

DEPARTMENT OF HUMAN SERVICES

Amendment and Compilation of Chapter 17-2028
Hawaii Administrative Rules

(date)

SUMMARY

1. Chapter 17-2028, Hawaii Administrative Rules, entitled "Federally-Assisted Public Housing Projects", is amended and compiled to read as follows:

"HAWAII ADMINISTRATIVE RULES

TITLE 17

DEPARTMENT OF HUMAN SERVICES

SUBTITLE 5

HAWAII PUBLIC HOUSING AUTHORITY

CHAPTER 2028

FEDERALLY-ASSISTED PUBLIC HOUSING PROJECTS

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Historical Note: Chapter 2028 of Title 17,
Hawaii Administrative Rules, is substantially based
upon Chapter 17-535, Hawaii Administrative Rules, [Eff
1/1/81; am and comp 2/11/85; am and comp 5/26/98; R

12/03/01], and Chapter 15-190, Hawaii Administrative
Rules [Eff 12/03/01; R 9/04/07]

SUBCHAPTER 1

GENERAL PROVISIONS

§17-2028-1 Purpose. These rules are adopted under chapter 91, HRS, and shall govern the administration of federal public housing programs designated to be carried out by a public housing agency, including admission to and the continued occupancy of federally-assisted public housing projects owned or operated by the authority. These rules set forth some of the authority's admission and continued occupancy policies that a public housing authority is required to adopt pursuant to the U.S. Department of Housing and Urban Development federal public housing regulations in 24 C.F.R. Chapter IX ("ACOP"). These rules shall be used in conjunction with other public housing policies, but shall supersede any other policy that may conflict with these rules. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. Parts 5, 903, 960, 965, 966; HRS §§356D-4, 356D-13)

§17-2028-2 Definitions. Whenever used in this chapter, unless specifically defined:

"Accessible dwelling unit" means a dwelling unit that is located on an accessible route and when designed, constructed, altered, or adapted can be approached, entered, and used by individuals with physical disabilities or a dwelling unit being made accessible as a result of alterations and is intended for use by a specific qualified individual with disabilities which meets the requirements of applicable standards that address the particular disability or impairment of an individual.

"Adjusted income" means "annual income" of the members of the family residing or intending to reside in the dwelling unit minus any HUD allowable expenses and deductions as defined in 24 C.F.R. §5.611 as it existed on March 28, 2013.

"Admissions and Continued Occupancy Policy" or "ACOP" means these administrative rules and other administrative rules containing the policies by which the authority determines eligibility for admission, prospective tenant selection, dwelling unit assignment, fair and nondiscriminatory transfers, rental agreement terminations, pet policies, and other property-specific guidelines [~~as required pursuant to these rules~~] that a public housing authority is required to adopt pursuant to the U.S. Department of Housing and Urban Development federal public housing regulations in 24 C.F.R. Chapter IX.

"Annual income" means the gross amount of income anticipated to be received by the family during the twelve months after admission or reexamination. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income which has been excluded by HUD, as defined in 24 C.F.R. §5.609 as it existed on March 28, 2013.

"Applicant" means an individual or family that submits an application for admission to the program but is not yet a participant in the program.

"Assets" or "net family assets" means net cash value after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds, and other forms of capital investment as defined in 24 C.F.R. §5.603 as it existed on [~~March 28, 2013~~] October 20, 2022, and excludes the value of necessary items of personal property such as furniture and automobiles.

"Assisted housing" means the same as "federally-assisted housing".

"Authority" means the Hawaii public housing authority.

"Back charge" means the amount of arrears in rent or other charges owed to the authority.

"C.F.R." means the United States Code of Federal Regulations.

"Child" means a person who is born alive and is less than eighteen years of age.

"Common areas" means areas which are available for use by more than one [~~family~~] household, including lobbies, corridors, hallways, stairways, parking lots, spots, ramps, washing machine or laundry room, rooftops, elevators, washrooms and lobby areas, driveways, storerooms, fire escapes, entrances and exits of the building or buildings, basements, yards, gardens, recreational facilities, other parts of the project in common use or other areas designated by the authority, and shared ventilation ducts that service more than one dwelling unit.

"Community facilities" means real and personal property; buildings, equipment, lands, and grounds for recreational or social assemblies, and for educational, health, or welfare purposes; and necessary or convenient utilities, when designed primarily for the benefit and use of the authority or the occupants of the dwelling units.

"Community service" means the performance of voluntary work or duties that are a public benefit and that serve to improve the quality of life, enhance resident self-sufficiency, or increase resident self-responsibility in the community. Community service is not employment and may not include political activities.

"Community wide" means inclusive of any location that is under the jurisdiction of the authority.

"Continuously assisted" means that the applicant is currently receiving assistance under any program of the United States Housing Act of 1937, as amended, and there is no break in assistance to the family.

"Covered families" means families who receive welfare assistance or other public assistance benefits ("welfare benefits") from a State or other public agency ("welfare agency") under a program for which federal, State, or local law requires that a member of the family must participate in an economic self-

sufficiency program as a condition for such assistance.

"Criminal activity" means the tenant, any member of the tenant's household, a guest or another person under the tenant's control has engaged in any conduct constituting a criminal violation of federal law, HRS, or local ordinances regardless of whether there has been an arrest or conviction for such activity and without satisfying the standard of proof used for a criminal conviction.

"Designated housing" or "designated project" means a property (or properties), or a portion thereof that has been designated for occupancy by disabled families, elderly families, or mixed populations of disabled families and elderly families.

"Disabled family" means a family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

"Domestic violence" means the actual or threatened physical violence directed against a family member by a spouse, former spouse, or other member of the family who is living or has lived with the family.

"Drug" means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. §802) as it existed on [~~March 28, 2013~~]October 20, 2022.

"Drug related criminal activity" means the illegal manufacture, sale, distribution, or use of a drug, or possession of a drug with intent to manufacture, sell, distribute, or use the drug.

" Dwelling unit" means a residential unit in a public housing project.

"Economic self-sufficiency program" means any program designed to encourage, assist, train, or facilitate the economic independence of HUD-assisted families or to provide work for such families.

"Elderly" or "elderly family" means a family whose head, spouse, or sole member is a person who is at least sixty-two years of age; or two or more persons who are at least sixty-two years of age living

together; or one or more persons who are at least sixty-two years of age living with one or more live-in aides.

"Eligible family" means a family that meets the qualifications and requirements of the program for admission into federally-assisted public housing.

"Enclosed or partially enclosed" means closed in by a roof or overhang and at least one wall. Enclosed or partially enclosed areas include but are not limited to areas commonly described as public lobbies, lanais, interior courtyards, patios, and covered walkways.

"Exempt individual" means an individual who is exempt from complying with community service or self-sufficiency activities and which is further defined in 24 C.F.R. §960.601(b) as it existed on ~~[March 28, 2013]~~ October 20, 2022.

"Extremely low-income family" means a family whose annual income does not exceed thirty per cent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than thirty per cent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

"Family" means regardless of actual or perceived sexual orientation, gender identity, or marital status:

- (1) Two or more persons who live or intend to live together as a unit and whose income and resources are available to meet the family's needs and ~~[who may be related by blood, marriage, or operation of law and]~~ whose head of family has reached the age of majority. [Family may include foster children and hanai children] A child who is temporarily away from the home because of placement in foster care is considered a member of the family. Family may include foster children and hanai children or a child who is domiciled with, and for whom an

adult member of the current household is caring for with written or unwritten permission from the legal parent or other person having legal custody, or child domiciled with, and for whom an adult member of the current household is in the process of securing custody;

- (2) An elderly family;
- (3) A disabled family;
- (4) A displaced family; (5) The remaining member of a tenant family who is recorded as an authorized occupant on the current list of household members and who has reached the age of majority; or
- (6) A single person who is not—an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

"Family self-sufficiency program" or "FSS program" means the program established by the authority in accordance with 24 C.F.R. Part 984 to promote self-sufficiency of assisted families, including the coordination of supportive services.

"Federally-assisted housing" means housing assisted under any of the following HUD programs:

- (1) Public housing;
- (2) Housing receiving project-based or tenant-based assistance under Section 8 of the United States Housing Act of 1937 (42 U.S.C. §1437f) as it existed on [~~March 28, 2013~~]October 20, 2022;
- (3) Housing that is assisted under section 202 of the Housing Act of 1959, as amended by section 801 of the National Affordable Housing Act (12 U.S.C. §1701q) as it existed on [~~March 28, 2013~~]October 20, 2022;
- (4) Housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the National Affordable Housing Act as it existed on [~~March 28, 2013~~]October 20, 2022;

- (5) Housing that is assisted under section 811 of the National Affordable Housing Act (42 U.S.C. §8013) as it existed on [~~March 28, 2013~~] October 20, 2022;
- (6) Housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act (12 U.S.C. §17151 (d)(3)) that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act (12 U.S.C. §17151 (d)(5)) as it existed on [~~March 28, 2013~~] October 20, 2022;
- (7) Housing insured, assisted, or held by HUD or by a State or local agency under section 236 of the National Housing Act (12 U.S.C. §1715z-1) as it existed on [~~March 28, 2013~~] October 20, 2022; or
- (8) Housing assisted by the Rural Development Administration under section 514 or section 515 of the Housing Act of 1949 (42 U.S.C. §§1483, 1484) as it existed on [~~March 28, 2013~~] October 20, 2022.

"Foster children" means a person or persons, under eighteen years of age who is or are not related to the foster parent by blood, marriage, or adoption and who is or are in need of parenting care.

