

*Cross Reference:

10A. PROGRAM INTEGRITY POLICY

The Housing Authority of the County of Kern (HACK) is committed to the prevention, detection and elimination of Section 8 Program abuse and fraud. Accordingly, the following policies and procedures will be observed in the administration of the Section 8 Program by HACK staff.

10B. HANDLING OF INQUIRIES

Under no circumstances will an inquiry or investigation of an assisted family be undertaken arbitrarily. HACK's expectation is that assisted families will comply with HUD requirements and program rules, and that Section 8 staff will make every effort (formally and informally) to orient and educate all assisted families in order to avoid unintentional violations. However, HACK has a responsibility to HUD, the community and to eligible families in need of housing assistance, to monitor program Participants for compliance and, when indicators of possible abuse come to the attention of staff, to investigate such claims.

10C. INITIATION OF INVESTIGATION

Section 8 staff will initiate an investigation of a program Participant only in the event of one or more of the following circumstances. All allegations of fraud or program abuse to HACK will be referred to the Investigations Division for follow-up investigation.

1. Referrals, Complaints or Tips

The Section 8 staff will follow up on referrals from other agencies, companies or people which are received by mail, by telephone or in person, which allege that an assisted family is in non-compliance with, or otherwise violating program rules. Such follow-up will be made providing that the referral contains at least one item of information that is independently verifiable. A copy of the allegation will be placed in the tenant's file.

Housing Authority staff will, in all cases, request the name, telephone number, address, and relationship to the Participant family of the person making the referral, complaint, or tip and will retain such information. HACK will not solely

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base termination of a family's assistance on an anonymous tip.

2. Internal File Review

A follow-up will be made if HACK staff discovers (as, a function of a certification, an interim reevaluation, or a quality control review), information or facts that conflict with previous file data, the Section 8 staff member's knowledge of the family, or is inconsistent with statements made by the family.

3. Verification or Documentation

A follow-up will be made if the Section 8 Department receives independent verification or documentation that conflicts with representations in the tenant's file (such as public record information or credit bureau reports).

10D. PREVENTION OF SECTION PROGRAM ABUSE AND FRAUD

The management and occupancy staff will utilize various methods and practices (listed below) to prevent program abuse, non-compliance and willful violations of program rules by applicants, assisted families and landlords. The policy objective is to emphasize education as the primary means to obtain compliance by program Participants. The following actions will be taken by HACK staff.

1. Distribution of "Things YOU Should Know"

This program integrity bulletin (created by HUD's Inspector General) will be furnished and explained to all applicants and Participants to promote understanding of program rules and to clarify HACK's expectations for cooperation and compliance.

2. Program Briefing Session

Mandatory Briefings will be conducted by Section 8 staff for all applicants, either before or upon issuing a certificate of Family Participation or voucher. At the conclusion of all Briefings, the family representative will be required to sign a "Briefing Certification" to confirm that all rules and pertinent regulations were explained to him/her.

3. Owner/Landlord Orientation Session

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A Section 8 Workshop will be conducted at least annually for Section 8 owners agents in order to assure an understanding of owner, family and Section 8 obligations, and to prevent improper or illegal practices by owners agents.

4. Participant Counseling

Section 8 Department staff will routinely offer tenant counseling as a part of every re- certification interview in order to clarify any confusion pertaining to program rules and requirements.

5. Review and Explanation of Certification and other Supplemental Forms

Staff will explain all required forms and review the contents of all re-certification documents prior to signature.

6. Use of Instructive Signs and Warnings

Instructive signs will be conspicuously posted in common areas and interview areas to reinforce compliance with program rules and to warn about penalties for fraud and abuse.

7. Landlord and Tenant Certification

All family representatives will be required to sign a "Tenant Certification" form, and all Owners/Agents will be required to sign a "Landlord Certification" form as contained in HUD's Tenant Integrity Program Manual.

10E. ACTIONS TO DETECT PROGRAM ABUSE AND FRAUD

The Section 8 Department Staff will maintain a high level of awareness to indicators of possible abuse and fraud by assisted families and landlords.

1. Quality Control File Reviews

Each tenant file will be reviewed before initial certification, and at the completion of all later re-certifications. Such reviews shall include, but are not limited to:

- a. Changes in reported Social Security Numbers or dates of birth.
- b. Document authenticity.

