is not required until an applicant reaches the top of the waiting list. Applicants will be required to provide verification that they meet the preference as part of the eligibility determination process.

6105.2 The granting of a preference does not guarantee admission to public housing. Preferences are used merely to establish the order of placement on the waiting list. Every applicant for public housing or the Housing Choice Voucher Program must also meet DCHA's Applicant Selection Criteria outlined in Section 6109 below.

- (a) Preferences
 - (1) Mixed Population Properties
 - (i) the following admission preference system will be applied in the selection of otherwise eligible applicants from Public Housing Waiting Lists (based on the time and date of application) for a public housing or RAD unit offered in mixed population properties:

Preference #1: Elderly Families and/or Disabled Families

Preference #2: Near Elderly Families

Preference #3: All Other Families

- (ii) no individual shall be considered a person with disabilities, for purposes of eligibility for public housing or RAD under this Title, solely on the basis of any current drug or alcohol dependence.
- (2) General Population Properties - the following applicant admission categories, including percentages, will be applied to the selection of otherwise eligible applicants from the Public Housing Waiting Lists (based on the time and date of application) for public housing or RAD units offered in general population properties:

Category #1: Working Families (50% Annually)

Category #2: All Other Families (40% Annually)

- (3) Emergency Category - Up to 10% (not to exceed 100 units) annually of all applicants housed in the general and/or mixed-population properties will be selected from qualified applicants in the Emergency Category. Emergency Category is defined in 14 DCMR 5705.
- (b) If there are no applicants on the waiting list that qualify for the Emergency Category, otherwise eligible applicants will be selected for admission.
- (c) The admission systems described above will work in combination with requirements to match the characteristics of applicant families to the type of units available, including units for targeted populations, e.g., elderly, disabled. The ability to provide public housing for qualified applicants will depend on the availability of appropriately sized public housing or RAD units.

6105.3 The DCHA shall select families from the waiting list in the Emergency Category by date and time of application, except when a situation is a federally or locally declared natural disaster or civil disturbance, in which case the Executive Director has the discretion to waive date and time of application in selection. Any determination by the Executive Director to waive the date and time of application must be in writing stating the maximum number of applications that will be selected under these provisions or any limits on time for the waiver, with such waiver being approved for form and legal sufficiency by General Counsel and published in the *D.C. Register*.

6105.4 The preferences for admission to the Housing Choice Voucher Program are found in the DCHA's Administrative Plan for the Section 8 Certificate and Housing Voucher Programs.

6106 ELIGIBILITY

6106.1 DCHA shall consider an applicant eligible for selection for public housing or the Housing Choice Voucher Program if the applicant meets the following criteria:

- (a) Qualifies as a family, as defined in Section 5999 of this chapter;
- (b) Annual income does not exceed the income limits for admission under Section 6108 of this chapter;
- (c) Family meets applicant family selection criteria under Section 6109 of this chapter;
- (d) Family size meets the occupancy standards established by DCHA under Section 6110 of this chapter; and
- (e) Family provides all required information and signs all required documentation, including proof of citizenship or eligible immigrant status.

6106.2 DCHA shall consider an applicant eligible for selection for a RAD unit if the applicant meets the criteria set forth in Section 5707 of this Title 14.

6106.3 For applicants near the top of the waiting list, the Client Placement Division will mail written notice to the last address provided in order to obtain information needed for a determination of eligibility. The letter will state:

- (a) The date and time of the eligibility interview;
- (b) The location where the eligibility interview will be held; and
- (c) The documents the applicant should bring to the eligibility interview.

6106.4 A family or applicant may make one request to reschedule an eligibility interview for the convenience of the applicant up to thirty (30) days after the scheduled eligibility interview date. However, DCHA will reschedule an eligibility interview as a reasonable accommodation if the applicant can demonstrate that a disability prevented them from rescheduling within the prescribed time period.

6106.5 If an applicant does not respond to notice of an eligibility interview and does not request an alternate appointment in advance of the scheduled interview date, then the applicant shall be deemed inactive on the waiting list for the type housing

assistance offered. If the applicant informs DCHA that the applicant remains in need of the housing assistance at any time after the scheduled interview date, then the applicant shall be restored to active status on the waiting list for the relevant type of housing assistance with the applicant's original application date. The applicant shall be scheduled for another eligibility interview based on the restored application date and any updated applicant information.

6106.6 The eligibility interview will be held in order to collect eligibility data, determine eligibility and identify any special problems or needs. As part of the eligibility determination, an applicant will be provided the opportunity to complete a reasonable accommodation request. All information shall be verified as a part of the eligibility determination.

6106.7 During the eligibility interview, the Client Placement Division shall assist the applicant in completing any forms necessary. The following forms, as applicable, are to be completed or signed by the applicant:

- (a) Privacy Act Notice;
- (b) Asset Certification Form – only assets with a value greater than \$15,000 or which generate a net income of greater than \$1,000 per year must be reported and documented. DCHA will rely on applicants certification as to value of assets and whether net income from assets exceeds the threshold established above;
- (c) Verification of Date of Birth for each Household Member;
- (d) Social Security Number Certifications:
 - (1) Social Security Numbers for each Household Member 6 year old or older;
or
 - (2) Certification of inability to meet the documentation requirement where an applicant has a Social Security Number but no documentation; or
 - (3) Certification that Social Security Numbers have not been issued.
- (e) Picture ID for family members age eighteen (18) or older;
- (f) Declaration of Section 214 Status (Non-citizen Rule);
- (g) Verification of Preference or Admission Category;
- (h) Verification of Full-time Student Status Form;
- (i) Certification of Disability Form;

- (j) Statement of Child Care Expense Form;
- (k) Zero Income Statement;
- (l) Verification of Income from Assets;
- (m) Statement of Child Support;
- (n) Income Verification (Employment, Public Assistance, Social Security);
and
- (o) Other forms, as may be required.

6106.8 At the end of the eligibility interview, the Client Placement Division shall provide the applicant with written notification of any missing or incomplete forms, information on how to determine if any debt remains unpaid to DCHA or any HCVP or RAD Project Owner, or any additional information which is to be provided by the applicant.

