

Chapter 9

REEXAMINATIONS

[24 CFR 960.257, 960.259, 966.4]

INTRODUCTION

The HACB is required to reexamine each family's income and composition periodically, and to adjust the family's rent accordingly. HACBs must adopt policies for conducting annual and interim reexaminations that are consistent with regulatory requirements, and must conduct reexaminations in accordance with such policies [24 CFR 960.257(c)].

The frequency with which the HACB must reexamine the income and composition of a family depends on whether the family pays income-based rent or flat rent. HUD requires the HACB to offer all families the choice of paying income-based rent or flat rent at least annually. The HACB's policies for offering families a choice of rents are located in Chapter 6.

This chapter discusses both annual and interim reexaminations.

Part I: Annual Reexaminations for Families Paying Income Based Rents. This part discusses the requirements for annual reexamination of income and family composition. Full reexaminations are conducted at least once a year for families paying income-based rents.

Part II: Reexaminations for Families Paying Flat Rents. This part contains the HACB's policies for conducting full reexaminations of family income and composition for families paying flat rents. These full reexaminations are conducted at least once every 3 years. This part also contains the HACB's policies for conducting annual updates of family composition for flat rent families.

Part III: Interim Reexaminations. This part includes HUD requirements and HACB policies related to when a family may and must report changes that occur between annual reexaminations.

Part IV: Recalculating Tenant Rent. After gathering and verifying required information for an annual or interim reexamination, the HACB must recalculate the tenant rent. While the basic policies that govern these calculations are provided in Chapter 6, this part describes the policies that affect these calculations during a reexamination.

Policies governing reasonable accommodation, family privacy, required family cooperation, and program abuse, as described elsewhere in this ACOP, apply to annual and interim reexaminations.

PART I: ANNUAL REEXAMINATIONS FOR FAMILIES PAYING INCOME-BASED RENTS [24 CFR 960.257]

9-I.A. OVERVIEW

For those families who choose to pay income-based rent, the HACB must conduct a reexamination of income and family composition at least annually [24 CFR 960.257(a)(1)]. For families who choose flat rents, the HACB must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. Policies related to the reexamination process for families paying flat rent are located in Part II of this chapter.

For all residents of public housing, whether those residents are paying income-based or flat rents, the HACB must conduct an annual review of community service requirement compliance. This annual reexamination is also a good time to have residents sign consent forms for criminal background checks in case the criminal history of a resident is needed at some point for the purposes of lease enforcement or eviction.

The HACB is required to obtain all of the information necessary to conduct reexaminations. How that information will be collected is left to the discretion of the HACB. Families are required to provide current and accurate information on income, assets, allowances and deductions, family composition and community service compliance as part of the reexamination process [24 CFR 960.259].

This part contains the HACB's policies for conducting annual reexaminations.

9-I.B STREAMLINED ANNUAL REEXAMINATIONS [24 CFR 960.257]

HUD permits HACBs to streamline the income determination process for family members with fixed sources of income. While third-party verification of all income sources must be obtained during the intake process and every three years thereafter, in the intervening years the HACB may determine income from fixed sources by applying a verified cost of living adjustment (COLA) or rate of interest. The HACB may, however, obtain third-party verification of all income, regardless of the source. Further, upon request of the family, the HACB must perform third-party verification of all income sources.

Fixed sources of income include Social Security and SSI benefits, pensions, annuities, disability or death benefits, and other sources of income subject to a COLA or rate of interest. The determination of fixed income may be streamlined even if the family also receives income from other non-fixed sources.

HACB Policy

The HACB will streamline the annual reexamination process by applying the verified COLA or interest rate to fixed-income sources. The HACB will document in the file how the determination that a source of income was fixed was made.

If a family member with a fixed source of income is added, the HACB will use third-party verification of all income amounts for that family member.

If verification of the COLA or rate of interest is not available, the HACB will obtain third-party verification of income amounts.