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- c. Changes in reported income.
 - d. Family in family composition.
 - e. Review of signatures.
2. Observation
Section 8 Department staff (including inspectors) will maintain high awareness of circumstances, which may indicate program abuse or fraud; such as when a family's lifestyle drastically exceeds its reported income or resources.
- Public Record Bulletins may be reviewed by Section 8 Department staff to identify information which may indicate program non-compliance.
3. Owner/Landlord Audits
The Section 8 Department may conduct periodic random quality control audits of Section 8 owners to assure compliance with HAP contracts. Such audits may include, but are not limited to:
- a. Proof of ownership of assisted housing.
 - b. Rent collection receipts/records, Social Security Number/I.D. Number.
 - c. Maintenance/repair records.
 - d. An inspection of the housing.
4. State Wage Data Record Keepers
Inquiries to the State of California, Franchise Tax Board or other appropriate State agency, under Public Law 100-628, and the Stewart B. McKinley Homeless Assistance Amendments Act of 1988, may be made annually in order to detect unreported wages or unemployment compensation benefits of program Participants and applicants.
5. Credit Bureau Inquiries
Credit Bureau inquiries may be made (with proper authorization by the tenant)

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in the following circumstances:

- a. When an allegation is received by the Section 8 Department wherein unreported income sources are disclosed.
- b. When a tenant's expenditures drastically exceed his/her reported income, and no plausible explanation is given.

10F. HANDLING OF ALLEGATIONS OF POSSIBLE ABUSE AND FRAUD

The Section 8 Department staff will encourage program Participants to report suspected abuse to the Section 8 Department. All such referrals, as well as referrals from community members and other agencies, will be thoroughly documented and retained. Such documentation shall include at least the name, address, telephone number, and relationship to the Participant family of the person, agency, or entity making the referral, if provided by the reporting party.

All allegations, complaints and tips will be carefully evaluated in order to determine if they warrant follow-up. HACK will not follow up on allegations which are vague or otherwise non-specific. HACK will investigate only allegations that contain one or more independently verifiable facts. HACK staff shall document all efforts to independently verify facts and/or allegations and shall retain such documentation.

3. File Review.
A file review will be conducted to determine:
 - a. If the subject of the allegation is a program Participant.
 - b. If the allegation contains information not previously known to the Section 8 Department.
 - c. If HACK is the most appropriate authority to do a follow-up (more so than police or social services).
 - d. If the Participant's past behavior lends credibility to the allegation.
 - e. If there are any other corroborating complaints.
4. Conclusion of Preliminary Review

If, at the conclusion of the preliminary file review, there are facts contained in the allegation that conflict with the file data and are independently verifiable, HACK may undertake an investigation to determine if the allegation is true or false.

10G. INVESTIGATION OF ALLEGATIONS OF ABUSE AND FRAUD

When HACK has determined that an allegation or referral warrants follow-up, staff or the Investigator designated by the Executive Director to monitor program compliance may conduct the investigation. The steps taken will depend upon the nature of the allegation and may include, but are not limited to, the items listed below. In all cases, the Section 8 Department will secure the written authorization from the program Participant for the release of information.

In the event that HACK initiates proceedings to terminate assistance to the family based in whole or in part on such investigation, the family must be given the opportunity to examine before the hearing any documents that are directly relevant to the hearing. The family must be allowed to copy any such document at the family's expense. If HACK does not make the document available for examination on request of the family, HACK may not rely on the document at the hearing.

1. Credit Bureau Inquiries (CBI)

In cases involving previously unreported income sources, a CBI may be made to determine if there is any financial activity which conflicts with the reported income of the family. In cases where the financial activity conflicts with file data, a Verification of Credit form may be mailed to the creditor in order to determine the unreported income source. Participants shall be provided copies of any documents obtained through such inquiry, if requested.

2. Employers and Ex-Employers

Employers or ex-employers may be contacted to verify wages which may have been previously undisclosed or misreported.

3. Neighbors/Witnesses

Neighbors and/or other witnesses who are believed to have direct or indirect knowledge of facts pertaining to HACK's review may be interviewed.

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4. Other Agencies

Investigators, case workers or representatives of other benefit agencies may be contacted.

5. Public Records

If relevant, HACK may review public records kept in any jurisdictional courthouse. Examples of public records which may be checked are: real estate, marriage, divorce, uniform commercial code financing statements, voter registration, judgments, court or police records, state wage records, postal records and/or any other legally accessible records.

6. Head of Household or Family Members

HACK may discuss the allegation (or details thereof) with the Head of Household or family member by scheduling an appointment at a HACK Office. HACK shall attempt to discuss the allegations with the Participant family prior to taking any disciplinary action, including but not limited to termination of assistance.