6106.9 If an applicant cannot complete all the necessary forms at the time of the interview, the interviewer may request that any additional required forms be completed by the applicant within a specified timeframe not to exceed ten (10) days.

6106.10 A written receipt shall be provided to the applicant for any additional information provided.

6106.11 Applicants who do not provide the additional items requested by DCHA pursuant to Subsection 6106.9 within ten (10) days, may request one (1) extension of time not to exceed ten (10) days.

6106.12 Applicants who do not provide additional items requested by DCHA pursuant to Subsection 6106.9 within ten (10) days, or within any additional period allowed under Subsection 6106.11, shall be removed from the waiting list(s).

6106.13 If an applicant experiences difficulty in securing verification in the prescribed form, DCHA may accept other documents to expedite the certification process (for example, baptismal or school records could be used as proof of birth).

6106.14 BRIEFINGS

- (a) Applicants must attend a full briefing prior to issuance of a Housing Choice Voucher unless this requirement is waived by the Executive Director in emergency cases.

- (b) DCHA will mail notice of the briefing via U.S. mail to the last address provided by the applicant or existing participant.
- (c) Families or applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next available briefing and notified by mail of its date and time. If a family or applicant fails to attend a scheduled briefing another notice will be mailed for a second briefing date.
- (d) If an applicant fails to attend two (2) scheduled briefings, and does not notify DCHA in advance of their inability to attend the second briefing appointment, then the applicant shall be deemed inactive on the waiting list. If the applicant informs DCHA that the applicant remains in need of the housing assistance at any time after becoming inactive then the applicant shall be restored to active status on the waiting list with the applicant's original application date.
- (e) If vouchers of the type that would have been issued to the applicant at the missed briefings are still available and the inactive applicant asserts the need for housing assistance less than thirty (30) days after initial eligibility determination then a new briefing appointment shall be made with the applicant.
- (f) If the inactive applicant requests assistance more than thirty (30) days after the initial eligibility determination by DCHA, and vouchers of the type that would have been issued to the applicant at the missed briefings are still available; DCHA shall schedule the restored applicant for another eligibility interview. If the applicant is determined to be eligible, the applicant shall be scheduled for a full briefing. If vouchers of the type that would have been issued are not available, the applicant will be restored to the waiting list as an active applicant with the date and time of the original application.

6107 ELIGIBILITY DETERMINATION

- 6107.1 After reviewing the application, additional supporting documents and obtaining necessary verifications, DCHA shall determine the applicant's eligibility in accordance with Section 6106 of this chapter.
- 6107.2 Applicants determined to be eligible for housing shall be placed in the selection pool.
- 6107.3 DCHA must mail a letter to each applicant determined to be ineligible and the notification of ineligibility shall contain:
 - (a) The date and time of the informal conference;

- (b) The location where the informal conference will be held;
- (c) The reason for the determination of ineligibility;
- (d) The applicant's right to bring new or additional information to the informal conference;
- (e) The type of additional documentation or information DCHA may need in order to reconsider an applicant's eligibility for the public housing, RAD, and Housing Choice Voucher programs; and
- (f) The applicant's right to bring an attorney or any other representative to the informal conference.

6107.4 The informal conference shall be scheduled and/or rescheduled as follows:

- (a) The date of the informal conference shall be no sooner than fifteen (15) days and no later than thirty (30) days after the postmark date of DCHA's letter to the applicant.
- (b) A family or applicant may request to reschedule an informal conference for the convenience of the applicant any time up to two (2) days after the scheduled informal conference date. If a family or applicant fails to attend the conference rescheduled for their convenience they may make one final request for rescheduling any time up to two (2) days after the rescheduled informal conference date.
- (c) Notwithstanding Subparagraph (b) above, DCHA will reschedule an informal conference as a reasonable accommodation if the applicant can demonstrate that a disability prevented them from rescheduling within the prescribed time period.

6107.5 If the applicant does not attend the informal conference, a supervisor in the Client Placement Division will conduct a review of the application to determine if the applicant is eligible for public housing or RAD. This supervisory review will take place even where no additional information is provided by the applicant or the applicant's representative.

6107.6 Applicants determined to be eligible after the supervisory review or the informal conference will be notified in writing and placed in the selection pool.

6107.7 When an applicant is determined ineligible after the informal conference or supervisory review, the Client Placement Division will issue a letter informing the applicant of their right to:

- (a) A review by an independent third party acceptable to DCHA willing to review applicant files pro bono; and
- (b) Bring a grievance pursuant to Chapter 63, Chapter 89, or Sections 5730 through 5747 of this title.

6107.8 When an applicant is determined ineligible for public housing, RAD, or the Housing Choice Voucher Program, the applicant will be removed from the waiting list(s) and his or her application will be retained up to three years in an inactive status.

6107.9 Applicants who were determined ineligible solely by reason of an unpaid debt may, at any time during their inactive status, provide evidence that the debt has been paid or otherwise resolved. These applicants may be returned to the waiting list(s) with the same date and time of application as the date and time the applicant had when the applicant was placed on inactive status.

6107.10 Notwithstanding provisions which may appear elsewhere in this subtitle, a determination of eligibility for public housing, RAD, or HCVP under this chapter shall be valid for a period of 180 days from the date of said determination.

6108 INCOME LIMITS

6108.1 To be eligible for admission to public housing or the Housing Choice Voucher Program an applicant's annual income shall be within the limits of lower income families established by HUD, based on the family size.

6108.2 Income limits for lower income families and very low income families shall be as established and revised periodically by HUD. HUD establishes low income limits based on eighty percent (80%) of the area median income, very low income limits based on fifty percent (50%) of the area median income, and extremely low income limits based on thirty percent (30%) of the area median income.

6108.3 Income limits shall be applied at the time of eligibility determinations by the Client Placement Division.

6108.4 Based on HUD regulations, DCHA shall ensure that actual admission of eligible lower income families from the Public Housing Waiting Lists is as follows: at least forty percent (40%) shall be families with extremely low incomes at the time of commencement of occupancy. Actual admission to RAD Covered Projects from the Public Housing Waiting Lists shall be governed by Section 5708 of this Title 14.