"Foster parent" means any adult person who gives parenting care and maintenance to a foster child pursuant to placement by an authorized agency.

"Gender identity" means actual or perceived gender-related characteristics.

"Hanai child" or "Hanai children" means a [person or persons, under eighteen years of age, for whom an applicant or tenant provides food, nourishment and support for a minimum period of at least a year or has been recognized in the household for support by the department of human services and who is acknowledged as the applicant's or tenant's child among friends, relatives and the community.] child who is taken permanently to reside, be educated, and reared by someone other than the natural parents, traditionally a grandparent or other relative, with the written or

unwritten permission of the natural parents."Household" means the family and the authority-approved live-in aide.

"HRS" means the Hawaii Revised Statutes.

"HUD" means the United States Department of Housing and Urban Development.

"Imputed welfare income" means the amount of annual income not actually received by a family, as a result of a specified welfare benefit reduction, that is nonetheless included in the family's annual income for purposes of determining rent.

"Individual relief" means relief from surcharges for excess consumption of agency purchased utilities due to special factors affecting utility usage not within the control of the resident, as the agency shall deem appropriate.

"Involuntarily displaced" means an applicant who has vacated or will have to vacate the dwelling unit where the applicant lives because of one or more of the following:

- (1) Displacement by disaster;
- (2) Displacement by governmental action; or
- (3) Displacement by action of housing owner for reasons beyond the applicant's control and despite the applicant meeting all previously imposed conditions of occupancy. The action taken by the owner shall be for reasons other than an increase in rent.

"Live-in aide" means a person who resides with one or more elderly persons, or near elderly persons, or persons with disabilities, and who:

- ~~[(1) Is determined to be essential to the care and well-being of the persons;~~
~~(2) Is not obligated for the support of the persons;~~
~~(3) Would not be living in the unit except to provide the necessary support services; and~~
~~(4) Is not a tenant.]~~
- (1) Is eighteen years of age or older;
 - (2) Is determined by the authority to be essential to the care and well-being of the

- elder or elderly family member or the family member with disabilities;
- (3) Is not obligated for the support of the elder or the elderly family member or family member with disabilities;
 - (4) Would not be living in the dwelling unit except to provide the necessary support services;
 - (5) Is not a tenant; and
 - (6) Notwithstanding any other rule, has no rights of tenancy, continued occupancy of dwelling unit, and is not a remaining member of the household and shall cease to be an occupant therein upon the recovery of the dwelling unit by the authority, or removal from the project of the elder or elderly family member or a family member with disabilities who required the live-in aide.

"Location" means any site comprising a common geographic area undivided by natural or man-made barriers (such as rivers, highways, railroads, or other major obstructions) that block or impede normal pedestrian traffic and which may contain more than one project.

"Low-income family" means a family whose annual income does not exceed eighty per cent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than eighty per cent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

"Multifamily dwelling" means a building containing more than two dwelling units.

"Near elderly family" means a family whose head, spouse, or sole member is at least fifty years of age but below the age of sixty two, or two or more persons, who are at least fifty years of age but below the age of sixty two, living with one or more live-in aides.

"PHA plan" means the authority's public housing agency plan that is prepared pursuant to 24 C.F.R. Part 903.

"Projects" means those rental properties owned or operated by the authority.

"Public housing" or "federally-assisted public housing" means housing assisted under the United States Housing Act of 1937, other than under Section 8 of that Act, and includes dwelling units in a mixed finance project that are assisted by the authority with capital or operating assistance.

"Police officer" means a person determined by the authority to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a federal, State or local government or by any agency of these governments.

"Refusal of an offer" means an applicant declines an offer made by the authority for a specific dwelling unit from any waiting list or an applicant's failure to respond to a written offer from the authority for a specific dwelling unit within the time specified in the offer.

"Rental agreement" means the agreement or contract containing the terms and conditions of occupancy of a dwelling unit entered into by the tenant and authority.

"Resident" means a United States citizen or [~~a permanent United States resident~~] national, or an eligible immigrant under one of the categories set forth in 42 U.S.C. §1436a(a) (also known as "noncitizen") who is able to demonstrate his or her intent to reside in Hawaii. Under one of these categories, an eligible immigrant is an alien who is lawfully residing in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the government of the Republic of the Marshall Islands, the Federal States of Micronesia (48 U.S.C. 18901 note), and the Republic of Palau (48 U.S.C. 1931 note) while the applicable section is in effect, also known as "COFA" resident. Intent to reside in Hawaii may be

demonstrated by the following: length of time spent in Hawaii; leasing or renting of a home in Hawaii; filing of personal Hawaii income tax returns; registering to vote in Hawaii[-]; Hawaii driver's license; record of Hawaii motor vehicle registration; notification of hire to work in Hawaii; records of employment in Hawaii; military records substantiating Hawaii residency; enrollment of minor children in Hawaii schools; establishment of bank accounts and other accounts in Hawaii; written reference from Hawaii residents, relatives, or social agencies; and any other indicia which could substantiate a claim of an intent to reside in Hawaii.

"Security deposit" means a monetary deposit required prior to admission to federally-assisted public housing or use of community facilities that is applied against the cost of loss or damage to the authority's property (reasonable wear and tear excepted) and non-payment of rent.

"Serviceman" means a person active in the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States, and since July 29, 1945, the Commissioned Corps of the U.S. Public Health Service who has served therein at any time:

- (1) On or after April 6, 1917, and prior to November 11, 1918;
- (2) On or after September 16, 1940, and prior to July 26, 1947;
- (3) On or after June 27, 1950, and prior to February 1, 1955; or
- (4) On or after August 6, 1964 and prior to May 7, 1975.

"Sexual orientation" means having a preference for homosexuality, heterosexuality, or bisexuality, having a history of any one or more of these preferences, having a history of any one or more of these preferences, or being identified with any one or more of these preferences. Sexual orientation shall not be construed to protect conduct otherwise proscribed by law.

"Smoke" or "smoking" means ~~[inhaling or exhaling the fumes of tobacco or any other plant material, or~~

~~burning or carrying any lighted smoking equipment for tobacco or any other plant material.] inhaling, exhaling, burning, or carrying any lighted smoking or heated tobacco product or plant product intended for inhalation in any manner or in any form, including electronic smoking devices.~~

"Spouse" means the marriage partner of the head of household.

"Staff" means the employees or [agents] authorized contractors of the authority.

"Tenant" means the person or persons who enter into a rental agreement with the authority to reside in a dwelling unit.

"U.S.C." means the United States Code.

"Utility allowance" means the value of utilities such as electricity, gas, and water costs that are included in the gross rent of the tenant. This does not include telephone or cable television services.

"Utility reimbursement" means the amount, if any, by which the utility allowance for the dwelling unit exceeds the total tenant payment of the family occupying the dwelling unit.

"Very low-income family" means a family whose annual income does not exceed fifty per cent of the median income for the area, as determined by HUD with adjustments for smaller and larger families, except that HUD may establish income ceilings higher or lower than fifty per cent of the median income for the area if HUD finds that such variations are necessary because of unusually high or low family incomes.

"Veteran" means any person who served in the military or naval forces of the United States who has been discharged or released from active service under conditions other than dishonorable.

"Violent criminal activity" means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

[Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; am and comp 2/17/22;

am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. Parts 5, 903, 960, 965, 966; HRS §§356D-4, 356D-13)

§17-2028-3 Income limits. (a) Income limits for an applicant's admission to a public housing project shall be as prescribed by HUD annual income limit guidelines.

(b) The authority shall adjust the income limits as established and required by HUD.

(c) Because the HUD income limits are mandatory and the authority has no discretion to amend or change the income limits, the income limits shall be established without a public hearing as provided in Chapter ~~[91-3(d)]~~ 91-3, HRS, as it existed on ~~[March 28, 2013]~~ October 20, 2022. [Eff 7/21/05; am and comp 9/4/07; am and

comp 5/24/14; comp 1/20/19; comp 2/17/22;

am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §5.601; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-4 Asset transfers. (a) All assets transferred or assigned from an applicant or tenant to another person, within a two year period prior to submitting an application for the program or reexamination shall be included in determining an applicant's assets.

(b) In determining assets, the authority shall include the value of any business or 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 a bankruptcy sale) during the two years preceding the date of the application for the program or reexamination, as applicable, in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to

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be for less than fair market value if the applicant or tenant receives important consideration not measurable in dollar terms. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §5.603; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-5 Occupancy guidelines. (a) The authority shall establish occupancy guidelines to maintain the maximum usefulness of the dwelling units, while preventing excessive wear and tear or underutilization. The occupancy guidelines are incorporated by reference and attached as exhibit A.

(b) The occupancy guidelines shall provide for minimum and maximum dwelling unit sizes depending on the number of persons in a household for purposes of determining dwelling unit size for the wait list. The occupancy guidelines are not to be confused with the authority's occupancy standards, which are based on prevailing county building codes. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 63 Fed. Reg. 70982-70987; 63 Fed. Reg. 70256-70257; HRS §§356D-4, 356D-13, 356D-31).

§17-2028-6 Occupancy standards. The authority and families shall abide by the occupancy standards for the admission and continued occupancy in housing projects as prescribed by the housing codes of the county in which the dwelling units are located. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 63 Fed. Reg. 70982 - 70987; 63 Fed. Reg. 70256-70257; HRS §§356D-4, 356D-13, 356D-31).

§17-2028-7 Utility allowances. (a) The monthly rent for a family residing in a federally-assisted public housing project shall include utility allowances established in accordance with HUD's standards for utility allowances as described in 24 C.F.R. §965.505 as it existed on [~~March 28, 2013~~] October 20, 2022.