A high standard of courtesy and professionalism will be maintained by HACK staff who conduct such interviews. Under no circumstances will inflammatory language, accusations, or any unprofessional conduct or language be tolerated by the management or Participant(s). If possible, an additional staff person will attend such interviews.

10H. PLACEMENT OF DOCUMENTS, EVIDENCE AND STATEMENTS OBTAINED BY THE SECTION 8 DEPARTMENT

Documents and other evidence obtained by HACK during the course of an investigation will be considered "work product" and will be kept in a separate "work file." The work file shall be kept in a locked file cabinet. Such cases under review will not be discussed among Section 8 Department staff or with individuals outside the Section 8 Department. Cases will be treated as confidential information. The assigned Investigator will determine "need to know" and "right to know" in discussing cases with other staff. In the event that HACK initiates proceedings to terminate assistance to the family based in whole or in part on its investigation, the family must be given the opportunity to examine before the hearing any documents that are directly relevant to the hearing.

The family must be allowed to copy any such document at the family's expense. If HACK does not make the document available for examination on request of the family, HACK may not rely on the document at the hearing.

10I. CONCLUSION OF THE INVESTIGATIVE REVIEW

At the conclusion of the investigative review, the reviewer will report the findings to the Executive Director or designee. The Executive Director or designee then will determine whether a violation has or has not occurred, or if the facts are inconclusive.

Investigation findings will be evaluated to determine the following factors:

1. The type of violation. (Violations shall be classified as Procedural, non-compliance, or fraud as provided in Section 10J.)
2. Whether the violation was intentional or unintentional.
3. What amount of money (if any) is owed to HACK.
4. If the family is eligible for continued assistance.

10J. ACTIONS AND PROCEDURES FOR CURING DOCUMENTED VIOLATIONS

Once a program violation has been documented in accordance with the process described in Sections 10F-10I above, the violation type will determine the action taken by the Section 8 Department. Violations shall be classified in the following way:

1. Procedural Non-Compliance

This category applies when the Participant fails to observe a procedure or requirement of the Section 8 Program, but does not misrepresent a material fact, and there is not overpayment of housing assistance. Some examples of procedural noncompliance are:

- a. Failure to appear at re-scheduled appointment(s). A Participant or applicant who fails to appear for two (2) scheduled appointments and does not contact the office to notify staff of the inability to appear or to reschedule will be deemed in procedural non-compliance.
- b. Failure to return verifications and sign necessary documents in the time

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period specified by the Section 8 Department.

In cases of procedural non-compliance a Notice to the Family will be sent that contains the following:

- a. A description of the non-compliance and the procedure, policy or obligation which was violated.
- b. The date by which the violation must be corrected, or the procedure complied with.
- c. The action which will be taken by the Section 8 Department if the procedure or obligation is not complied with by the date specified by the Section 8 Department.
- d. The consequences of repeated (similar) violations.

2. Procedural Non-compliance for Overpaid Housing Assistance

When the Participant owes money to HACK for failure to report changes in income and/or assets, the Section 8 Department will issue a *Notice of Overpayment* that will contain the following:

- a. A description of the violation, including dates and amounts overpaid.
- b. The total amount HACK determines to be owed to HACK.
- c. A ten (10) business day response period in which the Participant may request an informal hearing.
- d. Notification of the right to an informal hearing with instructions for the request of such hearing.
- e. Notification of the Participant's rights in connection with the informal hearing, as provided in Chapter 11.

1. Participant Fails to Comply with Section 8 Department Notice

If the Participant fails to comply with the Section 8 Department Notice, and a family obligation has been violated, the Section 8 Department

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will terminate assistance in the manner prescribed by HUD.

2. Participant Complies with Section 8 Department Notice

When a Participant complies with the Section 8 Department Notice, the staff person responsible will meet with him/her to discuss and explain the obligation or procedure that was violated, and the consequences of future violations. The staff person will then complete a Participant Counseling Report, give one (1) copy to the family and retain a copy in the participant file.

3. Intentional Misrepresentations

When a participant falsifies, misstates, omits or otherwise misrepresents a material fact that results (or would have resulted) in an overpayment of housing assistance, HACK must establish:

- a. The participant had knowledge that his/her actions were not in compliance with Program requirements or policies. This can be demonstrated by showing that the Participant was made aware of program requirements and prohibitions. The Participant's signature on various certifications, briefing certificates, Personal Declaration and *Things You Should Know* show the Participants knowledge of Program requirements or policies.
- b. The Participant willfully violated the law.