6109 APPLICANT FAMILY SELECTION CRITERIA

- 6109.1 This Section applies to applicants for public housing, RAD, and the Housing Choice Voucher Program. All Subsections of this Section are applicable to applicants for public housing. Only Subsections 6109.3, 6109.4, 6109.6, 6109.7 and 6109.8 apply to applicants for public housing, RAD, and the Housing Choice Voucher Program.
- 6109.2 Information that will be considered in screening an applicant shall be reasonably related to assessing the applicant and other applicant family members listed on the application. The applicant's history (e.g., employment history, personal habits or practices, and/or rental or personal credit history) must demonstrate the capacity to comply with the terms of the DCHA lease. If the applicant requires support (e.g., live-in aide) to enable him/her to meet the standards identified below, the applicant must demonstrate that the necessary support would be available at the time of admission. Additionally, the applicant, including the applicant's family must be willing to:
- (a) Not interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting the health, safety, or welfare of the other residents or the community;
 - (b) Enhance and/or maintain the physical environment or financial stability of the project;
 - (c) Help create an environment where young people, especially children, can live, learn, and develop into productive and responsible citizens;
 - (d) Attend and complete DCHA's Community Living Training Program, prior to admission; and
 - (e) Comply with the terms and conditions of the DCHA lease.
- 6109.3 DCHA will utilize the following methods in determining an applicant's eligibility for admission: reference checks, including current and/or previous landlords, consultations with current and/or former neighbors, conducting home visits, reviewing police reports and/or criminal background checks of each member of the applicant family, including juveniles, as may be permitted by law.
- 6109.4 Relevant information respecting personal habits or practices to be considered in the admission process, may include, but is not limited to, the following:
- (a) A reasonable cause to believe, supported by signed documentation, that any family member's 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 any DCHA programs by other residents, employees or community members; and

- (b) An applicant's past performance in meeting financial obligations, especially rental payment obligations. An applicant who is responsible for any debt to DCHA, any other housing authority, or any landlord participant in any federally assisted housing program (e.g., the Housing Choice Voucher Program) may not be admitted or readmitted until the debt is paid or otherwise satisfied; and
- (c) A record of respecting the rights of others, as defined in the DCHA lease; and
- (d) The conviction of any applicant family member for a crime involving physical violence against persons or property or other criminal convictions that may adversely affect the health, safety, or welfare of other DCHA residents, staff, or other members of the community, e.g., distribution or manufacture of illegal drugs or controlled substances, possession of an unlicensed firearm and/or ammunition, or child molestation; and
- (e) A determination that the applicant has committed fraud in connection with any Federal housing assistance program or any local housing assistance program; and
- (f) An applicant's misrepresentation of any information related to eligibility, including, but not limited to, the award of a preference for admission, family composition, or income.

6109.5 If an applicant is determined eligible and qualified for admission, the applicant will be referred to a public housing property for housing, consistent with Section 6111 of this Title. Notwithstanding, prior to the applicant signing a DCHA lease, if the relevant property manager uncovers information regarding the applicant that would lead a reasonable person to believe that housing the applicant on the relevant property would interfere with the other residents' peaceful enjoyment of the premises by adversely affecting the health, safety, or welfare of the other residents or the community, the property manager shall so advise the Client Placement Division and refer the application for further consideration. The Client Placement Division will then conduct a further review of the application, taking into consideration the information provided.

6109.6 If unfavorable information is received as a result of the investigation conducted pursuant to Subsections 6109.2 or 6109.4 above, consideration shall be given to the time, nature, and extent of the applicant family's conduct, and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects. Mitigating circumstances might include, but are not limited to:

- (a) Evidence of favorable changes in the applicant's pattern of behavior including the length of time since an offense or behavior was committed; or

- (b) Evidence of successful rehabilitation, e.g., evidence that the responsible member of the applicant family is not likely to repeat the prior criminal behavior, evidence that neither the applicant nor any member of the applicant family is likely to cause harm to the other public housing or Housing Choice Voucher Program residents, DCHA staff, or other members of the community; or
- (c) Evidence of the applicant's participation in or willingness to participate in relevant social service activities or other appropriate counseling services; or
- (d) Evidence of the applicant's modification of previous disqualifying behavior, with indications of continuing support intended to assist the applicant in modifying the disqualifying behaviors.

6109.7 With respect to criminal conviction(s) or activity:

- (a) The DCHA may deny admission to public housing, RAD, or the Housing Choice Voucher Program to any applicant:
 - (1) If any adult member of the applicant's family (or any non-adult member who has been convicted of a crime as an adult) has been convicted of a felony, or a misdemeanor involving destruction of property or acts of violence against another person; or
 - (2) If the applicant or a member of the applicant's family has participated in violent criminal behavior within the last five years for which he/she has not been convicted. This violent criminal behavior must be documented by an arrest record, parole violation report, law enforcement criminal history report, or other official law enforcement record.
- (b) DCHA shall deny admission to any applicant who has been evicted from housing assisted under the United States Housing Act, for drug-related criminal activity for a three year period beginning from the date of the eviction.
- (c) In determining whether an applicant, as identified in Subparagraphs (a) and/or (b) will be admitted into public housing, RAD, or the Housing Choice Voucher Program, DCHA shall make an assessment of the applicant's (or the relevant member of the applicant's family) behavior to determine whether he/she currently demonstrates that he/she has been rehabilitated. Factors that DCHA may consider include, but are not limited to, the following: acknowledgment of culpability; adequate and suitable employment or participation in a generally recognized training program; substance abuse treatment, if necessary; successful completion of therapy

directed at correcting the behavior that lead to the criminal activity; and existence of a support network or support systems.

- (d) In collecting relevant information necessary to make the assessment described in Subparagraph (c) above, DCHA shall, at its sole discretion, determine the extent and depth of the verification for each applicant. Information may be requested from various sources, including, but not limited to, the applicant (by interview and/or home visit), landlords, clergy, employers, family members, social workers, parole officers, court records, drug treatment counselors, neighbors, and/or police department records.
- (e) DCHA shall prohibit admission of any family that includes any individual who is subject to a lifetime registration requirement under any sex offender registration program (e.g., state, local or international). DCHA shall, upon request, provide the tenant or applicant with a copy of the registration information and an opportunity to dispute the accuracy and relevance of that information.
- (f) DCHA shall prohibit admission for any individual that has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine or production of methamphetamine on the premises of federally assisted housing.