(b) Utility allowances shall be calculated by determining the utility rate then multiplying it by the applicable quantity allowance. A schedule of applicable quantity allowances for lighting, electric domestic hot water heaters, miscellaneous electrical, gas domestic hot water heaters shall be developed annually and shall take into account relevant factors affecting consumption requirements, including:

- (1) The equipment and functions intended to be covered by the allowance for which the utility will be used;
- (2) The size of the dwelling units and the number of occupants per dwelling unit;
- (3) Type of construction and design of the housing project;
- (4) The energy efficiency of authority-supplied appliances and equipment;
- (5) The utility consumption requirements of appliances and equipment whose reasonable consumption is intended to be covered by the total tenant payment; and
- (6) Temperature of domestic hot water.

(c) The authority shall conduct a review of utility rates in January of each year as required by 24 C.F.R. §965.507 as it existed on [~~March 28, 2013~~] October 20, 2022. Electric and gas rate schedules for all providers shall be collected and reviewed for each month from the preceding January through December of the calendar year prior to the fiscal year beginning July 1. These monthly rates shall be averaged over the year period.

(d) The new utility allowances shall be posted and noticed to tenants at least sixty days prior to the implementation date, during which time tenants shall have the opportunity to present written or oral

comments. The applicable schedules shall be publicly posted in a conspicuous manner at the authority's project offices and shall be furnished upon request. The implementation date for new allowances shall be July 1.

(e) Implementation of all new allowances or components of allowances, by utility, shall be required when there is more than a ten per cent change in the resulting allowance due to a rate change since the last change was effective. In cases when a utility is granted a substantial rate increase in between the annual review, a mid-year allowance adjustment may be required.

(f) The authority may update the quantity allowances. To update the quantity allowance, dwelling units of various sizes in a sampling of different types of developments shall be surveyed to determine the types of existing equipment as well as to identify any factors affecting energy efficiency. If there is a variance in energy consumption factors within housing projects, the worst case scenario shall be identified and utilized for calculating the quantity allowances. The authority may, at its option, develop property specific allowances for its properties.

- (1) Allowances for lighting shall be developed by conducting a field survey of a representative sample of dwelling units to determine the number and type of fixtures. The following factors shall be used to determine the kilowatt hour per month allowance for each dwelling unit size:
 - (A) The number of fixtures;
 - (B) Watts per fixture; and
 - (C) Estimated hours of use per day.
- (2) Allowances for miscellaneous electric equipment shall be based upon usage of a television, radio, miscellaneous small appliances, and a fan.
- (3) The allowance for refrigerators is based on the equipment in place at the time of survey.

- (4) Allowances for cooking shall be based on the equipment in place at the time of survey.
- (5) Allowances for electric domestic hot water heating shall be based on engineering calculations for each bedroom size assuming a certain number of occupants. The data used in the calculations include estimated consumption per occupant per day, temperature of incoming water, temperature of hot water supply, efficiency of heater, and energy required to heat water to supply temperature.
- (6) Allowance for solar domestic hot water shall be based on a cost analysis of a domestic hot water heating system.
- (7) Gas consumption allowances shall be developed using the same methodology as the electric consumption allowance.

(g) The authority shall provide medical disability allowances for tenants who have provided proof of medical necessity to the authority. The initial quantity allowances for medical equipment shall be determined by taking the equipment's average energy consumption multiplied by the normal frequency of usage. A family may request a utility allowance in excess of the medical disability allowance which, based on need may be approved on a case by case basis. Requests for additional allowances based on medical disability may be made to management verbally or in writing, but shall also be subject to verification from a qualified individual. The authority will evaluate the request and respond to the family within 30 days of the completed request.

(h) A Family may also request individual relief from surcharges for excess consumption of agency-purchased utilities. Requests may be granted on reasonable grounds for utility usage incurred by factors beyond the family's control. Factors to be considered and procedures to be used when evaluating such requests include:

- (1) Evidence that the family's consumption is mistakenly portrayed as excessive due to

- defects in the meter or errors in the meter reading;
- (2) Evidence that the family's consumption is caused by a characteristic of the dwelling unit or equipment supplied by the authority that is beyond the control of the tenant;
 - (3) Evidence that the family's consumption is caused by equipment supplied by the authority that is faulty or otherwise not working properly and causing excessive usage that is beyond the control of the tenant; and
 - (4) Any other evidence the authority deems relevant in evaluating requests to increase the utility expense based on any factor that is beyond the control of the tenant.
 - (5) Request for any other type of individual relief, including a justification for the request and evidence to support the request, must be made to management in writing. The authority will evaluate the request and provide the family with a response within 30 days of the completed request.
 - (i) A family shall pay for utility usage in excess of the applicable utility allowance.
 - (j) A family shall receive a utility reimbursement when the utility allowance exceeds the total family payment except where:
 - (1) The family is paying a flat rent;
 - (2) The utility reimbursement would result in a rent due to the authority below the minimum rent as established in section 17-2028-61; or
 - (3) The family has received a financial hardship exemption pursuant to section 17-2028-61(b) from the minimum rent payment and reimbursement would result in a balance due from the authority to the household.
 - (k) If a family resides in a dwelling unit served by authority-furnished utilities and must pay for utility usage in excess of the applicable utility allowance pursuant to subsection (h), where:

- (1) A checkmeter has been installed, the family must pay the excess dwelling unit cost of the relevant utility amount based on the authority's average utility rate as described in subsection (b).
- (2) A checkmeter has not been installed, the family must pay for excess usage resulting from estimated utility consumption attributable to tenant-owned major appliances or to optional functions of authority-furnished equipment according to the schedule described in subsection (b).
[Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; am and comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §§5.603, 5.632, 960.253, Part 965 Subpart E, §966.4; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-8 Verification of information. An applicant or tenant shall provide documentation to verify information upon request of the staff. [Eff 7/21/05; am and comp 9/4/07; comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. Part 5, Subpart B; 24 C.F.R. §§960.203, 960.259; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-9 Misrepresentation. An applicant may be denied admission to a housing project if the applicant has submitted false information, withheld information, or made [wilful] willful misstatements. A tenant who does the same may be denied continued eligibility and have the rental agreement terminated. A live-in aide may be denied approval by the authority or a live-in aide agreement may be terminated if the live-in aide has submitted false information, withheld information, or made willful misstatements. [Eff

§17-2028-9

7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp
1/20/19; comp 2/17/22; am and comp]
(Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R.
§966.4; HRS §§356D-4, 356D-13, 356D-31)

SUBCHAPTER 2

ELIGIBILITY

§17-2028-21 Applicants. (a) A person seeking admission to a public housing project shall electronically submit a [completed] pre-application form to the authority's prescribed online application portal. ~~[prepared by the authority. The applicant may file at any of the authority's in-take offices and apply for one of the geographic waiting list areas prescribed in section 17-2028-36.]~~

(b) ~~[The applicant shall be preliminarily placed on a waiting list upon submission of a completed pre-application form.]~~ Selection for placement on the waiting list shall not be deemed a determination on eligibility or admission.

(c) An applicant who has misrepresented material information in an application for any of the authority's programs shall not be eligible to file an application with the authority for twelve months from the date of written notification from the authority. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §§960.202, 960.203; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-22 Eligibility for admission and participation. (a) To be eligible for participation in the program, applicant and ~~[household]~~family members shall meet all of the requirements of the pre-application and final application phases as set forth below:

- (1) During the pre-application phase, the applicant and adult ~~[household]~~family members shall:
 - (A) Qualify as a family;

- (B) Be income eligible as determined under section 17-2028-3;
- (C) Not have an outstanding debt owed to the authority as a participant in any of its programs;
- (D) Not have an outstanding liability for unpaid rent or damages incurred while previously participating in any section 8 rental subsidy program or any HUD rental assistance program;
- (E) Provide a social security number for all family members or certify that the person does not have a social security number;
- (F) Not have been evicted since March 1, 1985, from a public housing program administered by the authority or any of its predecessors, the housing and community development corporation of Hawaii or Hawaii housing authority with the exception of evictions solely due to failure to pay rent, in which case, the applicant can be admitted upon payment in full of the unpaid amounts due to the agency;
- (G) Not have been evicted from assisted housing by reason of drug-related criminal activity for a three-year period beginning on the date of the eviction unless the evicted tenant successfully completes a supervised drug rehabilitation program approved by the authority;
- (H) Not have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal or state housing program;
- (I) Not be currently engaging in illegal use of a drug or give the authority reasonable cause to believe that a household member's illegal use (or pattern of illegal use) of a drug or

abuse (or pattern of abuse) of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants. For the purposes of this subsection:

- (i) "Currently engaged in" means the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current; and
 - (ii) In determining whether to deny eligibility based on a pattern of illegal use of a drug or a pattern of abuse of alcohol by a household member, the authority may consider rehabilitation as provided for under 42 U.S.C. §13661(b)(2)(A)-(C) as it existed on [~~March 28, 2013~~] October 20, 2022.
- (J) Not currently or during a three year period preceding the date when the applicant household would otherwise be selected for admission be engaged in any drug-related criminal activity or violent criminal activity or other criminal activity involving assault, terroristic threatening, firearms, dangerous weapons, harassment, kidnapping, sexual assault, extortion, forgery, burglary, unauthorized entry into a dwelling, unauthorized entry into motor vehicle, criminal property damage, criminal trespass on public housing property, disorderly conduct, child pornography, and consuming liquor on public housing property, which is considered as reasonably likely to adversely affect the health, safety, right to peaceful enjoyment of the premises by other tenants, the authority, or staff;

- (K) Not have been convicted of drug-related criminal activity for the manufacture, production, or distribution of methamphetamines;
 - (L) Not subject to lifetime registration requirements under any state sex offender's registration program;
 - (M) Disclose tobacco use of all family members within the household.
- (2) During the final application phase, the applicant and all adult household members shall meet the requirements as set forth in (1), above, as well as the following requirements:
- (A) Not engage in or threaten abusive or violent behavior toward the authority's staff. For purposes of this subsection, "threaten" means an oral or written threat or physical gestures that communicate intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate; and
 - (B) Furnish evidence of citizenship or eligible immigrant status as provided for in 24 C.F.R. §5.508 as it existed on ~~March 28, 2013~~ October 20, 2022.
- (b) An applicant's past performance in meeting financial obligations, especially rent, may be considered by the authority in its selection of families for admission into its federally-assisted public housing program.
- (c) An applicant who is continuously assisted under the United States Housing Act of 1937, as amended, shall be admitted to the program as though the applicant was already a program participant. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; am 3/15/19; comp 2/17/22;

am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 42 U.S.C. §13661; 24 C.F.R. §§5.216, 960.201, 960.202, 960.203, 960.204, 960.205; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-23 Notification of eligibility.