Any of the following circumstances is adequate to demonstrate willful intent:

- (1) An admission by the Participant of misrepresentation.
- (2) The act was done repeatedly.
- (3) A false name or Social Security Number was used.
- (4) There were admissions to others of the illegal action or
- (5) omission.
- (6) The Participant omitted material facts that were known to
- (7) him/her (e.g., employment of self or other household
- (8) member).

- (9) The Participant falsified, forged or altered documents.

10K. Participant CONFERENCES

When the investigation has established that material misrepresentation(s) have occurred, a Participant Conference will be scheduled with the family representative and HACK staff who are the most knowledgeable about the circumstances of the case. This Conference will take place before any proposed action by the Section 8 Department unless Participant fails to cooperate and a Conference cannot take place or take place in a timely manner.

HACK shall notify the Participant in writing of the time and place of the Participant conference at least five (5) business days prior to the conference. Such notice shall also advise the Participant:

1. That the purpose of the conference is to review information obtained by HACK through its investigation and give the Participant an opportunity to explain any conflicts in the information obtained by HACK;
2. That HACK will determine the appropriate response to the material misrepresentation based in part upon the Conference;
3. That the Participant may present documents or other evidence in support of the Participant's position;
4. That, if English is not the Participant's primary language, the Participant may request an interpreter, which will be provided at HACK's expense in accordance with HACK's LEP; and
5. That the Participant may contact HACK to reschedule the conference if necessary
6. The Participant will be given seven (7) calendar days following the conference to furnish any mitigating circumstances

A secondary purpose of the Participant Conference is to assist the Section 8

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Department in determining the course of action most appropriate for the case. Before the final determination of the proposed action, the following shall be considered:

1. The duration of the violation and number of false statements.
2. The tenant's ability to understand the rules.
3. The tenant's willingness to cooperate, and to accept responsibility for his/her actions.
4. The amount of money involved (see Section 10L below for guidelines).
5. The tenant's past history.
6. Whether or not the Participant willfully violated the law
If HACK believes that the Participant may be incapable of understanding the program rules due to a disabling mental, physical, or emotional condition, HACK shall provide the Participant with the opportunity to engage in an interactive process with the Participant, in good faith, to attempt to reasonably accommodate such disabling condition to allow the Participant to continue receiving assistance.

10L. DISPOSITIONS OF CASES INVOLVING MISREPRESENTATIONS

In all cases of misrepresentations involving efforts to recover monies owed, the Investigations Division and Housing Administrator may elect, depending upon their evaluation of the criteria stated in Section 10K above, one or more of the actions listed in this section.

Before HACK takes any action involving termination or surrender of the Participant's rental assistance, the Participant is entitled to an informal hearing under the procedures described in Chapter 11.

1. Criminal Prosecution:
If the investigation has established criminal intent as defined in Section 10J(3)(b) above, and the case meets the criteria for prosecution, the staff may present the case to the Executive Director with a recommendation to:

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- a. Refer the case to the local State or District Attorney, notify HUD's Regional Inspector General Investigator (RIGI), and terminate rental assistance;

2. Administrative

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may elect to:

- a. Terminate assistance and pursue payment of restitution in full.
- b. Terminate assistance and execute an administrative repayment agreement per HACK's repayment policy.
- c. Continue assistance at the correct rent and demand repayment of restitution in full.
- d. Continue assistance at the correct rent and execute an administrative repayment agreement per HACK's repayment policy.

HACK adopts the following thresholds for the disposition of cases resulting in a monetary loss:

A. \$1 to \$499:

- (1) No criminal charges filed.
- (2) Required restitution from participant.
- (3) Allow participant to remain in the housing assistance program provided:
 - (a) Participant agrees to make restitution in full by paying full amount owed immediately or participant signs a restitution agreement and pays the amount owed within (4) months.
 - (b) Participant pays on a monthly basis and misses no payments unless the Housing Authority grants an extension on the payment schedule.

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- (c) Participant agrees to report all income and any changes in family composition with the understanding that any further violations will result in termination from the housing assistance program involved.
- (d) Any monies owed will become payable in full immediately if the participant is found to have committed fraud again.