Third-party verification of fixed sources of income will be obtained during the intake process and at least once every three years thereafter.

9-I.C. SCHEDULING ANNUAL REEXAMINATIONS

The HACB must establish a policy to ensure that the annual reexamination for each family paying an income-based rent is completed within a 12 month period [24 CFR 960.257(a)(1)].

HACB Policy

Generally, the HACB will schedule annual reexaminations to coincide with the family's anniversary date. The HACB will begin the annual reexamination process approximately 120 days in advance of the scheduled effective date.

Anniversary date is defined as 12 months from the effective date of the family's last annual reexamination or, during a family's first year in the program, from the effective date of the family's initial examination (admission).

If the family transfers to a new unit, the HACB will perform a new annual reexamination, and the anniversary date will be changed.

The HACB may also schedule an annual reexamination for completion prior to the anniversary date for administrative purposes.

Notification of and Participation in the Annual Reexamination Process

The HACB is required to obtain information needed to conduct annual reexaminations. How that information will be collected is left to the discretion of the HACB. However, HACBs should give tenants who were not provided the opportunity to provide contact information at the time of admission the option to complete Form HUD-92006 at this time. The HACB should provide the family with the opportunity to update, change, or remove information from the HUD-92006 at the time of the annual reexamination [Notice PIH 2009-36].

HACB Policy

Families generally are required to participate in an annual reexamination interview, which must be attended by the head of household, spouse, or cohead. If participation in an in-person interview poses a hardship because of a family member's disability, the family should contact the HACB to request a reasonable accommodation.

Notification of annual reexamination interviews will be sent by first-class mail and will contain the date, time, and location of the interview. In addition, it will inform the family of the information and documentation that must be brought to the interview.

If the family is unable to attend a scheduled interview, the family should contact the HACB in advance of the interview to schedule a new appointment. In all circumstances, if a family does not attend the scheduled interview the HACB will send a second notification with a new interview appointment time.

If a family fails to attend two scheduled interviews without HACB approval, the family will be in violation of their lease and may be terminated and shall be charged the flat rent amount in accordance with the policies in Chapter 13.

An advocate, interpreter, or other assistant may assist the family in the interview process.

9-I.D. CONDUCTING ANNUAL REEXAMINATIONS

The terms of the public housing lease require the family to furnish information regarding income and family composition as may be necessary for the redetermination of rent, eligibility, and the appropriateness of the housing unit [24 CFR 966.4(c)(2)].

HACB Policy

Families will be asked to bring all required information (as described in the reexamination notice) to the reexamination appointment. The required information will include a HACB-designated reexamination form, an Authorization for the Release of Information/Privacy Act Notice, as well as supporting documentation related to the family's income, expenses, and family composition.

Any required documents or information that the family is unable to provide at the time of the interview must be provided within 10 business days of the interview. If the family is unable to obtain the information or materials within the required time frame, the family may request an extension.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

The information provided by the family generally must be verified in accordance with the policies in Chapter 7. Unless the family reports a change, or the agency has reason to believe a change has occurred in information previously reported by the family, certain types of information that are verified at admission typically do not need to be re-verified on an annual basis. These include:

- Legal identity
- Age
- Social security numbers
- A person's disability status
- Citizenship or immigration status

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The HACB may use the results of the annual reexamination to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)(1)(ii)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

HACB Policy

Each household member age 18 and over will be required to execute a consent form for a criminal background check as part of the annual reexamination process.

Additionally, HUD recommends that at annual reexaminations HACBs ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state [Notice PIH 2012-28].

HACB Policy

At the annual reexamination, the HACB will ask whether the tenant, or any member of the tenant's household, is subject to a lifetime sex offender registration requirement in any state. The HACB will use the Dru Sjodin National Sex Offender database to verify the information provided by the tenant.

If the HACB proposes to terminate assistance based on lifetime sex offender registration information, the HACB must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to termination. [24 CFR 5.903(f) and 5.905(d)]. (See Chapter 13.)