(a) [~~Upon making a determination of eligibility, the authority shall mail or cause to be delivered a written notification to an applicant. The notification shall specifically state the reasons for the determination.~~] Applicants who are selected for placement on the waiting list shall be notified by e-mail at the e-mail address provided in the application that the applicant has been selected and placed on the waiting list within ten business days of the date the lottery occurs. Applicants who are not selected by the lottery shall be informed by e-mail at the e-mail address provided in the application that the applicant has not been selected for placement on the waiting list within fifteen business days of the date the lottery occurs.

(b) [~~An applicant determined to be ineligible for admission or participation in the program shall be provided an opportunity for an informal hearing pursuant to section 17-2028-24.~~] Applicants who were either not selected to participate in the lottery, or whose application has expired, do not qualify for an informal hearing.

(c) All other determinations of eligibility shall be made in writing by the authority and shall state the reason for the determination.

(d) An applicant determined to be ineligible for admission or participation in the program shall be provided an opportunity for an informal hearing pursuant to section 17-2028-24. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp

§17-2028-23

2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §960.208; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-24 Informal hearing for applicants determined to be ineligible for admission. (a) An applicant determined to be ineligible for admission or participation in the program may request an informal hearing by submitting a written request within fourteen calendar days from the date of notification of ineligibility.

(b) The informal hearing shall be scheduled within twenty-one calendar days from the date the written request is received and shall be conducted by any person or persons designated by the authority, but shall not be a person who made or approved the determination of ineligibility or a subordinate of such person.

(c) The applicant shall be given the opportunity to present evidence, which shall be considered by the hearing officer, along with the data compiled by the authority.

(d) A written notice of the hearing officer's decision shall be mailed to the applicant within twenty-one calendar days after the hearing. The notice shall include an explanation of the reasons for decision. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §960.208; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-25 Eligibility for a live-in aide.

(a) For a person to be eligible to live in a public housing project as a live-in aide solely to assist a family member with disabilities in daily living activities, such as bathing, meal preparation and delivery, medicinal care, transportation, and

physical activities, an applicant or family member must have a request for a live-in aide approved by the authority. The proposed live-in aide shall meet the requirements set forth below:

- (1) The proposed live-in aide shall:
 - (A) Not have an outstanding debt owed to the authority;
 - (B) Not have been evicted from a public housing program administered by the authority. If the proposed live-in aide was evicted solely due to failure to pay rent, the proposed live-in aide can only be added to the household upon payment in full of the unpaid amount owed to the authority;
 - (C) Not have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal or state housing program;
 - (D) Not have been convicted of drug-related criminal activity for the manufacture, production, or distribution of methamphetamines;
 - (E) Not currently or during a three-year period preceding the date when the household requested approval for the proposed live-in aide, be engaged in criminal activities involving crimes against persons or property that is a threat to the health, safety, or property of others. For purposes of this subsection, in determining eligibility, the authority shall consider whether a person convicted for such a crime has successfully completed a rehabilitation program approved by the authority, or whether the circumstances leading to the criminal conviction no longer exist;
 - (F) Not have been evicted from assisted housing by reason of drug-related criminal activity for a three-year

period beginning on the date of the eviction unless the evicted proposed live-in aide successfully completes a supervised drug rehabilitation program approved by the authority.

(G) Not currently or during a three-year period preceding the date of the request for a live-in aide engage in any drug-related criminal activity or violent criminal activity or other criminal activity involving assault, terroristic threatening, firearms, dangerous weapons, harassment, kidnapping, sexual assault, extortion, forgery, burglary, unauthorized entry into a dwelling, unauthorized entry into a motor vehicle, criminal property damage, criminal trespass on public housing property, disorderly conduct, child pornography, and consuming liquor on public housing property, which is considered as reasonably likely to adversely affect the health, safety, right to peaceful enjoyment of the premises by other tenants, the authority, or staff;

(H) Not be currently engaging in the illegal use of a drug or give the authority reasonable cause to believe that the proposed live-in aide's illegal use or pattern of illegal use of a drug or abuse of alcohol may interfere with the health, safety or right to peaceful enjoyment of the premises by other tenants. For purposes of this subsection:

(i) "Currently engaging in" means the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is present and ongoing; and

- (ii) In determining whether to deny eligibility based on a pattern of illegal use of a drug or a pattern of abuse of alcohol, the authority may consider rehabilitation as provided for under 42 U.S.C. §13661(b)(2)(A)-(C)
- (I) Not be subject to any lifetime requirement in any state for any state sex offender's program.
- (J) Provide a social security number or certify that the proposed live-in aide does not have a social security number;
- (K) Disclose the proposed live-in aide's tobacco use;
- (L) Not engage in or threaten abusive or violent behavior toward the authority's staff. For purpose of this subsection, "threaten" means an oral or written threat or physical gestures that communicate intent to abuse or commit violence. Abusive or violent behavior may be verbal or physical and include use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult, intimidate, or threaten;(M) Furnish evidence that the proposed live-in aide is a resident as defined in section 17-2035-2; and
- (N) Not have or bring any pet or animal, into the dwelling unit on a temporary or permanent basis. [Eff] (Auth: HRS §§356D-4, 356D-13) (Imp: 42 U.S.C. §13661; 24 C.F.R.

SUBCHAPTER 3

TENANT SELECTION

§17-2028-31 Nondiscrimination. Tenant selection and assignment shall be made without regard to race, color, sex, religion, marital status, creed, national or ethnic origin, age, familial status, gender identity, sexual orientation, handicap or disability or HIV infection. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §960.103; HRS §§356D-4, 356D-13, 356D-31, 515-3)

§17-2028-32 Income targeting. (a) Not less than forty per cent of families admitted to the program during the fiscal year from the waiting list shall be extremely low income families.

(b) To the extent allowed by 24 C.F.R. §960.202(b)(2) as it existed on [~~March 28,~~ ~~2013~~] October 20, 2022, admission of extremely low income families to the authority's Section 8 voucher program during the authority's fiscal year shall be credited against the targeting requirement in subsection (a). [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §960.202; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-33 Deconcentration. (a) For federally-assisted public housing projects, the authority shall give priority to applicants to ensure that, to the maximum extent feasible, the housing

projects will include families with a broad range of income generally representative of low income families in the authority's area of operation. The authority shall not allow dwelling units to remain vacant awaiting an applicant who meets the appropriate income range.

(b) The authority may not concentrate very low-income families in dwelling units in certain public housing projects or certain buildings within projects. Additionally, the authority may not concentrate higher income families in dwelling units in certain housing projects or certain buildings within projects.

(c) In order to effectuate the policies stated in this section, the authority may reserve a certain percentage of dwelling units for applicant placement for applicants who do not qualify for a preference as described in section 17-2028-34. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §§5.607, 903.1, 903.2, 960.204, 960.205, 960.206; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-34 Local preferences. (a) Subject to section 17-2028-33(c), eligible applicants shall be given preference for admission in the program in the applicable order [of the dates of their applications] assigned during random selection of the lottery if, at the time they are seeking housing assistance, they fall within the following preference priority groups:

- (1) Involuntarily displaced;
- (2) Victims of domestic violence who are participating in a program with case management through a domestic violence shelter, program, or clearinghouse; or
- (3) Homeless persons who are participating in a federally or state funded homeless transitional shelter or program, and who are in compliance with a social service plan.

(b) Subject to section 17-2028-33(c), each preference in each priority group is of equal weight and an applicant who qualifies for any of the preferences shall receive assistance before any other applicant who is not so qualified regardless of:

- (1) Place on the waiting list; [~~or~~]
- (2) Date or time of submission of an application[~~-~~]or
- (3) Order placement in the lottery.

(c) A single applicant who is elderly, disabled or displaced shall be given preference over all other single applicants, regardless of the other single applicant's local preference.