B. \$500 to \$999:

1. Criminal charges under Section 487.1 (Theft by False Pretense) of the California Penal Code **may** be filed. All charges will be filed under Section 17 (Misdemeanor) of the Penal Code of the State of California.
2. Criminal charges can be tabled and the participant may be allowed to remain in the housing assistance program provided:
 - a. Make restitution in full by paying full amount owed immediately or participant signs a restitution agreement and pays the amount owed within one (1) year.
 - b. Participant pays on a monthly basis and misses no payments unless the Housing Authority grants an extension on the payment schedule.
 - c. Participant agrees to refrain from further fraud-related violations. Any further fraud violations will result in termination from the housing assistance program.
 - d. Participant agrees to give up his/her right to any hearing on any subsequent fraud violation.
 - e. Any monies owed will become payable in full immediately if participant is found to have committed fraud again.

C. \$1,000 to \$1,999

3. Criminal charges under Section 487.1 (Theft by False Pretense) of the California Penal Code **may** be filed. All charges will be filed under Section 17 (Misdemeanor) of the Penal Code of the State of California.

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1. Criminal charges can be tabled if participant agrees to:
 - a. Make restitution in full by paying full amount owed immediately or signing a restitution agreement in which participant agrees to pay full amount within one (1) year.
 - b. Participant pays on a monthly basis and misses no payments unless the Housing Authority grants an extension on the payment schedule.
 - c. Surrender Section 8 certificate or voucher for cause and without a hearing.
 - d. Not re-apply to Section 8 program for a period of one (1) year.

D. \$2, 000 to \$4,999

1. Criminal charges will be filed against participant for violation of Section 487.1 (Theft by False Pretense) of the California Penal Code. Charges can be filed as Felony or Misdemeanor at the discretion of the District Attorney.
2. **Participant** will be prosecuted and upon a conviction or guilty plea, restitution in full will be requested through the Probation Department. Amount of monthly payment will be determined by Probation.
3. **Participant** will be terminated from Section 8 assistance program for cause.

E. \$5,000 and above

1. Criminal charges will be filed and prosecuted as FELONIES in the appropriate court. The District Attorney will determine method of prosecution and charges to be filed.
2. Felony Probation and full restitution will be requested. Method and amount of payment to be determined by the Probation Department.
3. Participant will be terminated from housing program for cause.

10M. NOTIFICATION TO PARTICIPANT OF PROPOSED ACTION

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The Section 8 Department will notify the participant of the proposed action no later than ten

(10) days after the participant conference by certified mail. Such notice will contain:

1. The action being proposed by HACK.
2. The reason for the proposed action.
3. The date the proposed action will take place.
4. The participants right to further explanation, if needed.
5. The participant's right to an informal hearing and the form and date by which request for such hearing must be received.
6. A copy of the Section 8 Program Informal Hearing Procedures.

10N. AUTOMATIC HAP CONTRACT TERMINATIONS

There are several instances where a HAP contract will automatically terminate. Such automatic termination will occur when:

1. The assisted family vacates its housing in violation of the Lease and any applicable vacancy period for which the owner may be eligible for compensation has ended;
2. The family has moved from their housing according to the Lease terms, or secured owner permission for an early termination date, and the Lease term has, therefore, ended;
3. The owner has required the family to move per the Lease terms, and the Lease term has, therefore, ended (e.g.; 30-day notice, refusal to renew, eviction);
4. The owner has evicted the family and any applicable vacancy period for which the owner may be eligible for compensation has ended (see Chapter 12);
5. The owner does not wish to enter into a new HAP contract.

10O. HACK-INITIATED HAP CONTRACT TERMINATIONS

HACK may find it necessary to terminate the HAP contract prior to its regular

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termination date under the following circumstances:

1. The housing has been found to be in non-compliance with the HQS or their Contract requirements, the owner has refused to correct the deficiencies, and HACK has decided to terminate the HAP contract;
2. Due to changes in family composition, HACK has determined the housing to be either overcrowded or under-occupied, requiring the family to transfer to other housing. To terminate the HAP contract in such instances, the following must occur:
 - a. HACK must have issued a new voucher to the family, permitting them to obtain housing elsewhere; and
 - b. The voucher has expired after the family has:
 1. rejected, without good cause, suitable housing which HACK has found to be available to the family, or
 2. the family has failed to make a good faith effort to find new housing.
3. The assisted family has been determined ineligible for assistance at the time of reexamination, has been paying the full Contract Rent for a year, and either the owner has terminated the Contract prior to or on the anniversary date of the original Contract.
4. A family who has been determined provisionally eligible for a transfer to new housing with assistance has failed to satisfy any liability for damage that HACK may have required to be satisfied by a specific date.
5. HACK is unable to approve a new Request Tenancy of Approval and is not, therefore, entering into a new HAP contract.
6. HACK has determined that the owner is not in compliance with the terms of the HAP contract.
7. HACK has determined that the family is not in compliance with the terms of its certificate or voucher.
8. A family has been determined to have abused the program or engaged in fraudulent activities.