6109.8 Care and consideration shall be used in soliciting personal information concerning the applicant and his/her family members, and appropriate authorizations shall be obtained for the release of information, as necessary, from each applicant family. Any information received regarding an individual applicant will be used solely for the purpose of determining eligibility and will not be released for any other use, unless such release is required by law. Failure to sign the required release forms or the failure to submit information determined necessary to establish eligibility, shall result in the applicant's removal from the waiting list(s). If the applicant is removed from the waiting list(s) because of such a failure, the informal conference procedures set forth in Section 6107 shall not apply.

6109.9 The DCHA Applicant Family Selection Criteria will not be used to determine eligibility of residents for continuing occupancy in the same public housing or RAD unit. Eligibility for continuing occupancy in the same unit will be made in accordance with the terms and conditions of the DCHA lease.

6109.10 Resident requests for transfers will be subject to this Section - Applicant Family Selection Criteria- and shall be a requirement for transfer of residents and the execution of new leases. This section will not be applicable to DCHA initiated transfers or approved emergency medical transfers.

6110 OCCUPANCY STANDARDS

6110.1 Standards for admission and continued occupancy shall be established to avoid overcrowding and wasted space, and each dwelling unit shall be leased in accordance with the standards of this Subtitle and Subtitle A of this Title. Applicants assigned to public housing shall be governed by the occupancy standards set forth in this Subchapter 6110. Applicants assigned to RAD Covered Projects shall be governed by the occupancy standards set forth in Section 5709 of this Title 14.

6110.2 Tenants shall be assigned to dwelling units which consist of the number of rooms necessary to provide decent, safe and sanitary accommodations without overcrowding or wasting space. The following standards for unit size at admission, and for continued occupancy, shall apply:

Unit Size (Number of Bedrooms)	Minimum Number of Persons in Unit	Maximum Number of Persons in Unit
0	1	1
1	1	2
2	2	4
3	4	6
4	6	8
5	8	10
6	10	12

6110.3 Dwelling units shall be assigned in a manner that will eliminate the need for persons of the opposite sex, other than husband and wife, to occupy the same bedroom.

6110.4 Every member of the family, regardless of age, shall be considered a person when applying the standards for admission and continued occupancy. In accordance with Chapter 74, DCHA will consider unit assignment to a larger size to provide a separate bedroom for a disabled person, if verified as medically necessary.

6110.5 Each dwelling unit shall be used solely as a residence for the tenant and the tenant's family as represented in the application for housing, and the dwelling lease.

6110.6 When possible, occupancy shall be restricted at admission to minimum requirements to allow for family growth.

6110.7 Application of occupancy requirements for continued occupancy shall be consistent with Subsection 6114.7 and Subsection 6205.2 of this subtitle.

6111 TENANT ASSIGNMENT

6111.1 When an Applicant has been deemed eligible and a unit has become available for offer, DCHA shall review the Applicant's file to determine whether the

information is current and correct. Information shall be considered current if it was verified by DCHA within no more than one hundred eighty (180) days prior to tenant assignment.

- 6111.2 If updated information is required, the Applicant shall be required to submit information in accordance with Section 6106 of this chapter before a unit is offered.
- 6111.3 Eligible Applicants shall be offered an appropriate unit, when available, consistent with the priorities and requirements of this title.
- 6111.4 Unit offers shall be made to Applicants with the earlier application date and time regardless of whether the Applicant selected the First Available Waiting List or a Site-Based Waiting List for the particular site selected.
- 6111.5 Suitable vacancies arising at a given time at any location shall be offered to the selected Applicant first in sequence at the time of vacancy; provided, that referrals may be made out of sequence in the following situations:
- (a) For Applicants with a preference or in the Emergency Category, assignments shall be made to units in sequence based upon the date and time of application, as indicated in Section 6105;
 - (b) For low income families, pursuant to Section 6105;
 - (c) For disabled families, pursuant to Section 6112; and
 - (d) For comprehensive modernization properties and new developments, pursuant to Section 6113.
- 6111.6 Each Applicant shall be assigned an appropriate unit in sequence based upon the date and time of application, suitable type or size or unit, preference, consistent with the objectives of Title VI of the Civil Rights Act of 1964, and applicable HUD regulations and requirements.
- 6111.7 **SELECTION FROM THE FIRST AVAILABLE WAITING LIST**
- (a) Eligible applicants with the earliest application date and time selecting a First Available Unit shall be offered the next available unit that matches the family bedroom size and required needs regardless of the development pursuant to this section.
 - (b) When an Applicant is offered a unit from the First Available Unit waiting list, DCHA shall send the Applicant an offer letter and identify the development where the unit is available. The Applicant must contact the property and view the unit within ten (10) calendar days of the offer letter.

- (c) If the Applicant fails to show up at the appointment or refuses the unit offer, the Applicant shall be offered one (1) additional unit for selection. If the Applicant refuses the second unit offer, the Applicant shall be removed from the public housing waiting list(s) but shall remain on the Housing Choice Voucher Program and Moderate Rehabilitation Program waiting lists.
- (d) If an Applicant fails to show up at an appointment or refuses a unit offer, DCHA shall offer the unit to the next Applicant on the Public Housing Waiting Lists in accordance with this section.
- (e) If the Applicant accepts an offered unit, the Applicant shall be removed from all Public Housing Waiting Lists but shall remain on the Housing Choice Voucher and Moderate Rehabilitation Waiting Lists.