(d) An applicant shall not receive preference if any adult member of the applicant family is a person who was evicted or terminated from any federally-assisted housing or state-aided public housing program operated by the authority for a three-year period beginning on the date of eviction because of drug-related criminal activities unless the adult member has successfully completed a rehabilitation program approved by the authority. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4; 356D-13) (Imp: 24 C.F.R. §960.204, 960.206; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-35 Loss of preference. An applicant who declines one offer of a [~~housing~~]dwelling unit, without good cause, or who voluntarily requests cancellation of the application, shall lose all preferences for a period of twelve months from the date the offer was declined or from the date of the request for cancellation. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: 24 C.F.R. §960.206; HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §960.206; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-36 Waiting list. (a) The authority shall maintain fifteen geographical waiting lists, which are community wide in scope and consist of all eligible applicants as follows:

- (1) City and County of Honolulu
 - (A) Honolulu [~~waitlist~~]waiting list which is comprised of Ka'ahumanu Homes, Kalakaua Homes, Kalihi Valley Homes, Kamehameha Homes, Kuhio Homes, Mayor Wright Homes, Palolo Valley Homes, Punchbowl Homes, Pu'uwai Momi, Salt Lake Apartments, Spencer House, Kalanihuia, Makamae, Makua Ali'i, Paoakalani, and Pumehana;
 - (B) Central Oahu waitlist which is comprised of Kauhale Nani, Wahiawa Terrace, and Kupuna Home O'Waialua;
 - (C) Windward Oahu waitlist which is comprised of Ho'okipa Kahalu'u, Kaneohe Apartments, Kauhale O'hana, Ko'olau Village, and Waimanalo Homes; and
 - (D) Leeward Oahu waitlist which is comprised of Hale Laulima, Kau'iokalani, Maili I & II, Nanakuli Homes, Waimaha - Sunflower, and Waipahu I & II.
- (2) County of Hawaii
 - (A) Hilo waitlist which is comprised of Lanakila Homes, Punahele Homes, Pomaikai Homes, Hale Aloha O Puna, Hale Olaloa, Kauhale O'Hanakahi;
 - (B) Honoka'a waitlist which is comprised of Hale Hauoli;
 - (C) Ka'u waitlist which is comprised of Pahala;
 - (D) Kona waitlist which is comprised of Ka Hale Kahalu'u, Hale Ho'okipa, Kaimalino, Kealakehe, and Nani Olu;
 - (E) Waikoloa waitlist which is comprised of Ke Kumu 'Ekolu; and
 - (F) Waimea waitlist which is comprised of Noelani I & II.

(3) County of Maui (A) East Maui waitlist which is comprised of Kahekili Terrace and Makani Kai Hale;

(B) West Maui waitlist which is comprised of Pi'ilani Homes and David Malo Circle; and

(C) Molokai waitlist which is comprised of Kahale Mua.

(4) County of Kauai

(A) East Kauai waitlist which is comprised of Hui O Hanama'ulu, Kapa'a, Hale Nana Kai O Kea, and Hale Ho'olulu; and

(B) West Kauai waitlist which is comprised of Ele'ele Homes, Hale Ho'onanea, Kalaheo Homes, Kekaha Ha'aheo, Kawailehua, and Home Nani.

(b) Applicants shall be notified of the opportunity to apply online to [~~for and~~] be placed on one of the waiting lists through notices posted in a conspicuous place at the authority's offices that accept applications, the authority's website, and printed statements in the authority's informational material on its application process.

(c) Placement [~~of applications~~] on the waiting list may be based upon the following:

(1) Size of dwelling unit required based on occupancy standards;

(2) Type of dwelling unit required (e.g., accessible for persons with disabilities);

(3) Local preference subject to income targeting and deconcentration policies and goals; and

(4) Date and time of receipt of application[~~-~~]; or

(5) Lottery selection, so long as all adopted preferences are considered.

(d) An applicant cannot remain on a waiting list if they are currently a tenant in any federal public housing program.

(e) [~~An applicant shall notify the authority of any change which will affect applicant's place on the waiting list and the authority's ability to contact~~

~~applicant. Changes include, but are not limited to, family status, financial status, preference status, mailing address, and current residence.]~~ The notice to open the waiting list shall include information on what procedures shall be used to place applicants on the waiting list, how to apply, the date and time of the application and selection process. If lottery selection is used, the notice will also include the number of applicants who will be selected by the lottery.

~~(f) [An applicant may elect to change from one geographic waiting list to another geographic waiting list while maintaining the original date and time of their application upon proper written notice to the authority.]~~ The authority may accept applications from applicants with a preference, without a preference, or a combination of both, which will be specified in the notice of opening of the wait list.

(g) Selection of applicants from the waiting list shall be based upon:

- (1) Date and time; or
- (2) A randomly assigned number based on the number of applicants who were selected by the lottery; and
- (3) Applicable local preference.

(h) An applicant shall update on the authority's portal electronically, at least once a year, any change that may affect the applicant's place on the waiting list and the authority's ability to contact the applicant. Changes include, but are not limited to, family status, financial status, preference status, mailing address, phone number, and current residence.

(i) Applications will be active for eighteen months from the date of placement on the waiting list and will then expire. Applicants still on the waitlist at eighteen months will receive a letter informing them that their application has expired.

[Eff 7/21/05; am and comp 9/4/07; comp 1/20/19; comp 2/17/22; am and comp] (Auth: 24 C.F.R. §§960.206; HRS §§356D-4; 356D-13) (Imp: 24 C.F.R. §960.206; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-37 Removal from waiting list. An applicant shall not be removed from the waiting list unless:

(a) The applicant requests that applicant's name be removed;

(b) The applicant fails to notify the authority of applicant's continued interest for housing at least once every twelve months;

(c) The applicant no longer meets the eligibility criteria set forth in section 17-2028-22;

(d) The applicant fails to respond to the authority's reasonable contact efforts. Correspondence to either the last known address or last known email address will constitute reasonable effort to contact;

(e) The applicant fails without good cause to keep a scheduled interview or to provide requested information necessary to determine eligibility[~~;~~ ~~or~~]. Good cause may include, but is not limited to, the following:

(1) The applicant is unable to obtain transportation or childcare and notified the authority prior to the start of the scheduled interview;

(2) The applicant is sick and requests to reschedule the interview prior to the start of the scheduled interview; or

(3) A court verifies that the applicant is serving on a jury which has been sequestered;

(f) The applicant misrepresents any material information to the authority in the application or otherwise[~~;~~]; or

(g) An applicant, who applied for a local preference, is unable to verify their qualification for meeting a preference within ten business days may be removed from the waiting list. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §§960.206, 960.208; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-38 Closing the waiting list. (a) The authority, at its discretion, may restrict acceptance of applications, and close the waiting list in whole or in part, when it determines that it will be unable to assist all the applicants on the waiting list within a reasonable period of time.

(b) The authority shall announce any closure and reopening of the application process through notices posted in a conspicuous place at the authority's offices that accept applications and on the authority's website.

(c) During periods when application acceptance is closed and until it is reopened, the authority shall not maintain a list of persons to be notified when application acceptance is reopened. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/40/14; comp 1/20/19; comp 2/17/22; am and comp]
(Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §960.202, 960.206; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-39 Offers. (a) An applicant shall be afforded one offer to rent a suitable dwelling unit.

(b) The offer to eligible applicants shall be made in sequence based upon the following:

- (1) Size of dwelling unit required;
- (2) Type of dwelling unit required (e.g. accessible dwelling units for the mobility, hearing or visually impaired);
- (3) Local preferences, subject to income targeting and deconcentration policies and goals; and
- (4) Date and time the application was received~~[-]~~; or
- (5) Lottery selection, so long as all adopted preferences are considered.

(c) Upon refusal of one offer, without good cause, the applicant's name will be [~~cancelled~~] removed from the waiting list on which the applicant's name has been placed.

(d) An applicant shall not be considered to have been offered a dwelling unit if an offer has been declined for good cause. Good cause may include, but is not limited to the following:

- (1) The dwelling unit is not of the proper size or type and the applicant would be able to reside there only temporarily (e.g., a specially designed dwelling unit that is awaiting a person with a disability needing such a dwelling unit);
- (2) The dwelling unit offered is unsuitable for health or safety reasons for the applicant;
- (3) The applicant is unable to move at the time of the offer and presents clear evidence which substantiates this to the authority's satisfaction, including, but not limited to:
 - (A) A doctor verifies that the applicant has just undergone major surgery and needs a period of time to recuperate;
 - (B) A court verifies that the applicant is serving on a jury which has been sequestered; or
 - (C) A landlord verifies that the applicant has an existing rental agreement that cannot be breached without causing undue financial hardship.
- (4) The applicant's acceptance of the offer would result in undue hardship not related to consideration of race, color, national origin, or language and the applicant presents evidence which substantiates this to the authority's satisfaction (e.g., inaccessibility to source of current employment or day care facilities).

(e) Not less than fifty per cent of all available dwelling units shall be for applicants without preference and up to fifty per cent of available dwelling units shall be for applicants with preference. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R.

§§960.202, 960.203, 960.206, 960.208; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-40 Occupancy of accessible dwelling units. (a) The authority shall take the following nondiscriminatory steps to maximize the utilization of accessible dwelling units by eligible individuals whose disability requires the accessibility features of the particular dwelling unit. When an accessible dwelling unit becomes vacant the authority shall, before offering such dwelling units to an applicant without a disability, offer such dwelling unit:

- (1) First, to a current occupant of another dwelling unit of the same project or other projects within the same housing program, having disabilities requiring the accessibility features of the vacant dwelling unit and occupying a dwelling unit not having such features, or, if no such occupant exists, then
- (2) To an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant dwelling unit.