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9. HACK has determined that an owner has abused the program or engaged in fraudulent activities.
 10. The family is responsible for HQS violations caused by the family:
 - a. By failing to pay for tenant-supplied utilities.
 - b. By failing to supply appliances that the owner is not required to supply under the lease.
 - c. By damaging the housing (other than damage from ordinary wear and tear).
 11. The family is responsible for vermin and rodent infestation caused by trash accumulation from poor family housekeeping. An owner may evict if family housekeeping creates a serious or repeated violation of the lease. HACK may terminate assistance for such violation of the lease.
 12. If HACK determines that funding under Consolidated Annual Contribution Contract (CACC) is insufficient to support continued assistance for families in the program.
 - A. Elderly (62 years and older) and disabled families (a family whose head, spouse, or sole member is a person with disabilities) will be exempt from terminations due to insufficient funds.
 - B. Special Purpose Housing Choice Vouchers for Non Elderly Disabled (NED), HUD's Veterans Affairs Supportive Housing (HUD-VASH) or Family Unification Program (FUP) families must be the last terminated.
- C. Families will be terminated based on the following criteria in order of priority:
1. Participant families receiving subsidy for more than 7 years; in descending order based on length of time
 - a. For example: (Based on 4/13/2011)
*Participant A -Leased up on
3/1/2003 Participant B -Leased
up on 2/1/2004
Participant C -Also Leased up on 2/1/2004
Participant D -Leased up on 9/1/2004*

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In order of priority, *Participant A* would be the first to be terminated as they have been in the program more than 7 years. *Participant B* would follow as they have been in the program 7 years as of February 1st. *Participant C*, who is elderly, would not be given a notice since he is exempt. *Participant D* would also not be given a notice since he has not yet been on the program for 7 years.

2. Families receiving less than \$100 in subsidy payments for rental of their unit.
 - a. In order of priority for this group, Participants paying the lesser portion of rent would be the first to be terminated (i.e. -a family paying \$50.00 monthly would be terminated before a family whose portion is \$79.00).

3. Families paying full contract rent.

- D. Families will be reinstated immediately when it is determined funds are available

1. Reinstated families must be otherwise eligible for the program pursuant to Chapter I.
2. HACK will send notice to families at the last known address.
3. Families must notify HACK of any address change within 10 days.
4. Families must respond to notification within 30 days.

- E. No new vouchers will be issued before families have been re-instated.

10P. EVICTIONS

Sections 882.215 and 882.514 of Title 24 of the Code of Federal Regulations requires that specific actions be taken by an owner in order to evict an assisted family, and also requires that HACK be given notice as soon as the family is notified.

In order to evict an assisted family, the owner must:

1. Comply with the all applicable requirements of Federal, State and local law;

2. Provide a copy of the notice to HACK.

10Q. FAMILY ELIGIBILITY FOR CONTINUED ASSISTANCE

A family is eligible for continued assistance to transfer to a new location as long as the family:

1. Is not liable to HACK for unpaid rent or damages paid on their behalf or was liable but has satisfied such liability; and
2. Is otherwise eligible per the eligibility criteria established in this Plan;
3. If the family is determined to be ineligible for continued assistance at the time of termination of tenancy, HACK will inform the family of its right to request, within ten (10) business days, an informal hearing (Refer to Chapter 11 for additional notice and hearing requirements). Until the decision becomes final as described in the paragraph below, HACK will afford the family limited transfer rights pursuant to 24 CFR 982.314. The family can initiate the transfer process up to but not including leasing a new unit.

Assistance may be terminated if a final decision has determined the family has abused the program, violated family obligations, engaged in fraudulent activities or if the family has failed to comply with the terms of an agreement to HACK for amounts paid to an owner for unpaid rent or damages. Final determination means the tenant has received notice regarding the alleged issue and the decision is final because the tenant didn't appeal, or because the tenant appealed but the hearing officer did not decide in the tenant's favor.