Compliance with Community Service

For families who include nonexempt individuals, the HACB must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the HACB's policies governing compliance with the community service requirement.

9-I.E. EFFECTIVE DATES

As part of the annual reexamination process, the HACB must make appropriate adjustments in the rent after consultation with the family and upon verification of the information [24 CFR 960.257(a)(1)].

HACB Policy

In general, an *increase* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date, and the family will be notified at least 30 days in advance.

If less than 30 days remain before the scheduled effective date, the increase will take effect on the first of the month following the end of the 30-day notice period.

If the HACB chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACB, but will always allow for the 30-day notice period.

If the family causes a delay in processing the annual reexamination, *increases* in the tenant rent will be applied retroactively, to the scheduled effective date of the annual reexamination. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

In general, a *decrease* in the tenant rent that results from an annual reexamination will take effect on the family's anniversary date.

If the HACB chooses to schedule an annual reexamination for completion prior to the family's anniversary date for administrative purposes, the effective date will be determined by the HACB.

If the family causes a delay in processing the annual reexamination, *decreases* in the tenant rent will be applied prospectively, from the first day of the month following completion of the reexamination processing.

Delays in reexamination processing are considered to be caused by the family if the family fails to provide information requested by the HACB by the date specified, and this delay prevents the HACB from completing the reexamination as scheduled.

PART II: REEXAMINATIONS FOR FAMILIES PAYING FLAT RENTS

[24 CFR 960.257(2)]

9-II.A. OVERVIEW

HUD requires that the HACB offer all families the choice of paying income-based rent or flat rent at least annually. The HACB's policies for offering families a choice of rents are located in Chapter 6.

For families who choose flat rents, the HACB must conduct a reexamination of family composition at least annually, and must conduct a reexamination of family income at least once every 3 years [24 CFR 960.257(a)(2)]. The HACB is only required to provide the amount of income-based rent the family might pay in those years that the HACB conducts a full reexamination of income and family composition, or upon request of the family after the family submits updated income information [24 CFR 960.253(e)(2)].

As it does for families that pay income-based rent, the HACB must also review compliance with the community service requirement for families with nonexempt individuals.

This part contains the HACB's policies for conducting reexaminations of families who choose to pay flat rents.

9-II.B. FULL REEXAMINATION OF FAMILY INCOME AND COMPOSITION

Frequency of Reexamination

HACB Policy

For families paying flat rents, the HACB will conduct a full reexamination of family income and composition once every 3 years.

Reexamination Policies

HACB Policy

In conducting full reexaminations for families paying flat rents, the HACB will follow the policies used for the annual reexamination of families paying income-based rent as set forth in Sections 9-I.B through 9-I.D above.

9-II.C. REEXAMINATION OF FAMILY COMPOSITION (“ANNUAL UPDATE”)

As noted above, full reexaminations are conducted every 3 years for families paying flat rents. In the years between full reexaminations, regulations require the HACB to conduct a reexamination of family composition (“annual update”) [24 CFR 960.257(a)(2)].

The annual update process is similar to the annual reexamination process, except that the HACB does not collect information about the family’s income and expenses, and the family’s rent is not recalculated following an annual update.

Scheduling

The HACB must establish a policy to ensure that the reexamination of family composition for families choosing to pay the flat rent is completed at least annually [24 CFR 960.257(a)(2)].

HACB Policy

For families paying flat rents, annual updates will be conducted in each of the 2 years following the full reexamination.

In scheduling the annual update, the HACB will follow the policy used for scheduling the annual reexamination of families paying income-based rent as set forth in Section 9-I.B. above.

Conducting Annual Updates

The terms of the public housing lease require the family to furnish information necessary for the redetermination of rent and family composition [24 CFR 966.4(c)(2)].

HACB Policy

Generally, the family will not be required to attend an interview for an annual update. However, if the HACB determines that an interview is warranted, the family may be required to attend.