(b) When an applicant accepts an accessible dwelling unit, and the applicant does not have a disability that requires the accessibility features of the dwelling unit, the applicant shall be required to agree to move to a non-accessible dwelling unit when one becomes available. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: §§356D-4, 356D-13) (Imp: 24 C.F.R. §8.27, ; HRS §§356D-4, 356D-13, 356D-31)

SUBCHAPTER 4

OCCUPANCY AND RENTAL AGREEMENT

§17-2028-51 Rental agreement. (a) A tenant shall enter into a rental agreement with the authority that sets forth the conditions of occupancy for the tenant including, but not limited to, the rental terms, security deposit, smoking prohibitions, eligibility reexaminations and rental adjustments, and for welfare recipients, authorization for the authority to draw rental payments directly from their EBT or bank accounts.

(b) No tenant shall be permitted to remain in a housing project without a valid rental agreement.

[Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp]

(Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §966.4; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-52 Eligibility for continued occupancy.

(a) To be eligible for continued occupancy in a housing project, the tenant shall:

- (1) Qualify as a family;
- (2) Conform to the occupancy standards;
- (3) Abide by smoking prohibitions pursuant to section 17-2028-60;
- (4) Not have a record of conduct or behavior which may be detrimental to the project, its tenants or employees of the authority; and
- (5) Except for an exempt individual, conform to the following community service and economic self-sufficiency requirements:
 - (A) Contribute eight hours per month of community service (not including political activities);

- (B) Participate in an economic self-sufficiency program for eight hours per month; or
- (C) Perform eight hours per month of combined activities as described in paragraphs (A) and (B), above.

(b) Except for a newborn child of a tenant or family member, adopted minor child, a minor child who is domiciled with the tenant or family member because tenant or family member was awarded custody by the court or is the legal guardian of the child, foster children, hanai children, or a child who is domiciled with, and for whom an adult member of the current household is caring for with written or unwritten permission from the legal parent or other person having legal custody, or child domiciled with, and for whom an adult member of the current family is in the process of securing custody, [a] no person, including live-in aides, shall [not] be permitted to join or rejoin the [family] household until:

- (1) [t]The authority verifies that the person joining or rejoining the household meets the eligibility requirements set forth in section 17-2028-21 or 17-2028-22, [and approves of the family's request to add a family member as an occupant of the unit.] and that household meets the eligibility requirements set forth in section 17-2028-52(a); and
- (2) The authority approves of the tenant's request to add a household member as an occupant of the dwelling unit.

(c) The authority will not approve the addition of household members where the occupancy standards would require a larger size dwelling unit with the exception of adding a new spouse or partner or live-in aide.

(d) All changes to a household composition must be reported to the authority within ten business days.
[Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp]
(Auth: HRS §§356D-4, 356D-13) (Imp: C.F.R.)

§17-2028-52

§§960.603, 966.4; HRS §§356D-4, 356D-6.5, 356D-13, 356D-31)

§17-2028-53 Reexamination. (a) For families who pay an income-based rent, the authority shall reexamine a tenant's annual income, assets, family composition, and any other matter necessary to determine a tenant's rent and eligibility for continued occupancy at least once every twelve months.

(b) For families who pay a flat rent pursuant to section 17-2028-62, the authority shall conduct reexaminations as follows:

- (1) At least once every twelve months, the authority shall reexamine the family's composition and any other matter necessary to determine the family's eligibility for continued occupancy; and
- (2) At least once every three years, the authority shall reexamine the family's annual income, assets and any other matter necessary to determine the family's eligibility for continued occupancy.

(c) For all families who include non-exempt individuals, the authority shall also annually reexamine compliance with community service and economic self-sufficiency requirements. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §§960.257, 966.4; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-54 Reexamination results. (a) A family shall be given written notification within a reasonable time, after determination by the staff, of both the family's eligibility for continued occupancy and rent schedule.

(b) A family found ineligible for continued occupancy by the staff shall be required to vacate the

dwelling unit unless the ineligibility is due to noncompliance with community service requirements pursuant to 24 C.F.R. Part 960, Subpart F as it existed on [~~March 28, 2013~~ October 20, 2022]. In such cases of noncompliance with community service requirements, the rental agreement shall not be renewed at the end of the twelve month term unless:

- (1) The tenant, and any other noncompliant family member, enter into a written agreement with the authority, in the form and manner required by the authority, to cure such noncompliance in accordance with such agreement; or
- (2) The family provides written assurance satisfactory to the authority that the tenant or other noncompliant family member no longer resides in the dwelling unit.

(c) A family aggrieved by the reexamination results may request a hearing pursuant to the authority's grievance procedure as provided in chapter 17-2021. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §§960.257, 960.607, 966.4, 966.51; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-55 Special reexamination. If at the time of admission or reexamination, a family's income cannot be reasonably anticipated for the next twelve month period, the authority may schedule a special reexamination at any time prior to the next annual reexamination when deemed necessary. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §5.609; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-56 Interim rent adjustment. (a) The authority may adjust a family's rent between reexamination if a tenant reports a change in family income. However, adjustments to rent shall not be made for covered families with reduced welfare benefit payments resulting from welfare sanctions for noncompliance with welfare self-sufficiency and work activity requirements. Adjustments, reflecting a lower rent, shall be made effective on the first of the month following the month the report was made. The authority will not process the rent adjustment if it confirms that the decrease in income will last less than thirty calendar days.

(b) A tenant who has obtained a decrease in rent under this section shall report all income increases to the authority which occur prior to the next reexamination within ten business days of when tenant knows the increase will occur, and rent shall be readjusted accordingly. Any increase in rent shall be effective on the first day of the second month following the month in which the change occurred.

(c) A tenant who fails to report any increase in income after obtaining a decrease in rent under this section shall be subject to a back rent charge retroactive to the month in which the rent increase should have been made pursuant to section 17-2028-58.

(d) A tenant shall report to the authority any changes in family composition. Rent adjustment shall be made between reexaminations when a person with income is added to the family and the rent adjustment shall be effective on the first of the second month following the approved inclusion. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §§5.615, 960.257, 966.4; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-57 Tenant transfers. (a) Tenant transfers shall be made without regard to race, sex, color, creed, age, religion, gender identity, sexual

orientation, handicap, national origin, or familial status.

(b) The authority may transfer a family to another dwelling unit:

- (1) To prevent overcrowding or underutilization of a dwelling unit as determined by the authority at the time of the annual or interim reexamination;
- (2) To preserve the purpose for which a project or dwelling unit was specifically developed or designed such as to meet the needs of the elderly or persons with disabilities;
- (3) Based on an emergency where conditions of the dwelling unit, building or project pose an immediate, verifiable threat to life, health or safety of the family;
- (4) For economic reasons affecting the tenant or the authority;
- (5) For administrative reasons determined by the authority including, but not limited to, permitting modernization, renovation, or rehabilitation work and transferring eligible tenants with disabilities from State-aided public housing projects to federally-assisted public housing projects; or
- (6) As a reasonable accommodation.

(c) Tenant transfers may take priority over new admissions.

(d) A family shall be afforded one offer to transfer to a dwelling unit that meets the criteria set forth in subsection (b) above within the same housing project in which the family resides. If such dwelling unit is not available, the family may then be offered a dwelling unit in another housing project under the control of the management unit. If such a dwelling unit is not available, the family may then be offered a suitable dwelling unit on the island on which the family resides. Declining an offer to transfer for good cause as determined by the authority shall not be considered a refusal.

(e) A family requesting a transfer shall not be transferred during periods when eviction proceedings have been initiated or are in process against such family, which includes the issuance of a notice of violation of the rental agreement by the authority for which the authority is seeking eviction, or scheduling a grievance hearing related to same or during any periods of conditional deferment of eviction action against such family.

(f) A family requesting a transfer, who is not current with rent or other charges, and who does not have an approved payment arrangement shall not be transferred until the situation is resolved to the satisfaction of the authority.

(g) A family shall not be transferred between any federally-assisted housing programs.

(h) The authority may terminate the rental agreement of a family who refuses to transfer as required by the authority. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §966.4; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-58 Back charges. (a) A family shall pay in full any back charges within ninety days from the date of notification of the back charge; provided that where the family timely reports a change in income to the authority and a back charge results from an increase in income, payment for any back charges shall not be due until ninety days from the date of a completed reexamination or interim rent adjustment. Failure to do so shall result in the termination of the rental agreement.

(b) The authority may, in its discretion, elect to negotiate a reasonable payment arrangement with a family to ensure payment in full of any back charges. When the authority determines not to exercise this discretion, the family shall be responsible for the full balance of back charges as stated in subsection

(a) above. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §966.4; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-59 Rental agreement termination.

(a) A family shall give the authority at least twenty-eight days written notice that the family will vacate the family's dwelling unit prior to the vacate date.