6111.8 SELECTION FROM THE SITE-BASED WAITING LIST

- (a) Eligible Applicants on the Site-Based Waiting List with the earliest date and time shall be offered the next available unit that matches the family bedroom size and unit characteristics pursuant to this section.
- (b) When an Applicant is offered a unit from the Site-Based Waiting List, DCHA shall send the Applicant an offer letter and identify the development where the unit is available. The Applicant must contact the property and view the unit within ten (10) calendar days of the offer letter.
- (c) If the Applicant fails to show up at the appointment or refuses the unit offer, the Applicant shall be offered one (1) additional unit for selection at any of their selected sites when their name reaches the top of the waiting list(s). If the Applicant refuses the second unit offer, the Applicant shall be removed from all DCHA Public Housing Waiting Lists.
- (d) If an Applicant fails to show up at an appointment or refuses a unit offer, DCHA shall offer the unit to the next eligible Applicant on the Public Housing Waiting Lists in accordance with this section.
- (e) If the Applicant accepts an offered unit, the Applicant shall be removed from all Public Housing Waiting Lists but shall remain on the Housing Choice Voucher and Moderate Rehabilitation Waiting Lists.

6111.9 If the Applicant is willing to accept the unit offered but is unable to move at the time of the offer, and presents clear evidence to DCHA's satisfaction of his or her inability to move, refusal of the offer shall not count as one of the number of allowable refusals permitted the Applicant before removing the Applicant from the Public Housing Waiting Lists.

- 6111.10 If the Applicant presents evidence to the satisfaction of DCHA that acceptance of a given offer of a suitable vacancy may result in undue hardship not related to considerations of race, sex, color, or national origin, such as inaccessibility to employment, children's day care, refusal of such an offer shall not be counted as one of the number of allowable refusals permitted an applicant before removing the Applicant from the Public Housing Waiting Lists.
- 6111.11 If a non-disabled family refuses to accept a vacancy in an accessible unit, the refusal shall not be counted as one of the allowable refusals.
- 6111.12 The following requirements shall be applicable to any offered vacancies:
- (a) The unit offer shall be in writing and shall include the following:
 - (1) Identification of the property;
 - (2) Address and phone number of the property management office;
 - (3) The bedroom size and unit characteristics; and
 - (4) The time to contact the property and to view the unit.
 - (b) The Applicant must contact the property in accordance with this section; and
 - (c) After the Applicant has viewed the offered unit, the Applicant shall accept or reject the unit at that time.
- 6111.13 Applicants with preferences who reject two units for reasons other than those allowed in this section shall be removed from the public housing waiting list(s). If they are on the Housing Choice Voucher Program or the Moderate Rehabilitation waiting lists, the Applicant shall be permitted to remain on the list(s).
- 6111.14 Applicants with preferences who reject two units for reasons other than those allowed in section shall lose their preference provided in Subsection 6105.2 and shall be withdrawn from the Public Housing Waiting Lists. If the Applicant is on the Housing Choice Voucher Program or the Moderate Rehabilitation waiting lists, the Applicant shall be permitted to remain on the list(s).
- 6111.15 **SELECTION FROM THE HOUSING CHOICE VOUCHER PROGRAM WAITING LIST**
- (a) Applicants seeking a Housing Choice Voucher shall be placed on the Housing Choice Voucher Program waiting list according to the date and time of the application and any application preferences selected by the Applicant on the application pursuant to Chapter 76 of this title.

- (b) When selecting Applicants from the waiting list for a Housing Choice Voucher, Applicants who have been deemed eligible shall be issued a voucher pursuant to Chapter 76 of this title.

6111.16 SELECTION FROM THE MODERATE REHABILITATION PROGRAM WAITING LIST

- (a) Applicants seeking admission to the Moderate Rehabilitation Program shall be placed on the Moderate Rehabilitation Program waiting list according to the date and time of the application, and any application preferences selected by the Applicant on the application pursuant to Chapter 76 of this title.
- (b) When selecting Applicants from the waiting list for the Moderate Rehabilitation Program, Applicants who have been deemed eligible shall be referred to the next available unit based on the family composition, pursuant Chapter 76 of this title.

6113 TENANT ADMISSION AND OCCUPANCY: REDEVELOPED AND SERVICE RICH PROPERTIES

6113.1 Scope.

Redeveloped Properties are mixed-finance communities owned by private entities which communities are created through HOPE VI or other public funding combined with private financing, which have some or all of their units assisted by operating funds or project-based rent subsidy payments provided by DCHA. Service Rich Properties may be DCHA-owned, conventional public housing or privately owned units assisted with operating funds provided by DCHA and managed by DCHA or third parties, which provide and/or oversee the delivery of services for residents.

6113.2 Overview.

- (a) Pursuant to the MTW Agreement between DCHA and the U.S. Department of Housing and Urban Development, dated July 25, 2004, as amended by an Agreement dated September 29, 2010, and as such agreement may be further amended, DCHA may, notwithstanding certain provisions of the Housing Act of 1937 and regulations issued pursuant thereto, adopt local rules for the governance of its public housing and housing choice voucher programs.
- (b) Accordingly, Section 6113 sets forth the regulatory framework for the property based rules and ongoing oversight or approvals governing:

occupancy and re-occupancy; selection criteria; screening criteria; application processing; waiting lists; lease provisions; income determinations; and grievance procedures for properties officially designated as Redeveloped or Service Rich Properties by the DCHA Board of Commissioners.

- (c) Service Rich Properties operated as District of Columbia-licensed assisted living residences also shall operate subject to, and in accordance with the requirements of the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.* (2012 Repl.)), and regulations promulgated thereunder, Title 22 (Health), The Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), and any other applicable local or federal regulatory requirements.

6113.3 Selection Criteria.

- (a) The selection criteria, including all priorities and preferences for applicants for initial occupancy following construction and re-occupancy upon vacancy of units at Redeveloped or Service Rich Properties that are receiving operating subsidies or project-based rent subsidy payments from DCHA, are those incorporated in a regulatory and operating agreement or RAD control agreement by and between the owner and DCHA after consultation with representatives of the community and former and/or prospective residents. These selection criteria are hereinafter referred to herein as the “General Selection Criteria”.
- (b) While the General Selection Criteria may vary by property, selection and screening criteria for all properties shall include the mandatory federal standards with respect to certain types of criminal activity as specified in federal statute.
- (c) For UFAS-Accessible Units, besides the General Selection Criteria, occupancy of the Units shall be to a household qualified for the available bedroom size of the Unit and a verified need for the features of a UFAS-Accessible Unit in the following order of priority, with date and time of application or transfer request where there are multiple applicants within any one priority:
 - (i) First, to a qualified returning resident who previously resided in one of the developments being redeveloped.
 - (ii) Second, to a qualified applicant referred by DCHA from its list of households designated in 2006 for interim assistance in accordance with the provisions of the Amended VCA.
 - (iii) Third, to a qualified applicant referred by DCHA from its list of

households designated in 2007 for interim assistance in accordance with the provisions of the Amended VCA.