Notification of the annual update will be sent by first-class mail and will inform the family of the information and documentation that must be provided to the HACB. The family will have 10 business days to submit the required information to the HACB. If the family is unable to obtain the information or documents within the required time frame, the family may request an extension. The HACB will accept required documentation by mail, by fax, or in person.

If the family’s submission is incomplete, or the family does not submit the information in the required time frame, the HACB will send a second written notice to the family. The family will have 10 business days from the date of the second notice to provide the missing information or documentation to the HACB.

If the family does not provide the required documents or information within the required time frame (plus any extensions), the family will be in violation of their lease and may be terminated in accordance with the policies in Chapter 13.

Change in Unit Size

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. The HACB may use the results of the annual update to require the family to move to an appropriate size unit [24 CFR 960.257(a)(4)]. Policies related to such transfers are located in Chapter 12.

Criminal Background Checks

Information obtained through criminal background checks may be used for lease enforcement and eviction [24 CFR 5.903(e)]. Criminal background checks of residents will be conducted in accordance with the policy in Section 13-IV.B.

HACB Policy

Each household member age 18 and over will be required to execute a consent form for criminal background check as part of the annual update process.

Compliance with Community Service

For families who include nonexempt individuals, the HACB must determine compliance with community service requirements once each 12 months [24 CFR 960.257(a)(3)].

See Chapter 11 for the HACB's policies governing compliance with the community service requirement.

PART III: INTERIM REEXAMINATIONS [24 CFR 960.257; 24 CFR 966.4]

9-III.A. OVERVIEW

Family circumstances may change during the period between annual reexaminations. HUD and HACB policies define the types of information about changes in family circumstances that must be reported, and under what circumstances the HACB must process interim reexaminations to reflect those changes. HUD regulations also permit the HACB to conduct interim reexaminations of income or family composition at any time.

In addition to specifying what information the family must report, HUD regulations permit the family to request an interim determination if other aspects of the family's income or composition change. The HACB must complete the interim reexamination within a reasonable time after the family's request.

This part includes HUD and HACB policies that describe the changes families are *required* to report, the changes families *may choose* to report, and how the HACB will process both HACB- and family-initiated interim reexaminations.

9-III.B. CHANGES IN FAMILY AND HOUSEHOLD COMPOSITION

The HACB must adopt policies prescribing when and under what conditions the family must report changes in family composition. However, due to provisions of the public housing lease, the HACB has limited discretion in this area.

Changes in family or household composition may make it appropriate to consider transferring the family to comply with occupancy standards. Policies related to such transfers are located in Chapter 12.

HACB Policy

All families, those paying income-based rent as well as flat rent, must report all changes in family and household composition that occur between annual reexaminations (or annual updates).

The HACB will conduct interim reexaminations to account for any changes in household composition that occur between annual reexaminations.

New Family Members Not Requiring Approval

The addition of a family member as a result of birth, adoption, or court-awarded custody does not require HACB approval. However, the family is required to promptly notify the HACB of the addition [24 CFR 966.4(a)(1)(v)].

HACB Policy

The family must inform the HACB of the birth, adoption, or court-awarded custody of a child within 10 business days.

New Family and Household Members Requiring Approval

With the exception of children who join the family as a result of birth, adoption, or court-awarded custody, a family must request HACB approval to add a new family member [24 CFR 966.4(a)(1)(v)] or other household member (live-in aide or foster child) [24 CFR 966.4(d)(3)].

The HACB may adopt reasonable policies concerning residence by a foster child or a live-in aide, and defining the circumstances in which HACB consent will be given or denied. Under such policies, the factors considered by the HACB may include [24 CFR 966.4(d)(3)(i)]:

- Whether the addition of a new occupant may necessitate a transfer of the family to another unit, and whether such units are available.
- The HACB's obligation to make reasonable accommodation for persons with disabilities.