(b) The authority may terminate a rental agreement when the tenant, any member of the tenant's household, or any guest or other person under the tenant's control:

(1) Fails to observe or perform any covenant or obligation of the rental agreement, or rule of the authority or housing project, or law or ordinance of a governmental agency that pertains to or establishes standards of occupancy. This includes but is not limited to the following:

- (A) Serious or repeated violation of the material terms of the rental agreement, including failure to make payments due or fulfill household obligations set forth in the rental agreement;
- (B) Failure to provide family income, assets, employment and composition information and documentation to enable the authority to determine the family's rental rate and eligibility for continued occupancy;
- (C) Family no longer conforms to the occupancy limits as established by the authority for the dwelling unit occupied by the family and the family refuses to move to the first appropriate size dwelling unit offered;

- (D) When requested by the authority due to health and safety, repair, abatement, construction or renovation of the dwelling unit, the family refuses to move;
 - (E) Family is ineligible for continued occupancy;
 - (F) Failure of a family member to comply with community service requirement provisions of 24 C.F.R. part 960, subpart F as it existed [~~March 28, 2013~~] October 20, 2022, provided that such failure shall result in non-renewal of rental agreement and termination of tenancy at the end of the twelve-month rental agreement term;
 - (G) At the time of admission, reexamination, interim or at any other time, the family has submitted false information or has withheld valuable information or has made [~~wilful~~] willful misstatements; and
 - (H) Family fails to accept the authority's offer of a revision to the existing rental agreement.
- (2) Engages in the illegal use of a drug or gives the authority reasonable cause to believe that the illegal use (or pattern of illegal use) of a drug or abuse (or pattern of abuse) of alcohol may interfere with the health, safety, or right to peaceful enjoyment of the premises by other tenants;
 - (3) Who the authority determines engages in any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants;
 - (4) Who the authority determines engages in any drug-related criminal activity on or near the authority's premises;
 - (5) Threatens the health or safety of an employee, contractor or agent of the authority or State;

- (6) Violates the smoking prohibitions pursuant to section 17-2028-60 on more than three occasions and receives written notice of said violations; provided that if tenant, any member of the tenant's household, or any guest or other person under the tenant's control receives only one violation of section 17-2028-60 in one year, and participates in and completes a smoking cessation service program within the same year, the authority will clear the one violation and shall not deem the incident as a violation for the following year;
 - (7) Fails to maintain utility services;
 - (8) Has been convicted of a felony during the term of the tenancy, and the felony is related to the authority's property or funds, the resident association or tenant association's property or funds, homicide, assault, terroristic threatening, firearms, dangerous weapons, kidnapping, sexual assault, extortion, burglary, unauthorized control of propelled vehicle, and criminal property damage. This subsection does not apply to tenant's guest or other person under tenant's control;
 - (9) Flees 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;
 - (10) Violates a condition of probation or parole imposed under federal or state law; or
 - (11) Engages in [~~willful~~] willful damage to the authority's property.
- (c) The authority shall give a tenant written notice of the proposed termination of the rental agreement that conforms to 24 C.F.R. §966.4 as it existed on [~~March 28, 2013~~] October 20, 2022, such as:
- (1) Fourteen days in the case of failure to pay rent except for nonpayment of minimum rent during the ninetyday period beginning the

month following the family's request for a financial hardship exemption pursuant to section 17-2028-61(b);

- (2) A reasonable time commensurate with the exigencies of the situation in the case of creation or maintenance of a threat to the health or safety of other tenants or project employees; or
- (3) Thirty days in all other cases.

The authority shall terminate a rental agreement in accordance with chapter 356D, HRS.

(d) The authority may terminate a rental agreement if any member of the family engages in the use of marijuana, even if pursuant to a lawful prescription under part IX of the Hawaii uniform controlled substances act as it existed on ~~[March 28, 2013]~~ October 20, 2022. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22;

am and comp] (Auth: 24 C.F.R. §966.4; §§356D-4, 356D-13; 356D-98) (Imp: 24 C.F.R. §966.4; HRS §§356D-4, 356D-13, 356D-31, 356D-92)

§17-2028-60 Smoking prohibited. (a) Smoking is prohibited in all public housing projects, or portions of public housing projects, including inside dwelling units, unless specifically exempted by the authority in the ACOP, including:

- (1) In all common areas, community facilities, administrative offices or maintenance areas in and around the authority's public housing projects, including vehicles owned or leased by the authority. The authority may designate additional common areas ~~[in the ACOP]~~; and
- (2) Within a presumptively reasonable minimum distance of twenty five feet from entrances, exits, and windows that open to common areas, community facilities, and dwelling units, and ventilation intakes that serve

common areas, community facilities, and dwelling units, including enclosed or partially enclosed areas where smoking is prohibited.

(b) This prohibition applies to the use of marijuana, even if its use is pursuant to a lawful prescription under part IX of the Hawaii uniform controlled substances act as it existed on ~~[March 28, 2013]~~ October 20, 2022 that was given subsequent to tenant placement in the dwelling unit.

~~[(c) Where smoking is not prohibited in a dwelling unit pursuant to subsection (a) and the household includes a person who smokes as disclosed pursuant to section 17-2028-22, the family shall pay a non-refundable monthly fee of \$5.00.~~

~~(d) The authority may discontinue the monthly fee required in subsection (c) when a family can demonstrate to the authority reasonable cause to believe that no member of the household continues to smoke. For the purposes of this subsection:~~

- ~~(1) "Reasonable cause to believe" means by a preponderance of the evidence; and~~
- ~~(2) In determining whether to discontinue charging the monthly fee, the authority may consider completion of a smoking cessation program.] [Eff and comp 5/24/14, am and comp 1/20/19; comp 2/17/22; am and comp] (Auth: §§356D-4, 356D-6.5, 356D-13, 328J-2) (Imp: 24 C.F.R. §§903.7, 966.3; HRS §§356D-4, 356D-6.5, SLH 2018, Act 127, §1, 356D-13, 356D-31)~~

SUBCHAPTER 5

RENTS, SECURITY DEPOSITS, and OTHER CHARGES

§17-2028-61 Minimum rents. (a) There is established a minimum rent of \$50.00 per month.

(b) The authority shall grant an exemption from payment of minimum rent if the family is unable to pay the minimum rent because of financial hardship attributable only to the following situations:

- (1) The family has lost eligibility for or is awaiting an eligibility determination for a Federal, State, or local assistance program;
- (2) The family would be evicted because it is unable to pay the minimum rent;
- (3) The income of the family has decreased because of changed circumstances, including loss of employment;
- (4) A death has occurred in the family; and
- (5) Other circumstances determined by the authority or HUD.

(c) If a family requests a financial hardship exemption, the authority shall suspend the minimum rent requirement beginning the month following the family's request for a hardship exemption, and continuing until the authority determines whether there is a qualifying financial hardship and whether it is temporary or long term.

(d) When the authority determines that a qualifying financial hardship is temporary, the authority shall reinstate the minimum rent from the beginning of the suspension of the minimum rent ninety days after receiving the exemption request. The authority shall offer a reasonable payment arrangement to the family to ensure payment in full of any back charges.

(e) When the authority determines a qualifying financial hardship is long term, the authority shall exempt the family from the minimum rent requirements

so long as such hardship continues. Such exemption shall apply from the beginning of the month following the family's request for a hardship exemption until the end of the qualifying financial hardship.

(f) When the authority determines that there is no qualifying financial hardship exemption, the authority shall reinstate the minimum rent, including back rent owed from the beginning of the suspension. The family shall be responsible for back charges as established in section 17-2028-58 and shall not be eligible for payment arrangements as provided under section 17-2028-58(b). [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. 5.630; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-62 Choice of rent. Once a year, the authority shall give each family the opportunity to choose between two methods of determining the monthly tenant rent. The family may choose to pay either a flat rent or income-based rent.

(a) The flat rent shall be the fair market rents ("FMRs") that are determined by HUD, at least annually, pursuant to 24 C.F.R. §888.113 as it existed on [~~March 28, 2013~~] October 20, 2022. These FMRs, which include utilities (exclusive of telephone and cable television), are established for dwelling units of various bedroom sizes. Because the FMRs are determined by HUD and the authority has no discretion to amend or change the FMRs, the FMRs shall be established without a public hearing as provided in Section 91-3(d), HRS.

(b) The income-based rent is based on thirty per cent of the family's monthly adjusted income or ten per cent of the family's monthly income, or the minimum rent set forth in section 17-2028-61, whichever is greater.

- (1) The income-based rent does not include charges for excess utility consumption or other charges.

- (2) The income-based rent shall not exceed the total tenant payment pursuant to 24 C.F.R. §5.628 as it existed on [~~March 28, 2013~~] October 20, 2022, for the family minus any applicable utility allowance for tenant-paid utilities. If the utility allowance exceeds the total tenant payment, the authority shall pay such excess amount (the utility reimbursement) either to the family or directly to the utility supplier to pay the utility bill on behalf of the family. If the authority pays the utility supplier, the authority shall notify the family of the amount of the utility reimbursement paid to the supplier.
- (3) For purposes of establishing the income-based rent, the authority shall exclude from annual income the earned income of previously unemployed family members and increases in earnings of a family member during participation in any economic self-sufficiency or other job training program as provided for in 24 C.F.R. §960.255 as it existed on [~~March 28, 2013~~] October 20, 2022 and the PHA plan.

(c) If a family is unable to pay the flat rent because of financial hardship, the family may at any time request a switch to payment of income-based rent prior to the next annual option to select the type of rent. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §356D-15) (Imp: HRS §§356D-4, 356D-13; 24 C.F.R. §§5.628, 960.253, 960.255; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-63 Security deposits. (a) Prior to admission to a housing project, a family shall pay a security deposit in an amount not to exceed one month's rent. The security deposit may be applied to rent or

used to repay charges owed to the authority upon the termination of the rental agreement.

~~(b) [Where smoking is not prohibited in a dwelling unit pursuant to section 17-2028-60(c) and the household includes a person who smokes as disclosed pursuant to section 17-2028-22, the family shall pay an initial refundable smoking deposit of \$75.00.]~~

~~(c)]~~ The authority may charge a non-refundable community facilities maintenance fee of not less than one per cent of the community facilities expenses for rental and use for private functions. Resident associations that are duly recognized by the authority shall be exempt from the payment of this deposit.
[Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp]
(Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §966.4; HRS §§356D-4, 356D-13, 356D-31).