A landlord's issuance of a notice or initiation of eviction proceedings will not serve as the sole basis for denying a family full transfer rights. If the landlord initiates eviction proceedings against the family, and HACK has not proposed termination of assistance, the family may move and use their assistance at a new location.

10R. DENIAL OR TERMINATION

This section states the grounds on which HACK may deny assistance for an applicant or terminate assistance for a Participant under the programs because of the family's action or failure to act. The provisions of this section do not affect denial or termination of assistance for grounds other than action or failure to act by the family.

1. Denial of assistance for an applicant may include any or all of the following:

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- a. denying listing on the HACK waiting list,
 - b. denying or withdrawing the voucher,
 - c. refusing to enter into a HAP contract or approve a lease, and
 - d. refusing to process or provide assistance under portability procedures.
2. Termination of assistance for a Participant may include any or all of the following:
- a. refusing to enter into a HAP contract or approve a lease,
 - b. terminating HAP under outstanding HAP contract, and
 - c. refusing to process or provide assistance under portability procedures.

This section does not limit or affect exercise of HACK rights and remedies against the owner under the HAP contract, including termination, suspension or reduction of HAP, or termination of the HAP contract.

3. HACK may at any time deny program assistance for an applicant, or terminate program assistance for a Participant, for any of the following grounds:
- a. The family violates any family obligations under the program (refer to 24 C.F.R. Section 982.551).
 - b. Any member of the family has been evicted from federally assisted housing in the past five years.
 - c. Any HA has ever terminated assistance under the certificate or voucher programs for any member of the family.
 - d. Any member of the family commits drug-related criminal activity, abuse or pattern of abuse of alcohol that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents, or violent criminal activity (refer to 24 CFR Section 982.553)
 - e. Any member of the family commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

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- f. The family currently owes rent or other amounts to the HA or to another HA in connection with Section 8 or public housing assistance under the 1937 Act.
- g. The family has not reimbursed any HA for amounts paid to an owner under a HAP contract for rent, damages to the housing, or other amounts owed by the family under the lease.
- h. The family breaches an agreement with the HA to pay amounts owed to an HA, or amounts paid to an owner by an HA. (The HA, at its discretion, may offer a family the opportunity to enter an agreement to pay amounts owed to an HA or amounts paid to an owner by an HA. The HA may prescribe the terms of the agreement.)
- i. The family participating in the FSS program fails to comply, without good cause, with the family's FSS participation contract.
- j. The family has engaged in or threatened abuse or violent behavior toward HA personnel.

4. HACK Discretion to Consider Circumstances

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, HACK has discretion to consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, whether a reasonable accommodation is needed for a Participant's disability which would eliminate the basis of the termination, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

HACK may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for, the action or failure will not reside in the housing. HACK may permit the other members of a Participant family to continue receiving assistance.

5. Requirement to Sign Consent Forms

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HACK must deny or terminate assistance if any member of the family fails to sign and submit required consent forms for obtaining information.

6. Restriction on Assistance to Non-citizens

For provisions on assistance for mixed families (families whose members include those with eligible immigration status, and those without eligible immigration status) instead of the families submit required evidence of citizenship or eligible immigration status. See 24 CFR Section 5.514 for a statement of circumstances in which HACK must deny or terminate assistance because a family member does not establish citizenship or eligible immigration status, and the applicable informal hearing procedures. Assistance to a family may not be delayed, denied, reduced or terminated because of the immigration status of a family member except as provided under Section 5.514. See 24 CFR Section 5.516 denial or termination of assistance and for provisions on deferral of termination of assistance.

7. Information for Family

HACK must give the family a written description of:

- a. Family obligation under the program.
- b. The grounds on which HACK may deny or terminate assistance because of family action or failure to act.
- c. HACK informal hearing procedures, including the family's right to be represented by counsel or other representative, the right to review HACK's documents related to the informal hearing (and have excluded from the hearing any requested documents that were not provided to the Participant prior to hearing), the right to present evidence and testimony in support of the Participant's position at the hearing, and the right to confront and cross-examine witnesses. (Refer to Chapter 11 for additional information regarding the informal hearing process.)

HACK must include such information with any termination notice given to the family (see Chapter 11).

10S. CRIME BY FAMILY MEMBERS

HACK may deny assistance to an applicant, or terminate assistance to a Participant family at any time if any member of the family is involved in:

1. Drug-related criminal activity;
2. Violent criminal activity; or
3. A pattern of abuse of alcohol or other controlled substances that may adversely affect the health, safety or welfare of others.

If HACK seeks to deny or terminate assistance because of illegal use, or possession for personal use, of a controlled substance, such use or possession must have occurred within one (1) year before the date that HACK provides notice to the family of its determination to deny or terminate assistance. HACK may not deny or terminate assistance for such use or possession by a family member if the family member can demonstrate that he or she:

1. Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and
2. Is recovering, or has recovered from, such addiction and does not currently use or possess controlled substances. HACK may require a family member who has engaged in the illegal use of drugs to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the housing.

Evidence of criminal activity: In determining whether to deny or terminate assistance based on drug-related criminal activity or violent criminal activity, HACK may deny or terminate assistance if the preponderance of evidence indicates that a family member has engaged in such activity, regardless of whether the family member has been arrested or convicted.

10T. VACANCY LOSS

If a family moves out, the owner may keep the HAP for the month when the family moves out, HACK may not make any further payments. [See 24 CFR 982.311(d)(l)].

10U. SECURITY DEPOSIT DISPOSITION

If a family vacates its housing, the owner, subject to State and local law, may use the security deposit as reimbursement for any unpaid family contributions or other amounts owed under the Lease (damages). If no such amounts are owed, or if the amounts owed are less than the amount of the Security Deposit, the owner must refund the full amount or the unused balance to the family, including any interest required to be paid on such deposits by State and local law.

10V. OWNER CLAIMS FOR DAMAGES, UNPAID RENT, AND VACANCY LOSS AND PARTICIPANT'S ENSUING RESPONSIBILITIES

This Section only applies to HAP contracts in effect before OCTOBER 2, 1995. Certificates have a provision for damages, unpaid rent, and vacancy loss. Vouchers have a provision for damages and unpaid rent. No vacancy loss is paid on vouchers. No Damage Claims will be processed unless HACK has performed a move-out inspection. Either the tenant or the owner can request the move-out inspection. Ultimately, it is the owner's responsibility to request the move-out inspection if he/she believes there may be a claim.

Damage claims are limited in the following manner:

In the Certificate Program, owners are allowed to claim up to two (2) months contract rent minus greater of the security deposit collected or the security deposit that should have been collected under the lease.

In the Voucher Program, owners are allowed to claim up to one (1) month contract rent minus greater of the security deposit collected or the security deposit that should have been collected under the lease. There will be no payment for vacancy losses under the Voucher Program.

No damage claims will be paid under either program effective on or after October 2, 1995.

10W. OWNER CLAIMS FOR PRE-OCTOBER 2, 1995 UNITS

In accordance with the HAP contract, owners can make special claims for damages, unpaid rent, and vacancy loss (vacancy loss cannot be claimed for vouchers) after the tenant has vacated or a proper eviction proceeding has been conducted.

Owner claims for damages, unpaid rent, and vacancy loss are reviewed for accuracy and completeness. Claims are then compared to the move-in and move-out inspections to determine if an actual claim is warranted. No claim will be paid for normal "wear and tear". Unpaid utility bills are not an eligible claim item.

HACK will make payments to owners for approved claims. It should be noted that the tenant is ultimately responsible for any damages, unpaid rent, and vacancy loss paid to the owner and will be held responsible to repay HACK to remain eligible for the Section 8 Program.

Actual bills and receipts for repairs, materials, and labor must support claims for damages. HACK will develop a list of reasonable costs and charges for items routinely included on damage claims. This list will be used as a guide.

Owners can claim unpaid rent owed by the tenant up to the date of HAP termination.

In the Certificate Program, owners can claim for a vacancy loss as outlined in the HAP contract. In order to claim a vacancy loss, the owner must notify HACK immediately upon learning of the vacancy or suspected vacancy. The owner must make a good faith effort to rent the unit as quickly as possible to another renter.

All claims and supporting documentation under this Section must be submitted to HACK within thirty (30) days of the move-out inspection. Any reimbursement shall be applied first towards any unpaid rent. No reimbursement may be claimed for unpaid rent for the period after the family vacates.

10X. PARTICIPANT RESPONSIBILITIES

If a damage claim or unpaid rent claim has been paid to an owner, the Participant is

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responsible for repaying the amount to HACK. This shall be done by either paying the full amount due immediately upon HACK's requesting it or through a Repayment Agreement that is approved by HACK.

10Y. LANGUAGE ACCESS

All notices referred to in this chapter shall be considered vital documents and shall be translated into the Participant family's primary language, if other than English, in accordance with HACK's Limited English Proficiency Plan ("LEP").