- (iv) Fourth, to a qualified DCHA resident on DCHA's Transfer List;
- (v) Fifth, to a qualified public housing applicant on DCHA's Waiting List;
- (vi) Sixth, to a qualified Housing Choice Voucher.

6113.4 Application Process.

Each property shall develop its own process for taking applications, subject to review and approval by DCHA.

- (a) Application forms for transferring or returning residents and applicants are developed by the owner for the Redeveloped Property and shall be subject to review and approval by DCHA.
- (b) Completed applications for returning residents, transferring residents or applicants shall be accepted at the property and shall be reviewed and approved in accordance with the criteria approved in accordance with Subsection 6113.2.
- (c) The occupancy and re-occupancy application and selection process shall be monitored by DCHA's Office of Asset Management.

6113.5 Waiting Lists.

- (a) Where the number of returning residents, transferring residents or new applicants exceeds the number of available units, applicants seeking to be housed at the property shall be placed on a waiting list.
 - (1) Waiting lists shall be maintained by the manager of the property based on the date and time of application and in accordance with the selection criteria developed for the property and approved by DCHA in accordance with Subsection 6113.2; or
 - (2) At certain properties, a basic eligibility determination for public housing shall be made by DCHA's Client Placement Division and eligible tenants shall be referred to the property where the property's selection criteria shall be applied.
- (b) A list of all properties, along with the status of each site based waiting list as either open or closed, shall be available from the DCHA's Client Placement Division. When a property makes a determination to open its

waiting list, notice shall be provided to the DCHA resident advisory board and published in the *District of Columbia Register*.

6113.6 Lease Terms.

- (a) Leases for Redeveloped Properties or Service Rich Properties may be developed by the owner or manager, subject to the approval of DCHA for compliance with applicable local and federal provisions as well as DCHA's regulations, including the requirements regarding Special Supplements to Lease governed by the provisions of Subsection 6112.4 of Title 14.
- (b) Provisions relating to rent, rent collection, security deposits, excess utility charges, and such other provisions as DCHA may approve, may vary from the DCHA standard form of lease.

6113.7 Income Determinations.

Certification and recertification of income shall be performed by the manager of the property and monitored periodically by DCHA for compliance with applicable DCHA and federal regulations. At certain Service Rich Properties designated by DCHA, income for certification and recertification purposes may be disregarded for up to two years of occupancy.

6113.8 Service Rich Properties – Assisted Living Residences.

- (a) Authority. HUD has authorized DCHA to operate certain of its Service Rich Properties as assisted living residences, as defined in the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.* (2012 Repl.)).
- (b) Eligibility; Continuing Occupancy.
 - (i) Families selected to live in a DCHA assisted living residence must meet assisted living-specific selection criteria, as outlined in site-based, site-managed community-specific eligibility criteria that are set forth in the Management Plan for the property, which DCHA will make available.
 - (ii) Continued occupancy for families residing at DCHA assisted living residences will be based on adherence to the programmatic and occupancy requirements for the specific property, as set forth in the Dwelling Lease, Residential Agreement, and any Individual Service Plan, or any addenda thereto.
- (c) Grievance Rights.

- (i) DCHA assisted living residences shall establish grievance procedures, which include informal and formal settlement procedures, (1) for all grievances arising public housing landlord tenant matters, that are consistent with the requirements of 24 C.F.R. §§ 966.50 *et seq.*, and (2) for all grievances arising from assisted living matters, including transfer, discharge and relocation, the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.* (2012 Repl.)). The procedures shall be incorporated into the Dwelling Lease, as set forth in 24 C.F.R. § 966.4(n), and shall be set forth in the Residential Agreement, pursuant to DC Official Code § 44-106.02.

- (ii) The grievance procedures shall provide:
 - (A) Informal Settlement of Grievance, as follows:
 - (1) If a Tenant wishes to grieve a decision of the administrator of the assisted living residence, he or she or his or her representative/surrogate must request an informal conference in writing within four (4) days of receiving the decision of the administrator in writing or within four (4) days of any alleged failure to act on the part of the administrator.
 - (2) The request for an informal hearing must include a description of the nature of the complaint and issue to be grieved. Upon request, a facility employee shall help the resident complete the written request.
 - (3) The administrator will provide the Tenant with a dated receipt when the request for an informal conference is filed. The informal conference will be scheduled at a mutually agreeable time and will be held within two (2) days of the receipt of the request by the administrator.
 - (4) The Tenant may bring his or her representative/surrogate and an advocate if he or she wishes. A Supervisor of the Administrator will preside and render the decision resulting from the informal conference. A copy of the written decision will become a part of the Resident's clinical record.

- (5) The Supervisor shall provide the decision in writing to the Resident within twenty four (24) hours of the completion of the informal conference. The decision shall include a summary of the discussion, the decision regarding the disposition of the complaint and the specific reasons for the decision. The decision summary will list the names of the participants, and the date of the meeting. When the written results of the decision are delivered to the Resident, they will include a description of the options remaining to the Resident, including instructions on how to request a Formal Hearing.
 - (6) If the original decision is concerning a discharge, transfer or relocation and it is upheld, and if the Resident decides not to pursue a Formal Grievance Hearing, the Resident must comply with the decision within thirty (30) days of having received the Notice of Relocation, Transfer or Discharge prepared and delivered according to the provisions of D.C. Official Code § 44-1003.02(a).
- (B) Formal Grievance Hearing Regarding Involuntary Discharge, Transfer or Relocation, as follows:
- (1) If the Resident wishes to proceed with a formal hearing in order to contest the decision to involuntarily discharge, transfer or relocate the Resident, the Resident, his or her representative/surrogate or the Long-Term Care Ombudsman shall mail a written request to the Department of Health and deliver it to the Administrator within seven (7) calendar days after receiving a notice of discharge or transfer to another facility, or within five (5) calendar days after receiving a notice as described above, of relocation within the facility.
 - (2) If the Resident elects to request a Formal Hearing, the Administrator will remind the Resident that if the original decision is upheld, then the Resident will be required to leave the facility by the fifth (5th) calendar day following his or her notification of the hearing decision or before the 31st calendar day following his or her receipt of notice of discharge required by D.C. Official Code § 44-1003.02(a), whichever is later. If the Resident is being required

to relocate within the facility, he or she will be reminded by the Administrator that this must occur by the eighth (8th) calendar day following his or her receipt of the notice to relocate or the third (3rd) calendar day following his or her notification of the hearing decision, whichever is later. The Administrator shall provide all notices required under this paragraph in written and oral form.