§17-2028-64 Other Charges. The authority may charge a family, in addition to monthly rent and applicable utility charges, the following:

(a) A late fee of \$25.00 if the monthly rent is paid after the seventh business day of that month;

(b) A dishonored check fee of \$25.00 for every check made payable to the authority that is returned for insufficient funds; and

(c) Maintenance costs which includes repair costs related to damages to the dwelling unit or appliances or equipment furnished by the authority, in excess of ordinary wear and tear, and for any repairs to project buildings, facilities, or common areas required because of the wrongful act or negligence of the family or the family's guest or visitor.

[Eff 5/24/14; comp 1/20/19; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §966.4; HRS §§356D-4, 356D-13, 356D-31).

SUBCHAPTER 6

FAMILY SELF-SUFFICIENCY PROGRAM

§17-2028-71 Family self-sufficiency program.

The objective of the authority's family self-sufficiency (FSS) program is to reduce the dependency of low-income families on welfare assistance, section 8, public housing, or any federal, state, or local rent or homeownership subsidies. Under the family self-sufficiency program, low-income families are provided opportunities for education, job training, counseling, and other forms of social service assistance, while living in assisted housing, so that they may obtain the education, employment, and business and social skills necessary to achieve self-sufficiency. [Eff 7/21/05; am and comp 9/4/07; comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. Part 984; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-72 Eligibility. (a) Tenants in the authority's federal public housing program are eligible to participate in the family self-sufficiency program.

(b) Preference shall be given to applicants who already receive family self-sufficiency-related support services for fifty per cent or less of the allocations. [Eff 7/21/05; am and comp 9/4/07; comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. Part 984; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-73 Recruitment and outreach. (a) The authority shall conduct outreach programs to recruit participants for the family self-sufficiency program.

- (b) Outreach efforts may include the following:
- (1) Sending informational brochures to each family participating in the authority federal public housing program;
 - (2) Conducting orientation sessions for families who express an interest in participating in the family self-sufficiency program; and
 - (3) Identifying and targeting potential families in the authority's caseloads.

[Eff 7/21/05; am and comp 9/4/07; comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. Part 984; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-74 Selection. (a) Families will be selected without regard to race, color, religion, sex, disability, gender identity, sexual orientation, familial status, or national origin.

(b) Families will be selected by date of receipt of the family self-sufficiency application.

(c) In the event there are more applicants than family self-sufficiency allocations available, the authority shall conduct a lottery to determine placement on the waiting list.

(d) Initially, up to twenty-five tenants may be selected to participate in the family self-sufficiency program. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. Part 984; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-75 Termination or withholding of service. (a) The authority shall monitor and assess the family self-sufficiency participant's progress and

compliance with the goals set forth in the contract of participation. When the authority determines that the family self-sufficiency participant is not making progress or complying with the goals of the contract of participation, the authority shall notify the family self-sufficiency participant of such determination and provide the family self-sufficiency participant six months to demonstrate compliance with the plan of the contract of participation.

(b) If no progress has been made or the family self-sufficiency participant is still not complying with the contract of participation after the six-month period, the authority shall provide the family self-sufficiency participant with a written notice of intent to terminate or withhold services and of the opportunity to request an informal hearing.

[Eff 7/21/05; am and comp 9/4/07; comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. Part 984; HRS §§356D-4, 356D-13, 356D-31)

SUBCHAPTER 7

SPECIAL PROGRAMS

§17-2028-81 Special programs. The authority may administer programs that are created for special or specific purposes to benefit specific categories of persons pursuant to HUD regulations governing those programs. This may include selection from wait lists and lists of participants using criteria that are different from those provided in this chapter.
 [Eff 7/21/05; am and comp 9/4/07; comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. 960.505; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-82 Occupancy by police officers.

(a) ~~[For purposes of this section, "police officer" means a person determined by the authority to be, during the period of residence of that person in public housing, employed on a full-time basis as a duly licensed professional police officer by a federal, State or local government or by any agency of these governments.~~

~~(b)]~~ For the purpose of increasing security for tenants of a public housing project, the authority may allow police officers that would not otherwise be eligible for occupancy in public housing, to reside in a public housing dwelling unit.

(c) The authority shall include in the PHA annual plan or supporting documents the number and location of the dwelling units to be occupied by police officers, and the terms and conditions of their tenancies; and a statement that such occupancy is needed to increase security for public housing tenants.

§17-2028-82

(d) Occupancy by police officers shall be carried out pursuant to 24 C.F.R. §960.505, as it existed on [~~March 28, 2013~~] October 20, 2022. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §960.505; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-83 Designated housing. (a) The authority may designate public housing projects, or portions of public housing projects, for occupancy by disabled families, elderly families, or mixed populations of disabled and elderly families.

(b) The authority shall designate public housing projects, or portions of public housing projects in accordance with 24 C.F.R. Part 945 as it existed on [~~March 28, 2013~~] October 20, 2022. The authority shall also include a description of the designation activity in the PHA plan. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; am and comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. Part 945; HRS §§356D-4, 356D-13, 356D-31)

SUBCHAPTER 8

HOUSEHOLD PETS

§17-2028-91 Pet ownership. (a) The authority may permit pet ownership by tenants of public housing, subject to compliance with the authority's pet policy established in the PHA plan.

(b) This subchapter does not apply to animals that assist, support or provide service to persons with disabilities. [Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: 24 C.F.R. §§960.705, 960.707; HRS §§356D-4, 356D-13, 356D-31)

§17-2028-92 Conditions for pet ownership.

(a) A tenant shall comply with the authority's reasonable conditions for pet ownership that include, but are not limited to, the following:

- (1) Obtaining a permit from the authority to own a pet pursuant to the requirements set forth in the authority's pet policy established in the PHA plan; and
- (2) Complying with the authority's rules for pet ownership.

(b) The authority may revoke a pet permit for the following reasons:

- (1) The authority determines that the pet is not properly cared for;
- (2) The pet presents a threat to the safety and security of other tenants, employees of the authority, contractors and others on the premises;
- (3) The pet is destructive or causes an infestation;

- (4) The pet disturbs other tenants for reasons including, but not limited to, noise, odor, cleanliness, sanitation, and allergic reactions;
- (5) The pet owner fails to provide an annual update on the pet as required in the pet rules;
- (6) The resident association or project pet committee, which consists of tenants with and without a pet, recommends to the authority that the pet permit be revoked due to a demonstrated lack of cooperation and responsibility in maintaining the pet; or
- (7) Tenant fails to pay on a timely basis the following applicable pet fees:
 - (A) An initial pet deposit of \$75.00 or an amount equal to the total tenant payment, whichever is lower; and
 - (B) For owners of a dog or cat, a non-refundable monthly fee of \$5.00. This fee shall not apply to residents of projects for the elderly and persons with disabilities.

[Eff 7/21/05; am and comp 9/4/07; am and comp 5/24/14;
comp 1/20/19; comp 2/17/22;
comp] (Auth: HRS §§356D-4, 356D-13)
(Imp: 24 C.F.R. §§5.318, 960.705, 960.707; HRS
§§356D-4, 356D-13, 356D-31)

SUBCHAPTER 9

MISCELLANEOUS PROVISIONS

§17-2028-101 Severability. If any part, section, sentence, clause, or phrase of this chapter, or its application to any person or transaction or other circumstances, is for any reason held to be unconstitutional or invalid, the remaining parts, sections, sentences, clauses, and phrases of this chapter, or the application of this chapter to other persons or transactions or circumstances, shall not be affected. [Eff 7/21/05; am and comp 9/4/07; comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §§356D-4, 356D-13) (Imp: HRS §1-23)

§17-2028-102 Number and gender. Words in the singular or plural number and masculine gender shall have the same meaning as defined in section 1-17, HRS." [Eff 7/21/05; am and comp 9/4/07; comp 5/24/14; comp 1/20/19; comp 2/17/22; comp] (Auth: HRS §356D-4, 356D-13) (Imp: HRS §1-17)

2. Material, except source notes and other, to be repealed is bracketed and stricken. New material is underscored.
3. Additions to update source notes and other notes to reflect these amendments and compilation are not underscored.
4. These amendments to and compilation of Chapter 17-2028, Hawaii Administrative Rules shall take effect ten days after filing with the Office of the Lieutenant Governor.

I certify that the foregoing are copies of the rules, drafted in the Ramseyer format pursuant to the requirements of section 91-4.1, Hawaii Revised Statutes, which were adopted on _____ and filed with the Office of the Lieutenant Governor.

Robert J. Hall, Chairperson
Board of Directors
Hawaii Public Housing Authority

APPROVED AS TO FORM:

Deputy Attorney General

Filed: _____

EXHIBIT A

OCCUPANCY GUIDELINES

The authority does not determine who shares a bedroom/sleeping room, but there must be at least one person per bedroom. The Occupancy Guidelines for determining dwelling unit size shall be applied in a manner consistent with Fair Housing guidelines.

For occupancy guidelines, an adult is a person 18 years or older.

All guidelines relate to the number of bedrooms in the dwelling unit. Dwelling units will be so assigned that:

One bedroom will be generally assigned for every two family members. The authority shall consider factors such as family characteristics including sex, age, or relationship, the number of bedrooms and the size of sleeping areas or bedrooms and the overall size of the dwelling unit. Consideration shall also be given for medical reasons and the presence of a live-in aide.

Single person families shall be allocated one bedroom.

GUIDELINES FOR DETERMINING BEDROOM SIZE FOR WAIT LIST

Bedroom Size	Persons in Household: <u>(Minimum #)</u>	Persons in Household: <u>(Maximum #)</u>
0 Bedroom	1	1
1 Bedroom	1	2
2 Bedrooms	2	4
3 Bedrooms	3	6
4 Bedrooms	4	8
5 Bedrooms	6	10