HACB Policy

Families must request HACB approval to add a new family member, live-in aide, foster child, or foster adult. This includes any person not on the lease who is expected to stay in the unit for more than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period and therefore no longer qualifies as a "guest." Requests must be made in writing and approved by the HACB prior to the individual moving into the unit.

If adding a person to a household (other than a child by birth, adoption, or court-awarded custody) will require a transfer to a larger size unit (under the transfer policy in Chapter 12), the HACB will approve the addition only if the family can demonstrate that there are medical needs or other extenuating circumstances, including reasonable accommodation, that should be considered by the HACB. Exceptions will be made on a case-by-case basis.

The HACB will not approve the addition of a new family or household member unless the individual meets the HACB's eligibility criteria (see Chapter 3) and documentation requirements (See Chapter 7, Part II).

If the HACB determines that an individual does not meet the HACB's eligibility criteria or documentation requirements, the HACB will notify the family in writing of its decision to deny approval of the new family or household member and the reasons for the denial.

The HACB will make its determination within 10 business days of receiving all information required to verify the individual's eligibility.

Departure of a Family or Household Member

HACB Policy

If a family member ceases to reside in the unit, the family must inform the HACB within 10 business days. This requirement also applies to family members who had been considered temporarily absent, who are now permanently absent.

If a live-in aide, foster child, or foster adult ceases to reside in the unit, the family must inform the HACB within 10 business days.

9-III.C. CHANGES AFFECTING INCOME OR EXPENSES

Interim reexaminations can be scheduled either because the HACB has reason to believe that changes in income or expenses may have occurred, or because the family reports a change. When a family reports a change, the HACB may take different actions depending on whether the family reported the change voluntarily, or because it was required to do so.

HACB Policy

This section only applies to families paying income-based rent. Families paying flat rent are not required to report changes in income or expenses.

HACB-initiated Interim Reexaminations

HACB-initiated interim reexaminations are those that are scheduled based on circumstances or criteria defined by the HACB. They are not scheduled because of changes reported by the family.

HACB Policy

The HACB will conduct interim reexaminations in each of the following instances:

For families receiving the Earned Income Disallowance (EID), the HACB will conduct an interim reexamination at the start, to adjust the exclusion with any changes in income, and at the conclusion of the 24-month eligibility period.

If the family has reported zero income, the HACB will conduct an interim reexamination every 3 months as long as the family continues to report that they have no income.

If at the time of the annual reexamination, it is not feasible to anticipate a level of income for the next 12 months (e.g. seasonal or cyclic income), the HACB will schedule an interim reexamination to coincide with the end of the period for which it is feasible to project income.

If at the time of the annual reexamination, tenant declarations were used on a provisional basis due to the lack of third-party verification, and third-party verification becomes available, the HACB will conduct an interim reexamination.

The HACB may conduct an interim reexamination at any time in order to correct an error in a previous reexamination, or to investigate a tenant fraud complaint.

Family-Initiated Interim Reexaminations

The HACB must adopt policies prescribing when and under what conditions the family must report changes in family income or expenses [24 CFR 960.257(c)]. In addition, HUD regulations require that the family be permitted to obtain an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)].

Required Reporting

HUD regulations give the HACB the discretion to determine the circumstances under which families will be required to report changes affecting income.

HACB Policy

Families are required to report all increases in earned income, including new employment, within 10 business days of the date the change takes effect.

The HACB will only conduct interim reexaminations for families that qualify for the earned income disallowance (EID), and only when the EID family's rent will change as a result of the increase. In all other cases, the HACB will note the information in the tenant file, but will not conduct an interim reexamination.

Families are not required to report any other changes in income or expenses.

Optional Reporting

The family may request an interim reexamination any time the family has experienced a change in circumstances since the last determination [24 CFR 960.257(b)]. The HACB must process the request if the family reports a change that will result in a reduced family income [PH Occ GB, p. 159].

If a family reports a decrease in income from the loss of welfare benefits due to fraud or non-compliance with a welfare agency requirement to participate in an economic self-sufficiency program, the family's share of the rent will not be reduced [24 CFR 5.615]. For more information regarding the requirement to impute welfare income see Chapter 6.

HACB Policy

If a family reports a change that it was not required to report and that would result in an increase in the tenant rent, the HACB will note the information in the tenant file, but will not conduct an interim reexamination.

If a family reports a change that it was not required to report and that would result in a decrease in the tenant rent, the HACB will conduct an interim reexamination. See Section 9-III.D. for effective dates.

Families may report changes in income or expenses at any time.

9-III.D. PROCESSING THE INTERIM REEXAMINATION

Method of Reporting

HACB Policy

The family may notify the HACB of changes either orally or in writing. If the family provides oral notice, the HACB may also require the family to submit the changes in writing.

Generally, the family will not be required to attend an interview for an interim reexamination. However, if the HACB determines that an interview is warranted, the family may be required to attend.

Based on the type of change reported, the HACB will determine the documentation the family will be required to submit. The family must submit any required information or documents within 10 business days of receiving a request from the HACB. This time frame may be extended for good cause with HACB approval. The HACB will accept required documentation by mail, by fax, or in person.

Effective Dates

The HACB must make the interim reexamination within a reasonable time after the family request [24 CFR 960.257(b)].

HACB Policy

If the tenant rent is to *increase*:

The increase generally will be effective on the first of the month following 30 days' notice to the family.

If a family fails to report a change within the required time frames, or fails to provide all required information within the required time frames, the increase will be applied retroactively, to the date it would have been effective had the information been provided on a timely basis. The family will be responsible for any underpaid rent and may be offered a repayment agreement in accordance with the policies in Chapter 16.

If the tenant rent is to *decrease*:

The decrease will be effective on the first day of the month following the month in which the change was reported. In cases where the change cannot be verified until after the date the change would have become effective, the change will be made retroactively.

PART IV: RECALCULATING TENANT RENT

9-IV.A. OVERVIEW

For those families paying income-based rent, the HACB must recalculate the rent amount based on the income information received during the reexamination process and notify the family of the changes [24 CFR 966.4, 960.257]. While the basic policies that govern these calculations are provided in Chapter 6, this part lays out policies that affect these calculations during a reexamination.

9-IV.B. CHANGES IN UTILITY ALLOWANCES [24 CFR 965.507, 24 CFR 966.4]

The tenant rent calculations must reflect any changes in the HACB's utility allowance schedule [24 CFR 960.253(c)(3)]. Chapter 16 discusses how utility allowance schedules are established.

HACB Policy

Unless the HACB is required to revise utility allowances retroactively, revised utility allowances will be applied to a family's rent calculations at the first annual reexamination after the allowance is adopted.

9-IV.C. NOTIFICATION OF NEW TENANT RENT

The public housing lease requires the HACB to give the tenant written notice stating any change in the amount of tenant rent, and when the change is effective [24 CFR 966.4(b)(1)(ii)].

When the HACB redetermines the amount of rent (Total Tenant Payment or Tenant Rent) payable by the tenant, not including determination of the HACB's schedule of Utility Allowances for families in the HACB's Public Housing Program, or determines that the tenant must transfer to another unit based on family composition, the HACB must notify the tenant that the tenant may ask for an explanation stating the specific grounds of the HACB determination, and that if the tenant does not agree with the determination, the tenant shall have the right to request a hearing under the HACB's grievance procedure [24 CFR 966.4(c)(4)].

HACB Policy

The notice to the family will include the annual and adjusted income amounts that were used to calculate the tenant rent.

9-IV.D. DISCREPANCIES

During an annual or interim reexamination, the HACB may discover that information previously reported by the family was in error, or that the family intentionally misrepresented information. In addition, the HACB may discover errors made by the HACB. When errors resulting in the overpayment or underpayment of rent are discovered, corrections will be made in accordance with the policies in Chapter 15.