- (3) The Department of Health will designate an appointee of the Office of Administrative Hearings as the Hearing Officer.
- (4) The Office of Administrative Hearings will schedule the formal hearing to occur within five (5) days of the request from the Resident.
- (5) The Resident may bring his/her representative/surrogate, and advocate or the Long-Term Care advocate to participate in the hearing. The facility shall have the burden of proof unless the ground for the proposed discharge, transfer, or relocation is a prescribed change in the resident's level of care, in which case the person(s) responsible for prescribing that change shall have the burden of proof and the resident shall have the right to challenge the level of care determination at the hearing. The Resident may not litigate Medicaid eligibility at the hearing.
- (6) The Office of Administrative Hearings will provide the decision within seven (7) days of the completion of the hearing. The decision will become a part of the Resident's clinical record.
- (7) If the original decision is upheld, the resident must leave the facility by the fifth (5th) calendar day after the receipt of the Hearing Officer's decision or the thirty-first (31st) day after receiving the discharge notification, whichever is later. If the original decision required relocation within the facility and it is upheld, this must occur before the third (3rd) calendar day after receiving the Hearing Officer's decision or by the eighth (8th) calendar day after having received the relocation notification, whichever is later. Notice shall be provided orally and in writing.

- (8) If the resident prevails in contesting the notice then the discharge is rescinded unless administrator appeals the decision.
 - (9) Failure to request a formal grievance hearing shall not constitute a waiver by the Resident of his or her right thereafter to contest the Administrator's action in disposing of the complaint in an appropriate judicial proceeding.
 - (10) A decision by the Office of Administrative Hearings in favor of the Administrator or which denies the relief requested by the Resident in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, any rights the Resident may have to a trial or judicial review in any judicial proceedings, which may thereafter be brought in the matter.
 - (11) If the Resident chooses to take the matter to court, he or she must make the filing within the thirty (30)-day notice period.
 - (12) A Resident may seek judicial review of any decision of the Office of Administrative Hearings by filing a petition with the Court of Appeals of the District of Columbia; or any decision of DCHA by filing an action in District of Columbia Superior Court.
- (d) Rent Calculation and Rent Collection at DCHA Assisted Living Residences.
- (i) Tenant rent at DCHA assisted living residences shall be established as set forth at 14 DCMR § 6200, except as provided in subparagraphs (ii) and (iii) of this subsection.
 - (ii) So long as a Family pays any applicable assisted living program fees timely, as provided in the Dwelling Lease, then for purposes of calculating adjusted income, as defined in 14 DCMR § 6099, to establish tenant rent for DCHA assisted living residences, such assisted living program fees shall be considered medical expenses and shall be deducted, in full, from the Family's annual income, as set forth in DCHA's approved 2014 Moving To Work Plan. In the event that adjusted income is zero dollars (\$0.00) or less, then rent shall equal zero dollars (\$0.00). Minimum rent, as defined by 14

DCMR § 6210, for assisted living residences, if any, shall be established by DCHA.

- (iii) Payments or allowances to residents of DCHA assisted living residences, for incidental living expenses under the provisions of any applicable assisted living program may be excluded from annual income for the purpose of calculating tenant rent.
- (iv) The Dwelling Lease for DCHA assisted living residences will include an itemized list of all fees, how they are calculated and allowances or payments for incidental living expenses.

(e) Assisted Living Residences - Resident Agreements.

- (i) For purposes of this Section 6113, the term “Residential Agreement” shall have the meaning and components according to the requirements of Section 44-106.2 of the D.C. Official Code. In addition, the Resident Agreement shall set forth the terms and conditions governing participation in the assisted living programming
- (ii) At DCHA assisted living residences, the Resident Agreement may include or incorporate Individual Service Plans, as defined by D.C. Official Code § 44-106.04, to be completed by the participating household members.
- (iii) Upon execution, the Resident Agreement and related documents will become part of the Dwelling Lease. Participating Families must comply with the terms and conditions of the Dwelling Unit Lease Agreement, Addenda, the Resident Agreement and any related documents.
- (iv) Failure to abide by the terms of the Resident Agreement and related documents shall be considered a violation of the Dwelling Lease Agreement.

(f) Assisted Living Residences - Transfers.

- (i) A request by a Family to transfer to a DCHA assisted living residence, in accordance with 14 DCMR § 6400, will be deemed “a tenant initiated transfer” request if the Family accepts the offer of a unit at a DCHA assisted living residence.
- (ii) If a Family, which resides in a DCHA assisted living residence, no longer wishes to participate in the programing available at the assisted living residence, but remains compliant with the Dwelling

Lease, then the Family will receive up to two (2) transfer offers of Conventional Public Housing units, in writing.

- (iii) A Family residing in a DCHA assisted living residence unit that receives a written offer to transfer into a new dwelling unit may refuse the offer on the basis of evidence, satisfactory to DCHA, that acceptance of the offered unit would cause undue hardship, as set forth in Subsection 6111.9, and such refusal shall not count against one of tenant's allowable offers under paragraph ii of this subsection.
 - (iv) If a Family and refuses a second offered unit without good cause, then the Family may elect to stay at the assisted living residence, and shall comply with all applicable requirements, as set forth in the Dwelling Lease, or DCHA shall initiate discharge and termination processes, in accordance with Subsection 6113.8(h).
 - (v) Unless otherwise specified in the applicable Regulatory and Operating Agreement or Management Plan, or otherwise determined by DCHA, in the event of any family-initiated transfer to or from a DCHA assisted living residence to or from a conventional public housing unit as set forth in paragraph ii of this subsection, then the Family will be responsible for relocation costs.
 - (vi) In addition to the foregoing requirements of this subsection g, any transfer of any resident from a DCHA assisted living residence shall be subject to, and in accordance with the applicable discharge and transfer requirements of the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.* (2012 Repl.)).
- (g) DCHA Assisted Living Residences – Discharge/Termination.
- (i) Any termination of any tenancy at DCHA assisted living facility shall be subject to the applicable termination and discharge provisions (including tenants' rights and protections) of the the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.* (2012 Repl.)), in addition to any other DCHA, District or federal requirements
 - (ii) If DCHA determines that a Family residing in an assisted living residence is in violation of the Dwelling Lease, except for lease violations predicated on criminal activity that threatens the residents health, safety or right to peaceful enjoyment of the assisted living residence, drug related criminal activity on or off

the Leased Premises or at the assisted living residence or violent criminal activity, DCHA shall issue to the Lessee a notice to cure or vacate, stating in writing the violation(s) which provides the basis for the termination the lessee's right to cure the violations and instructions on how to cure the violations, provided that such notice and any requirement that tenant vacate the assisted living residence shall be subject to requirements of any applicable District or federal statute or regulation including those governing the assisted living residence or its services or programs. Administrator shall deliver notice orally and in writing.

- (iii) The notice shall inform the Family of its right to file an administrative complaint in accordance with Subsection 6113.8 (c), and any other administrative rights to which Tenant may be entitled by virtue of any District or federal regulation or statute governing the assisted living residence or its services.
- (iv) If a Lessee has filed a complaint requesting an administrative determination of his or her rights, in accordance with Subsection 6113.8(d), in response to service of a notice to cure or vacate or a notice of lease termination, and or such other notice required by District or federal regulation or statute including the Assisted Living Residence Regulatory Act of 2000, effective June 24, 2000 (D.C. Law 13-127; D.C. Official Code §§ 44-101.01 *et seq.* (2012 Repl.)), to which the assisted living facility, may be subject, and has not prevailed, the Lessee shall be issued a notice to vacate, as the time to cure has past and the Lessee shall be subject to legal action to gain possession of the unit (eviction).
- (v) If DCHA determines that a Family's violation of the Lease results from a change in circumstance which renders the Family ineligible for the services offered at the assisted living facility, which change is not at the fault or initiative of the Resident, then DCHA may, subject to availability and applicable requirements, transfer the Family to a unit in conventional public housing, in accordance with Subsection 6113.8(f).
- (vi) In the event of any lease violations, predicated on criminal activity that threatens residents' health, safety or right to peaceful enjoyment of the assisted living residence, violent or drug related criminal activity on or off the Leased Premises or the assisted living residence, DCHA shall issue a notice to vacate, together with such other notice required by District or federal regulation or statute to which the assisted living facility or its programs or services may be subject.

- (vii) DCHA will not issue a notice to cure or vacate, or notice to vacate, where DCHA has determined that the head of household responsible for the dwelling unit under the Dwelling lease is deceased and there are no remaining household members.

CHAPTER 64, PUBLIC HOUSING TRANSFER POLICY, Subsection 6400.1 is amended to read as follows:

6400.1 It shall be the policy of the District of Columbia Housing Authority (DCHA) to transfer tenants from one dwelling unit to another to alleviate conditions of hardship caused by physical conditions or to address changed family circumstances. Transfers may result from actions mandated by DCHA or result from requests by its tenants. To facilitate such transfer, DCHA may offer units in its traditional public housing or in its RAD inventory, excluding RAD units within any Private Mixed Finance Project (as defined under Title 14, Chapter 57, Section 5705.1). Notwithstanding the foregoing, tenants residing within any Private Mixed Finance Project may also be transferred within or between any Private Mixed Finance Project in accordance with any applicable regulatory and operating agreement or RAD control agreement.

CHAPTER 89, INFORMAL HEARING PROCEDURES FOR APPLICANTS AND PARTICIPANTS OF THE HOUSING CHOICE VOUCHER AND MODERATE REHABILITATION PROGRAMS, is amended as follows: Section 8907 is added:

8907 ADDITIONAL HEARING RIGHTS FOR RAD RESIDENTS

- 8907.1 In addition to DCHA determinations that require an opportunity for an informal hearing, as proscribed in 14 DCMR § 8903, residents of RAD Project-based properties may request a hearing for any dispute that a resident may have with respect to:
- (a) A Project Owner action in accordance with the individual’s lease; or
 - (b) The contract administrator in accordance with RAD PBV requirements that adversely affect the resident’s rights, obligations, welfare, or status.
- 8907.2 The RAD Project Owner will conduct any hearings authorized only under this subsection.
- 8907.3 There is no right to an informal hearing for class grievances or for disputes between residents not involving the RAD Project Owner or DCHA.
- 8907.4 When making a determination that creates a hearing right, the Rad Project Owner shall notify the family that the family may ask for an explanation of the basis of

the determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.

8907.5 The RAD Project Owner shall provide an opportunity for an informal hearing before an eviction.

Interested persons are encouraged to submit comments regarding this Proposed Rulemaking to DCHA's Office of General Counsel. Copies of this Proposed Rulemaking can be obtained at www.dcregs.gov, or by contacting Edward Kane, at the Office of the General Counsel, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599 or via telephone at (202) 535-2835. All communications on this subject matter must refer to the above referenced title and must include the phrase "Comment to Proposed Rulemaking" in the subject line. There are two methods of submitting Public Comments:

1. Submission of comments by mail: Comments may be submitted by mail to the Office of the General Counsel, Attn: Edward Kane, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599.
2. Electronic Submission of comments: Comments may be submitted electronically by submitting comments to Edward Kane at: PublicationComments@dchousing.org.
3. No facsimile will be accepted.

Comments Due Date: