

**SANTA CLARA PUEBLO HOUSING AUTHORITY
FIFTH AMENDED AND RESTATED
OCCUPANCY AND RELOCATION POLICY
FOR HOMEBUYER AND TENANT PROJECTS**

**Adopted by Resolution No. 2002-04 on September 20, 2002
Amended and Restated by Resolution No. 2008-03 on April 11, 2008
Amended and Restated by Resolution No. 2012-01 on March 14, 2012
Amended and Restated by Resolution No. 2013-10 on July 18, 2013
Adopted by Resolution No. 2015-02 on November 19, 2015
Amended and Restated by Resolution No. 2017-001 on January 19, 2017**

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I. STATEMENT OF PURPOSE.

A. Purpose. The purpose of this Occupancy and Relocation Policy (Policy) is to establish standards for initial and continued occupancy in housing units owned and operated by the Santa Clara Pueblo Housing Authority (SCPHA), including relocations from and therein and unit assignments. This Policy shall be reviewed periodically to assure compliance with guidelines established by the U.S. Department of Housing and Urban Development (HUD).

B. Official Policy. This Policy supercedes and rescinds all previous occupancy policies and practice statements and is the official Occupancy and Relocation Policy of SCPHA.

II. APPLICABILITY. This Policy shall apply to initial and continued occupancy of housing units owned and operated by SCPHA, including relocations from and therein and unit assignments, and shall be applicable to all occupants of SCPHA units, whether pursuant to a Tenant Lease, a MHOA, Lease-Purchase Agreement, or other document giving rise to a right of occupancy or use.

III. DEFINITIONS OF KEY TERMS. For purposes of this Policy and determining general eligibility, the following terms have the following meanings:

A. "Accessible" means, with respect to the design, construction, or alteration of an individual dwelling unit, that a unit is located on an accessible route and can be approached, entered, and used by a Person with Disabilities. A unit that is adaptable and otherwise in compliance with the Uniform Federal Accessibility Standards (see 24 C.F.R. Part 40) is Accessible. When a unit in an existing facility that is being made Accessible as a result of alterations is intended for use by a specific qualified Person with Disabilities, the unit will be deemed Accessible if it meets the requirements of applicable standards that address the particular disability or impairment of such person.

B. “Adjusted Income” means “Annual Income” minus the allowable deductions determined in accordance with this Policy.

C. “Administration Charge” means the amount budgeted by SCPHA for monthly operating expenses of a dwelling unit, exclusive of operating costs for which an operating subsidy is being provided.

D. “Annual Income” means that income, before deductions, from all sources of income received by the Head of Household and Spouse (even if either are temporarily absent), and by each additional member of the Family residing in the household who is at least eighteen years of age, which income is anticipated to be received during the twelve months following the effective date of the initial determination or reexamination of income.

1. “Annual Income” includes, but is not limited to the following:

(a) The full amount, before any payroll deductions, of wages and salaries, overtime pay, commissions, fees, tips, bonuses, and other compensation for personal services;

(b) Net income from operation of a business or profession, as such net income is further defined in the applicable Internal Revenue Service (IRS) regulations, as they may be amended from time to time;

(c) Interest, dividends, and other net income of any kind from real or personal property, as such are further defined in the applicable IRS regulations, as they may be amended from time to time;

(d) The full amount of periodic payments received from social security, annuities, insurance policies, retirement funds, pensions, disability or death benefits, and other similar types of periodic receipts, including a lump-sum payment for the delayed start of a periodic payment, as limited by the applicable regulations, as they may be amended from time to time;

(e) Payments in lieu of earnings, such as unemployment and disability compensation, workmen’s compensation, and severance pay as limited by the applicable regulations, as they may be amended from time to time;

(f) Welfare assistance payments, as such payments are further defined in the applicable regulations, as they may be amended from time to time;

(g) Periodic and determinable allowances, such as alimony and child support payments, and

regular contributions or gifts received from persons not residing in the housing unit; provided however, that consideration of alimony and child support payments shall be limited to payments actually received in the preceding year;

(h) All regular pay, special pay, and allowances of a member of the Armed Forces, to the extent that such are not excepted below;

(i) *Per Capita* payments derived from oil and gas or other trust revenues actually received by tribal members, but only to the extent that such payments, in the aggregate, exceed \$2,000 per person per year; and

(j) *Per Capita* payments derived from gaming revenues and paid out pursuant to an approved Revenue Allocation Plan, if any.

2. "Annual Income" does not include the following:

(a) Income from employment of children (including foster children) under the age of eighteen years;

(b) Payments received for the care of foster children or foster adults (usually individuals with disabilities, unrelated to the Participant Family, who are unable to live alone);

(c) Lump-sum additions to Family assets, such as inheritances, insurance payments (including payments under health and accident insurance and worker's compensation), capital gains, and settlement for personal or property losses;

(d) Amounts received by the Family that are specifically for, or in reimbursement of, the cost of medical expenses for any Family member;

(e) Income of a live-in aide;

(f) The full amount of student financial assistance paid directly to the student or to the educational institution;

(g) The special pay to a Family member serving in the Armed Forces who is exposed to hostile fire;

(h) Amounts received under training programs funded by HUD;

(i) Amounts received by a Person with Disabilities, which amounts are disregarded for a limited

time for purposes of Supplemental Security Income eligibility and benefits because they are set aside for use under a Plan for Achieving Self-Support;

(j) Amounts received by a Participant in other publicly assisted programs that are specifically for or in reimbursement of out-of-pocket expenses incurred (special equipment, clothing, transportation, child care, etc.) and that are made solely to allow participation in a specific program;

(k) Amounts received under a resident service stipend, not to exceed \$200 per month, received by an Indian housing resident for performing a service for SCPHA, on a part-time basis, that enhances the quality of life in the development; *provided* that such services may include, but are not limited to fire patrol, hall monitoring, lawn maintenance, and resident initiatives coordination; *provided further* that no resident may receive more than one such stipend during the same period of time;

(l) Incremental earnings and benefits resulting to any Family member from the participation in qualifying state or local employment training programs (including training programs not affiliated with local government) and training of a Family member as resident management staff; *provided* that such amounts excluded by this provision must be received under employment training programs with clearly defined goals and objectives and are excluded only for the period during which the Family member participates in the employment training;

(m) Temporary, nonrecurring, or sporadic income (including gifts);

(n) Earnings in excess of \$480 for each full-time student eighteen years or older (excluding the Head of Household and Spouse);

(o) Adoption assistance payments in excess of \$480 per adopted child;

(p) Deferred periodic amounts from supplemental security income and social security benefits that are received in a lump sum amount or in prospective monthly amounts;

(q) Amounts received by the Family in the form of refunds or rebates under state or local law for property taxes on the dwelling unit;

(r) Amounts paid by a state agency to a Family with a developmental disabled Family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled Family member

at home;

(s) The first \$2000 of the aggregate annual amount paid to a tribal member as *Per Capita* payments paid from a tribe's oil and gas or other trust revenue; *provided* however, such Per Capita payments may be considered income when determining capacity to pay monthly payments or rent;

(t) The aggregate annual amount paid to a tribal member as *Per Capita* payments paid from judgement funds awarded by the Indian Claims Commission or the United States Court of Claims; *provided* however, such *Per Capita* payments may be considered income when determining capacity to pay monthly payments or rent;

(u) *Per Capita* payment placed in trust for juveniles or incapacitated adults; *provided* however, such *Per Capita* payments may be considered income when determining capacity to pay monthly payments or rent;

(v) Any amounts received by the Family as compensation for a military-service related disability under 38 U.S.C. Chapter 11, or as dependency and indemnity compensation for military-service related death under 38 U.S.C. Chapter 13; *provided* however, such amounts may be considered income when determining capacity to pay monthly payments or rent; or

(w) Amounts specifically excluded by any other federal statute from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs; *provided* that a notice is published from time to time in the Federal Register and distributed to recipients identifying the benefits that qualify for this exclusion; *provided further* that updates will be published and distributed when necessary.

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

E. "Disabled Person or Person with Disabilities" means a person who:

1. Has a disability as defined in Section 223 (42 U.S.C. § 423) of the Social Security Act;

2. Has a developmental disability as defined in Section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. § 6001(7));

3. Has a physical, mental, or emotional impairment which:

(a) Is expected to be of long-continued and indefinite duration;

(b) Substantially impedes his or her ability to live independently; and

(c) Is of such a nature that such ability could be improved by more suitable housing conditions.

4. The terms physical, mental, or emotional impairment include, but are not limited to:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitor-urinary; hemic and lymphatic; skin; and endocrine;

(b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities; and

(c) Such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, and emotional illness.

5. Notwithstanding any other provision of law, no individual shall be considered a Person with Disabilities, for purposes of eligibility for housing assisted under this Policy, solely on the basis of any drug or alcohol dependence.

F. “Disabled Family” means a Family whose Head of Household, Spouse, or sole member is a Person with Disabilities.

G. “Displaced Person or Displaced Family” means any person or Family that moves from real property, or moves his, her, or its personal property from real property, permanently, as a direct result of rehabilitation, demolition, or acquisition of the real property for a SCPHA project. The term includes but is not limited to:

1. A Participant who moves permanently for the reason listed above and who has not been provided written notice by SCPHA offering the opportunity to lease and occupy another suitable, decent, safe, and sanitary dwelling under reasonable terms and conditions, upon completion of the SCPHA project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:

(a) The Participant’s monthly rent and estimated average monthly utility costs before the agreement; or

(b) Thirty percent of gross household income.

2. A Participant who, for the reason listed above, is required to relocate temporarily, but does not return to the building/complex, if either:

(a) The Participant is not offered payment by SCPHA for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied unit, any increased housing costs, and incidental expenses; or

(b) Other conditions of the temporary relocation are not reasonable.

3. A Participant who moves from the building/complex for the reason listed above after being offered the opportunity to move to another dwelling unit in the same building/complex, if either:

(a) The tenant-occupant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or

(b) Other conditions of the move are not reasonable.

4. Notwithstanding the provisions of this Section, a person does not qualify as a “Displaced Person” (and is not eligible for relocation assistance under the Uniform Relocation Act or this Section) if:

(a) Before signing a lease or commencing occupancy, the person was provided by SCPHA with written notice of the project and its possible impact (e.g., the person may be displaced, temporarily relocated, or suffer a rent increase), and further stating that the person would not qualify as a “Displaced Person.”

(b) The person is ineligible under 49 C.F.R. § 24.2(g)(2).

(c) SCPHA determines the person is not displaced as a direct result of acquisition, rehabilitation, or demolition for an assisted project. To exclude a person on this basis, HUD must concur in that determination.

5. SCPHA may at any time ask HUD to determine whether a specific displacement is or would be covered under this Section.

H. “Elderly Family” means a family whose Head of Household, Spouse, or sole member is an Elderly Person. Such term may include two or more Elderly Persons living together, or one or more such persons living with one or more persons determined under SCPHA’s IHP to be essential to their care or well-being.

I. "Elderly Person" means a person who is at least sixty-two years of age.

J. "Essential Family" means a Family MAHA deems essential to the well being of Indian Families in accordance with section 201(b)(3) of NAHASDA.¹

K. "Estimated Average Monthly Utility Costs" means an amount equal to the estimate made or approved by SCPHA of the monthly cost of a reasonable consumption of Utilities for a unit by an energy-conservative household of modest circumstances consistent with the requirements of a safe, sanitary, and healthful living environment.

L. "Family" means (1) a group of two or more persons (including members temporarily absent) who have a stable family relationship and whose income and resources are available for use in meeting the living expenses of the group; (2) a single Elderly, Displaced, or Disabled Person; (3) a single person; or (4) a person or group defined by SCPHA or the Pueblo of Santa Clara (Pueblo) as a Family. Lodgers are not considered part of a Family.

M. "Head of Household" means the Family member who is held responsible and accountable for the Family.

N. "Homebuyer" means a person who has executed an MHOA, a Lease-Purchase Agreement, or other lease-to-buy agreement and has not yet achieved home ownership.

O. "Immediate Family" means husband, wife, father, mother, brother, sister, son, daughter, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, and grandparents, those persons with whom the subject person maintains a significant traditional relationship of equivalent status recognized by the Pueblo, and any relative or any other individual that the subject person is living with or intends to live with in the same house or household, whether a blood relative or not. Any dispute arising over the definition of "immediate family" shall ultimately be decided the Pueblo.

P. "IHP" means SCPHA's Indian Housing Plan.

Q. "Indian" means any person who is a member of a federally recognized tribe or a state recognized tribe.

R. "Live-In Aide" means a person who resides with one or more Elderly Persons, or Near-elderly Persons, or

¹Section 201(b)(3) provides that "a recipient may provide housing . . . for a family [whether Indian or non-Indian] on an Indian reservation . . . if the recipient determines that the presence of the family on the Indian reservation . . . is essential to the well-being of Indian families and the need for housing for the family cannot reasonable be met without such assistance."

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; and (3) would not be living in the unit except to provide the necessary supportive services.

S. “Median Income” means the greater of (i) the median income for the Indian Area, as periodically established and published by HUD, or (ii) the median income for the United States.

T. “Member” means a person who is acknowledged in the manner determined by the Tribal Council as a member of the Pueblo under the Pueblo’s existing membership laws, or who is eligible to be acknowledged as a member.

U. “MHOA” means Mutual Help and Occupancy Agreement developed under the United States Housing Act of 1937.

V. “NAHASDA” means the Native American Housing Assistance and Self-Determination Act of 1996, which act was implemented in October of 1998.

W. “Near-Elderly Family” means a family whose Head of Household, Spouse, or sole member is a Near-Elderly Person. Such term may include two or more Near-Elderly Persons living together, or one or more such persons living with one or more persons determined under SCPHA’s IHP to be essential to their care or well-being.

X. “Near-Elderly Person” is a person who is at least fifty-five years of age and less than sixty-two years of age.

Y. “Non-Member” means a person who is not a Member.

Z. “Non-Member Residence Code” means Chapter 27 of the Pueblo of Santa Clara Law & Order Code—Regulation of Non-Member Residence.

AA. “Occupancy Document” means the document giving rise to a Participant’s right of occupancy or use of a housing unit. An Occupancy Document may be a Tenant’s Occupancy Document or a Homebuyer’s Occupancy Document.

BB. “Participant” means a Tenant or Homebuyer contractually entitled to occupy a SCPHA unit by virtue of an Occupancy Document.

CC. “Permitted Resident” means a Non-Member who resides or intends to reside with a SCPHA Tenant or Homebuyer, has a Sponsor, and whose residence on Santa Clara land has been permitted or re-permitted in accordance with the Non-Member Residence Code.

DD. "Pueblo" means the Pueblo of Santa Clara.

EE. "Required Monthly Payment" means that payment amount calculated in accordance with this Policy.

FF. "Santa Clara land" means land that is owned by the Pueblo or by the United States in trust for the Pueblo, but, except for leases to SCPHA for the construction of housing, does not include land that is covered by a lease entered into by the Pueblo and approved by the Secretary of the Interior or his or her designee in accordance with federal law.

GG. "SCPHA" means the Santa Clara Pueblo Housing Authority.

HH. "Sponsor" means a Member who resides on Santa Clara land and is at least 25 years of age, and who states, in writing, on a form prescribed by the Pueblo Governor, that he or she vouches for the application of a Non-Member who seeks to become a Permitted Resident under the Non-Member Residence Code.

II. "Spouse" means the husband or wife of the Head of the Household.

JJ. "State Recognized Tribe" is any tribe, band, nation, pueblo, village, or community that has been recognized as an Indian tribe by any State; and for which an Indian Housing Authority has, before the effective date of NAHASDA, entered into a contract with the Secretary pursuant to the United States Housing Act of 1937 for housing for Indian families and has received funding pursuant to such contract within the five-year period ending upon such effective date.

KK. "Tenant" means a person who has executed a Tenant Rental Agreement and who is authorized to reside in a SCPHA-managed low rent unit.

LL. "Tenant Rent" means the amount payable monthly as rent by a Family in a low-rent project, calculated on a monthly basis in accordance with this Policy, under a lease or occupancy agreement between the Family and SCPHA.

MM. "Utilities" include electricity, gas, heating fuel, water, sewerage service, septic tank pumping/maintenance, sewer system hookup charges (after development), and trash and garbage collection. Tenants and Homebuyers are responsible for the costs of utilities. Telephone service is not a utility. For purposes of SCPHA accounting and performance funding system only, trash and garbage collection and maintenance and repair of any systems are considered maintenance expenses and not utility expenses.

NN. "37 Act" means the United States Housing Act of 1937.

IV. ELIGIBILITY.

A. Generally. Initial eligibility shall be determined pursuant to the SCPHA Eligibility and Admissions Policy. Each Family member must be a Member or Permitted Resident; provided, however, a Family member who is a Non-Member and 17 years of age or less shall be permitted to occupy a SCPHA owned or operated residential unit if the Non-Member resides with his or her parent or legal guardian and such parent or legal guardian is a Member or Permitted Resident. Any Family member who fails to meet the requirements under this section shall be prohibited from occupying a SCPHA owned or operated unit.

B. Non-Low-Income Indian Families and Non-Indian Families. In addition to the general eligibility requirements provided in the SCPHA Eligibility and Admissions Policy, for the purpose of occupancy, the following eligibility requirements apply:

1. Non-Low-Income Indian Families.

(a) A non-Low Income Indian Family may be permitted to occupy a SCPHA owned or operated residential unit if:

(1) at the time of the Indian Family's initial occupancy of the SCPHA owned or operated residential unit, the Indian Family was low-income; or

(2) the non-Low-Income Indian Family's housing needs cannot be reasonably met without SCPHA's assistance, and SCPHA deems the non-Low-Income Indian Family to be an Essential Family whose presence on the Pueblo is essential to the well-being of Indian Families.

(b) Each member of a non-low-income Family must be a Member or Permitted Resident; except that a Family member who is a Non-Member and 17 years of age or less shall be permitted to occupy the SCPHA owned or operated residential unit if the Non-Member resides with his or her parent or legal guardian and such parent or legal guardian is a Member or Permitted Resident. Any Family member who fails to meet the requirements under this section shall be prohibited from occupying the SCPHA owned or operated unit.

2. Non-Indian Families.

(a) A non-Indian Family may be permitted to occupy a SCPHA owned or operated residential unit if:

- (1) the non-Indian Family's occupancy predated the adoption of NAHASDA; or
- (2) the non-Indian's Family's housing needs cannot be reasonably met without SCPHA's

assistance, and SCPHA deems the non-Indian Family to be an Essential Family whose presence on the Pueblo is essential to the well-being of Indian Families.

(b) Each Family member eighteen years of age or older must be a Permitted Resident. Any Family member eighteen years of age or older who is not a Permitted Resident shall be prohibited from occupying the SCPHA owned or operated unit.

3. Law enforcement.

(a) SCPHA may provide housing for a law enforcement officer if the officer:

(1) is employed on a full-time basis by the Federal Government or a State, county, or other unit of local government, or lawfully recognized tribal government;

(2) in implementing such full-time employment, is sworn to uphold, and make arrests for, violations of Federal, State, county, or tribal law;

(3) SCPHA determines that the presence of the law enforcement officer may deter crime; and

(4) The law enforcement officer is a Member or Permitted Resident.

(b) All Family members who reside with the law enforcement officer must be Members or Permitted Residents; except that a Family member who is a Non-Member and 17 years of age or less shall be permitted to occupy the SCPHA owned or operated residential unit if the Non-Member resides with his or her parent or legal guardian and such parent or legal guardian is a Member or Permitted Resident. Any Family member who is eighteen years of age or older and who is not a Member or Permitted Resident shall be prohibited from occupying the SCPHA owned or operated unit.

V. WAITING LISTS.

A. Eligibility Determination. Upon determination of eligibility for occupancy, pursuant to the SCPHA Eligibility and Admissions Policy, SCPHA shall immediately place the name of the applicant on appropriate occupancy waiting list(s).

B. Homebuyer Program. SCPHA shall maintain a waiting list, which waiting list shall comply with the requirements and language set forth in SCPHA's IHP, of families that have applied for Homebuyer housing and that have been determined to meet the admission requirements.

C. Low-Rent Program. SCPHA shall maintain a waiting list, which waiting list shall comply with the requirements and language set forth in SCPHA's IHP, of families that have applied for Low-Rent housing and that have been determined to meet the admission requirements.

D. Additional Lists. In its sole discretion, SCPHA may establish additional waiting lists as may be needed, for admission into units primarily designed for a specific population; *provided, however*, to be placed on such additional lists, applicants must also be on the Homebuyer and/or the Low-Rent Program waiting list.

E. Establishment of Waiting Lists. The names of applicants determined to be eligible shall be placed on the appropriate waiting list(s) according to the date of eligibility determination. The waiting list shall include the date of original application, date of eligibility determination, and the date of any subsequent redetermination of eligibility. Units shall be assigned to applicants according to placement on the waiting list; *provided, however*, preferences in selection contained in this Policy and approved by the Santa Clara Pueblo Housing Authority Board of Commissioners (Board) shall be applied to unit assignment.

VI. MAKING OCCUPANT SELECTIONS.

A. Selection.

1. SCPHA shall collect, as a part of planning for a Homebuyer project, data on potential Homebuyer families from the Homebuyer waiting list, which waiting list shall comply with the requirements and language set forth in SCPHA's IHP, the SCPHA Eligibility and Admissions Policy, and this Policy. If there are insufficient eligible applicants on the waiting list, SCPHA will publicize the need for more applicants, who will be placed on the waiting list if determined to be eligible.

2. Families on other waiting lists, or who wish to transfer between units, projects, or programs (including but not limited to Tenants in Tenant Low-Rent projects), must apply for selection in order to be considered for Homebuyer housing and in order to be placed on the Homebuyer waiting list. Subject to preference in selection criteria (a)

families wishing to transfer between units in the same project shall have priority for the first available unit of desired size; and (b) the placement on the Homebuyer waiting list of families wishing to transfer between projects or programs shall be determined solely in accordance with the date of application.

3. Unless deemed to be an Essential Family, admission into SCPHA's Homebuyer or Tenant Low-Rent Program may include applicants whose Family income exceeds allowable levels, if there is a need for housing for such Families that cannot reasonably be met without such assistance; *provided* that SCPHA uses no more than ten percent of the amount planned for the tribal program year for Families whose income falls within eighty to one hundred percent of the Median Income. HUD approval is required if SCPHA plans to use more than ten percent of the amount planned for the tribal program year for such assistance or to provide housing for non-Essential Families over one hundred percent of Median Income. The non-Essential, non-Low Income Indian Family must pay, at a minimum (i) the amount a Low Income Family at eighty percent Median Income is paying back for the assistance; plus (ii) the fair market value of the assistance multiplied by the percentage by which the income of the non-Low Income Indian Family exceeds eighty percent of Median Income.

4. Admission to SCPHA's Homebuyer or Tenant Low-Rent Program may be granted to non-Low-Income Indian Families and non-Indian Families if SCPHA determines in writing that their presence in a SCPHA owned or operated unit is essential to the well being of Indian Families, the non-Low-Income Indian Family's or non-Indian Family's housing needs cannot reasonably be met without such assistance, and that admission of the non-Low-Income Indian Family or non-Indian Family will not contravene applicable federal and tribal laws.²

B. Notification to Homebuyer Selected Families.

1. The Notice of Selection shall be in writing and shall include the following information:

(a) A statement that the Family has been selected for the Homebuyer project and which site has been approved for the Family.

(b) A Statement of Willingness to execute a Homebuyer's Occupancy Document shall be

²Section 201(b)(3) of NAHASDA provides that "a recipient may provide housing . . . for a family [whether Indian or non-Indian] on an Indian reservation . . . if the recipient determines that the presence of the family on the Indian reservation . . . is essential to the well-being of Indian families and the need for housing for the family cannot reasonably be met without such assistance."

enclosed for signature and returned, signed, to SCPHA. The notification shall state the name(s) of the person(s) who must execute the Homebuyer's Occupancy Document on behalf of the Family.

(c) A statement that the Family will be advised at a later date of the time and place for training activities and execution of the Homebuyer's Occupancy Document, and of the name(s) of the person(s) who must execute the Homebuyer's Occupancy Document on behalf of the Family.

(d) If applicable, a statement that, after execution of the construction contract, the Family will receive a notice of confirmation stating the estimated date of completion of the unit insofar as such date can be reasonably determined.

(e) A statement that the issuance of the Notice of Selection does not constitute or give rise to any contractual obligation on the part of SCPHA.

(f) A statement that the Family's eligibility shall be subject to verification at the time of the execution of the Homebuyer's Occupancy Document.

2. SCPHA also shall inform a selected Family including a Person with Disabilities that, upon its request, a unit to be constructed or rehabilitated shall be made Accessible if the nature of the handicap of the Person with Disabilities so requires. In such case, the selected Family shall consult with the seller or builder/sponsor regarding the specific design features to be provided. If accessibility features selected are ones covered by the Uniform Federal Accessibility Standards, those features shall comply with such standards; *provided* that departure from particular specifications of these standards is permissible in order to accommodate the Person with Disabilities's specific disability. The cost of making a unit Accessible under this paragraph shall be included in the mortgage amount within the allowable mortgage limits, if applicable. To the extent such costs exceed allowable mortgage limits, they may be passed on to the prospective Homebuyer, subject to applicable maximum sales price limitations. With respect to the design, construction, or alteration of an individual dwelling unit, a unit is Accessible if it is located on an accessible route and can be approached, entered, and used by a Person with Disabilities. A unit that is adaptable and otherwise in compliance with the Uniform Federal Accessibility Standards (see 24 C.F.R. Part 40) is Accessible. When a unit in an existing facility that is being made Accessible as a result of alterations is intended for use by a specific qualified Person with Disabilities, the unit will be deemed Accessible if it meets the

requirements of applicable standards that address the particular disability or impairment of such person.

3. When SCPHA determines that an applicant does not meet the admission requirements, SCPHA shall so notify the applicant in writing. The notice shall state the basis for the determination and shall state that the Family is entitled to an informal hearing by SCPHA if a request for such hearing is made within a reasonable time as specified in the notice. If SCPHA determines that an applicant meets the admission requirements but is not to be selected for a certain Homebuyer project, SCPHA shall so notify the applicant in writing. The notice shall also state that the applicant will remain on the waiting list for consideration in the event of vacancies or availability of additional Homebuyer housing.

C. Low-Rent Selections and Notification.

1. A Family accepted as a Tenant in a Low-Rent project must be so notified in writing and must sign and abide by a Tenant's Occupancy Document. A Tenant's Occupancy Document is the document giving rise to a Participant's right of occupancy or use of a housing unit and has a term of one (1) year or until the close of SCPHA's fiscal year, whichever is later.

2. If SCPHA determines that an applicant does not meet the admission requirements, SCPHA shall so notify the applicant in writing. The notice shall state the basis for the determination and shall state that the Family is entitled to an informal hearing by SCPHA if a request for such hearing is made within a reasonable time as specified in the notice. If SCPHA determines that an applicant meets the admission requirements but is not to be selected for occupancy, SCPHA shall so notify the applicant in writing. The notice shall also state that the applicant will remain on the waiting list for consideration in the event of vacancies or availability of additional housing.

3. If the signer of the Tenant's Occupancy Document ceases to be a member of the Tenant Family, loses his or her status as a Member or Permitted Resident, or if the Family transfers from one dwelling unit to another, a new Tenant's Occupancy Document must be executed.

4. If, at any time during the term of the Tenant's Occupancy Document, a change in the Tenant's status requires a change in or amendment to any provision, either a new Tenant's Occupancy Document must be executed or an appropriate amendment must be prepared and made a part of the existing Tenant's Occupancy Document.

5. All Tenant's Occupancy Document and amendments are to be dated and signed by the Tenant(s)

and SCPHA.

D. General Notification Requirements. Any Notice by the Executive Director or SCPHA to the applicant required by law or this Policy shall be deemed to have been given when deposited in the United States mail, postage prepaid, addressed to the applicant at the housing unit at issue and to such other address as may have been provided to SCPHA by the applicant.

E. Assignment of Housing Units.

1. On a case-by-case basis, the Board may advance an applicant to the top of any waiting list where a bonafide and documented emergency exists; provided, however, that no emergency placements will be considered until such time that the Board has adopted a clear and concise protocol for such placement. The protocol shall require that emergencies be medical in nature, that a housing unit be available and unassigned, and that the occupancy will be no more than six months.

2. No person shall move into any SCPHA housing unit until an Occupancy Document has been fully executed. Signatures of the Homebuyer or Tenant, the appropriate Tenant Service Representative, and the Executive Director must be on the Occupancy Document in order for it to be considered fully executed.

3. Prior to Homebuyer or Tenant occupancy of an SCPHA-assisted unit, SCPHA shall perform a move-in inspection of the unit to ensure that it is safe, sanitary, and poses no immediate or apparent threats to occupant health or safety. The move-in inspection sheet shall be signed by the SCPHA employee responsible for inspection of the unit, the Homebuyer or Tenant, and the Executive Director. One copy of the inspection shall be left at the unit, and one copy shall be placed in the Homebuyer or Tenant file at SCPHA.

VII. PREFERENCE IN SELECTION.

A. Tribal Preference. Preference in assignment of units will be provided first to Members, followed by other Indians, in accordance with the eligibility criteria of this Policy. The preference for Members will be applied in the following order;

1. Married with children;

2. Single with children (must have proof of guardianship if not the natural parent of the child or

children;

3. Married without children;
4. Elder;
5. Disabled;
6. Single.

For the purpose of homeownership, only Members may own a home on the Pueblo. If, prior to conveyance of a housing unit to a Homebuyer, SCPHA is advised by the Pueblo that the Homebuyer is not an Member, SCPHA shall, prior to initiation of termination and eviction procedures, provide the Homebuyer with written notice that he or she is ineligible to purchase the unit. If the Homebuyer disagrees with this determination, he or she may, within thirty days, provide written proof of his or her membership in the Pueblo on a form approved by the Pueblo and obtained through the Pueblo's administrative procedures. SCPHA has no obligation to assist the Homebuyer in obtaining proof of membership. If the Homebuyer is unable to provide SCPHA with proof of membership within the time frame allowed, SCPHA shall initiate termination and eviction procedures.

B. Other Preferences. SCPHA may, by appropriate policy, establish additional preferences for admission to specific Assisted Activities programs.

C. General Preference.

1. SCPHA will give preference in Homebuyer housing to applicants on the basis of eligibility determination and Family size.

2. SCPHA will give preference in Low-Rent housing to applicants on the basis of urgency of housing need in the following order:

- (a) Families without housing;
- (b) Families about to be without housing;
- (c) Families residing in unsafe, unsanitary, or overcrowded dwellings; and
- (d) Displaced Families.

3. Within the categories listed in Subsections 1 and 2 above, SCPHA will give preference in the

following order:

- (a) Elderly or Disabled Families;
- (b) Veterans; and
- (c) Single Parents;

provided, however, in its sole discretion, SCPHA may assign housing to Essential Families or the Families of law enforcement officers before other Participants.

4. In addition to the preferences listed above, SCPHA may consider the ability to pay as a factor in assignment to units. Ability to pay may be based on the applicant's credit history, history (current and past) of payments to SCPHA, payment of required deposits, income verification, and willingness to sign irrevocable payroll deductions in assigning persons to the waiting list.

D. **Application of Preference.** Applicants possessing more than one preference criteria may receive a higher rating for placement on the waiting list.

1. If two or more eligible applicants for the same housing unit size have an identical priority status, the applicant filing the earlier application will be offered the first available vacancy of appropriate size. If the applicant rejects the offer other than for a justifiable reason, the applicant's name will be moved to the bottom of the eligible applicant list. If the applicant is willing to accept the unit offered, but is unable to move at the time of the offer and is able to present clear evidence of his or her inability to move, the applicant shall retain his or her place on the eligible applicant list. If an applicant presents to SCPHA's satisfaction clear evidence that acceptance of the offer will result in undue hardship or handicap, the applicant shall retain his or her place on the eligible applicant list. Transfer of a Low Income Family from one SCPHA Low-Rent project to another, or from one SCPHA Low-Rent unit to another, when such Family is eligible for continued occupancy, shall not be subject to the "urgency of housing need" priority as described above.

2. In a multi-family housing project having Accessible units, when an Accessible unit becomes vacant, SCPHA before offering such units to a non-disabled applicant shall offer such unit:

(a) First, to a current occupant of another unit of the same project, or comparable projects under common control, having disabilities requiring the accessibility features of the vacant unit and occupying a unit not

having such features; or, if no such occupant exists, then

(b) Second, to an eligible qualified applicant on the waiting list having a disability requiring the accessibility features of the vacant unit.

3. When offering an Accessible unit to an applicant not having disabilities requiring the accessibility features of the vacant unit, SCPHA may require the applicant to agree (and may incorporate this agreement in the lease) to move to a non-accessible unit when one becomes available.

4. SCPHA will give preference to Elderly, Disabled, or Displaced Families in determining priority for admission to projects originally designated for occupancy by the elderly (Elderly Projects).

(a) SCPHA will give preference to Elderly, Disabled, or Displaced Families over Near-Elderly Families, and Near-Elderly Families will be given preference over single persons.

(b) SCPHA must conduct outreach to attract eligible Elderly, Disabled, or Displaced Families, including, where appropriate, such Families residing in general occupancy projects.

(c) SCPHA will give preference to Families whose Head of Household or Spouse, or sole member, is Near-Elderly, in determining priority to admission to Elderly Projects, when SCPHA determines that there are not enough eligible Elderly, Disabled, or Displaced Families to fill all the units currently vacant or expected to become vacant in the next twelve months.

(d) In no event may SCPHA admit a Near-Elderly Family if there are eligible Elderly, Disabled, or Disabled Families on SCPHA's waiting list that would be willing to accept a suitable vacant unit in that project.

5. Application of preference allowed under this Section may result in a change of other Families' positions on SCPHA's occupancy waiting lists.]

VIII. CALCULATION OF REQUIRED MONTHLY PAYMENTS.

A. **Adjusted Income.** Required Monthly Payments are based on Adjusted Income. In determining Adjusted Income, allowable deductions from Annual Income include:

1. A deduction of \$480 for each member of the Family residing in the household (other than Head of the Household and the Spouse) who is under eighteen years of age, or who is eighteen years and older and is a Person with

Disabilities or a full-time student. No more than one deduction may be claimed for any one person in the Family.

2. A deduction of \$400 for any Elderly or Disabled Family.
3. The amount by which three percent of the Annual Income of the Family is exceeded by the

aggregate of:

- (a) Medical expenses, in the case of an Elderly or Disabled Family; and
- (b) Reasonable attendant care and auxiliary apparatus expenses for each Family member who

is a Person with Disabilities, to the extent necessary to enable any member of the Family (including a member who is a Person with Disabilities) to be employed.

- (c) Child care expenses, to the extent necessary to enable another member of the Family to be employed or to further his or her education.

- (d) The amount of any earned income of any member of the Family who is less than eighteen years of age not previously excluded in the determination of Annual Income.

- (e) Excessive travel expenses, not to exceed \$25 per Family per week, for employment- or education-related travel.

- (f) Alimony.

- (g) Child support until the child turns age 18 or, if the child is attending school and provides proof of registration for each quarter or semester, until age 24.

- (h) Disability benefits for a disabled child until age 18 from whatever the source or, if the child is subject to an order of custody or guardianship, indefinitely.

- (i) Survivor benefits from whatever the source.

- (j) Such other amounts as may be provided for by SCPHA.

B. Required Monthly Payment. Determination of Required Monthly Payment is based on whether the payment is for a Participant Lease Purchase Agreement or a previously existing MHOA.

1. **Participant Lease Purchase Agreement.** The Required Monthly Payment for a Participant Lease Purchase Agreement shall be as stated in the Agreement, but cannot exceed thirty percent (30%) of the Homebuyer's

monthly Adjusted Income. The Participant Lease Purchase Required Monthly Payment includes the monthly Administration Charge that will not be included in determination of equity in the unit subject to the Agreement..

2. MHOA. The Required Monthly Payment is the amount equal to the greater of the Administration Charge, or thirty percent of the Homebuyer's Adjusted Income. The Required Monthly Payment may not be more than the sum of: (a) the Administration Charge; and (b) the monthly debt service amount shown on the Homebuyer's purchase price schedule. If the Required Monthly Payment exceeds the Administration Charge, the amount of the excess shall be credited to the Monthly Equity Payments Account.

C. Calculation of Tenant Rent. Tenant Rent shall be the lesser of the following, rounded to the nearest dollar:

1. For Low-Income Families:

(a) Thirty percent of monthly Adjusted Income; or

(b) If the Family receives welfare assistance from a public agency and a part of such payments, adjusted in accordance with the Family's actual housing costs, is specifically designated by such agency to meet the Family's housing costs, the monthly portion of such payments that is so designated. If the Family's welfare assistance is ratably reduced from the standard of need by applying a percentage, the amount calculated under this paragraph shall be the amount resulting from the application of the percentage.

2. For Families that were Non-Low-Income and non-Essential at the time of initial occupancy, the Tenant Rent will be based on a ratio of the family's Annual Income to Median Income without deductions for allowances.

Tenant Rent shall be determined pursuant to the following formula:

$$\frac{\text{(Family Annual Income)}}{\text{(80\% of Median Income for family size)}} \times \frac{\text{(30\% of Median Income for family size)}}{12} = \text{Tenant Rent}$$

3. Tenant Rent for Essential Families, for Non-Low-Income Families who were Low-Income at the time of initial occupancy, and for Families of law-enforcement officers shall be determined as if the Family is a Low-Income Indian

Family.³

D. Caps. In its sole discretion, the Board may establish limits for monthly payments charged to Low-Income and Essential Families. The monthly payment cannot exceed the cap established for the unit.

E. Utility Surcharges. Tenant Rent does not include surcharges for excess utility consumption or other miscellaneous charges.

IX. EXAMINATION AND REEXAMINATION OF FAMILY INCOME AND STATUS. In addition to the provisions contained in this Section, Participants must comply with the examination and reexamination provisions contained in the SCPHA Eligibility and Admissions Policy. The requirements for examination and reexamination of Family eligibility are different for Homebuyers purchasing their homes pursuant to a Participant Lease Purchase Agreement than they are for other Participants.

A. Examination and Reexamination–Participant Lease Purchase Agreement.

1. For the purpose of determining the Required Monthly Payment amount under a Participant Lease Purchase Agreement, SCPHA shall examine the Homebuyer Family’s earnings and other income prior to initial occupancy, and state such payment amount in the Participant Lease Purchase Agreement.

2. Subsequent to the execution of the Participant Lease Purchase Agreement, if the Homebuyer determines that his or her Required Monthly Payment exceeds thirty percent of his or her monthly Adjusted Income, the Homebuyer may request a recertification. If SCPHA determines that the Required Monthly Payment does exceed thirty percent of the Homebuyer’s monthly Adjusted Income, such payment shall be reduced to equal not more than thirty percent of such Adjusted Income.

3. If the Homebuyer’s Required Monthly Payment is reduced pursuant to this Section, the Homebuyer

³Pursuant 24 C.F.R. § 1000.110(a), a family (whether Indian or non-Indian) who was low-income at the time of initial occupancy but subsequently became non-low income may continue to participate in the low-rent program in compliance with SCPHA’s Eligibility and Admissions and Occupancy and Relocation Policies. It is in the sole discretion of SCPHA whether language found at 24 C.F.R. § 1000.110(d) providing that non-low-Income families cannot receive the same benefits provided to low-income families will be applied to such families. SCPHA has chosen not to apply the provision.

Pursuant to 24 C.F.R. § 1000.110(e), the requirement to charge increased rents under subsection (d) does not apply to families deem essential under this Policy.

will be subject to annual reexaminations of the Homebuyer's Family's earnings and other income until such time as the Required Monthly Payment is equal to the Required Monthly Payment stated in the original Occupancy Document.

4. Decreases in the Required Monthly Payment are to be made effective on the first day of the month following that month in which the change was reported; however, no downward monthly payment adjustments are to be processed until all the facts have been verified.

5. The exception from reexamination provided herein is not applicable to Participant requests for maintenance, rehabilitation, or other service provided by SCPHA, which services require a review of income.

B. Examination and Reexamination of Other Occupancy Documents.

1. For the purpose of determining or making adjustments, if required, in the Required Monthly Payment or Tenant Rent, and of determining whether the Homebuyer is required to purchase the home in accordance with the Homebuyer's Occupancy Document, SCPHA shall examine the Participant Family's composition, earnings, other income, and any other changes to the Family's status prior to initial occupancy and shall make periodic reexaminations thereafter at least once a year. Annual Income recertifications are required for all Participants.

2. The Participant's reexamination date shall coincide with the anniversary date of the Participant's initial occupancy, except that the date of the first reexamination may be extended if necessary to fit the reexamination schedule established by SCPHA. The reexamination process shall commence not more than two months and not less than one month prior to the reexamination date. Data assembled at the time of the reexamination shall be retained in the Participant's file.

3. The Participant and Family shall be required to submit all requested information, including but not limited to proof of the Family's members, annual income, and any changes in the Family's information, including criminal records, for completion of an Application for Continued Occupancy and Reexamination which must be signed by the Participant(s) and the interviewer and the required certification completed by SCPHA. The Participant's failure to provide all requested information and/or to sign the Application for Continued Occupancy and Reexamination may result in the termination of the Participant's right of occupancy.

4. Each Family member who is a Permitted Resident must provide SCPHA with the name and address

of his or her Sponsor, and the date on which the Family member expects his or her current status as a Permitted Resident to terminate if the status must be renewed in accordance with the Non-Member Residence Code.

5. Within thirty calendar days after receiving all the information required for the reexamination, SCPHA shall notify the Participant in writing of the following:

(a) Eligibility status and, if ineligible, the action to be taken.

(b) The change, if any, to be made in the Required Monthly Payment or Tenant Rent and the effective date thereof.

(c) Any instances of misrepresentation or non-compliance with the Tenant's Occupancy Document or Homebuyer's Occupancy Document, HUD regulations, or SCPHA policies, and any corrective or punitive action which is to be taken.

(d) If SCPHA determines that the Participant, at the time of admission or at any previous reexamination, knowingly made misrepresentations that have resulted in the payment of a lower monthly payment than he or she should have paid, the Participant is to be required to pay the difference between the amount paid and what should have been paid; interest thereon may be charged, at SCPHA's sole discretion.

C. **Examination and Reexamination '37 Act Units.** For the purposes of continued occupancy in '37 Act housing units only, whether lease purchase or rental, SCPHA will not require Annual Income recertification by Participants continually occupying a housing unit since October 1, 1998. If Participant believes that the Required Monthly Payment or Tenant Rent required under the Occupancy Document exceeds thirty percent of his or her adjusted monthly household income, he or she may request a reduction. If requested by Participant, SCPHA will review Participant's household income to determine whether the Required Monthly Payment or Tenant Rent required under the Occupancy Document exceeds thirty percent of Participant's adjusted household monthly income. If SCPHA certifies that the Required Monthly Payment or Tenant Rent is more than thirty percent of the adjusted household monthly income, the Required Monthly Payment or Tenant Rent will be reduced to thirty percent of the adjusted monthly household income. Participant will then be required to recertify annually until such time as the Required Monthly Payment or Tenant Rent required under the Occupancy Document equals the amount of the originally established monthly payment. The exception from reexamination provided herein is not

applicable to Participant requests for maintenance, rehabilitation, or other service provided by SCPHA requiring a review of income.

D. Increase in Annual Income Not Cause for Termination. Once a Family is determined to be eligible and executes a valid Occupancy Document, the Occupancy Document may not be terminated solely because of an increase in Annual Income.

E. Termination for Ineligibility. Families or members of Families who are ineligible for continued occupancy will be notified in writing and allowed up to three months to move from the project, at SCPHA's discretion, except that a Family member whose Permitted Resident has been revoked in accordance with the Non-Member Residence Code shall be required to vacate the unit within 30 calendar days after revocation becomes final, or immediately, if the 30 calendar days have passed. Ineligible Participants who do not move voluntarily by the date specified in their vacate notices are to be evicted unless it is determined that, due to special circumstances, the Family is unable to find decent, safe, and sanitary housing within its financial reach although making every reasonable effort to do so. In such event, a record is to be made of the applicable circumstances, together with the efforts made by the Family to locate suitable housing. Vacate notice extensions may be granted to such Families on a case-by-case basis, and rents will be increased in accordance with the schedule of rents.

F. Special Reexamination. If, at the time of admission or regular reexamination of a Participant clearly of Low Income, it is not possible to determine Annual Income with any reasonable degree of accuracy, a temporary determination of income and rent is to be made and a special reexamination scheduled within ninety calendar days, depending upon the estimated time required for the Family circumstances to stabilize. The Participant is to be notified of the date of the special reexamination.

G. Changes Occurring Between Reexaminations. No Required Monthly Payment or Tenant Rent is to be changed between periodic reexaminations except:

1. Participants are required to report the loss of a Family member through death, divorce, or other continuing circumstances, and to report the addition of a Family member by marriage, birth, or other circumstance.
2. Any Participant who reports a change in Family circumstances shall be given an Interim Income

Redetermination, and, if upon verification, the existing Required Monthly Payment or Tenant Rent exceeds thirty percent of the Participant's Family income, an appropriate adjustment shall be effected. If the Required Monthly Payment or Tenant Rent is decreased, the Participant must report all changes in Family circumstances that would result in an increased Required Monthly Payment or Tenant Rent, which changes occur prior to the next regular reexamination, and the Required Monthly Payment or Tenant Rent will be appropriately adjusted.

3. Failure to report the occurrence of such losses or changes may result in a retroactive Required Monthly Payment or Tenant Rent charge, with interest.

4. Increases in Required Monthly Payment or Tenant Rent are to be made effective on the first day of the second month following that month in which the change occurred.

5. Decreases in Required Monthly Payment or Tenant Rent are to be made effective on the first day of the month following that month in which the change was reported; however, no downward Required Monthly Payment or Tenant Rent adjustments are to be processed until all the facts have been verified.

6. SCPHA shall verify the information submitted by the Participant to assure the accuracy of the data upon which determinations as to eligibility for continued occupancy and changes in a Required Monthly Payment or Tenant Rent are made (either by scheduled reexamination or an interim reexamination).

X. OCCUPANCY STANDARDS.

A. **Standards.** The number, age, sex, and relationship of persons permitted to occupy any SCPHA unit should conform to reasonable standards of health and privacy and allow flexibility to accommodate changes in Family composition.

B. **Unit Size.** Dwellings will normally be assigned so that the living room will not be used for sleeping purposes and, with the exception of infants and very young children and husbands and wives, persons of the opposite sex will not be required to occupy the same bedroom.

C. **Utilities.** Participants are responsible for securing and the payment for utility services.

D. **Deposits.** Participants in the Low-Rent Program shall pay a one time security and cleaning deposit equal to sixty percent of Tenant Rent. Such deposit shall be placed in an interest bearing account and, upon termination of the Participant's Occupancy Document, shall be returned to Participant less any reasonable charges for cleaning and repairs.

If a Participant does not have sufficient funds to pay the deposit at the time of occupancy of a unit, SCPHA may enter into an agreement allowing payment of such deposit over time, not to exceed three months.

E. Regular Inspections. To ensure the timely periodic maintenance of the dwelling by the Family, SCPHA shall conduct a complete interior and exterior examination of each home on a regular basis but not less frequently than annually, and shall furnish a copy of the inspection report to the Homebuyer or Tenant. Inspections of each unit shall be due within thirty calendar days of the yearly anniversary of the initial inspection conducted under the SCPHA Maintenance Policy.

F. Continued Occupancy. Participants are eligible for continued occupancy only if they qualify as a Family or a member of a Participant Family; they are Members or, if eighteen years of age or older, Permitted Residents; and they comply with the terms and conditions of their Occupancy Documents and applicable SCPHA and HUD policies.

G. Guests. Guests of occupants may reside in a SCPHA unit for no more than fourteen consecutive days within a 180 calendar day period; provided that, upon written notice to SCPHA, SCPHA in its sole discretion may extend the period of time within which a guest may reside in a SCPHA unit. After that time, SCPHA will consider the guest a member of the Family occupying the SCPHA unit, for purposes of Annual Income and eligibility.

H. Determination of Successor Upon Death of Homebuyer.

1. Subject to contrary provisions in an Homebuyer's Occupancy Document, if a Homebuyer dies without having designated a successor, or if the designated successor fails to qualify, SCPHA may designate the successor to the unit as follows in descending order of priority, if such persons qualify:

- (a) Surviving Spouse;
- (b) Surviving child or children living in the unit at the time of the Homebuyer's death;
- (c) Surviving parent living in the unit at the time of the Homebuyer's death;
- (d) Surviving sibling living in the unit at the time of the Homebuyer's death; or
- (e) Surviving children living elsewhere at the time of the Homebuyer's death.

2. Those persons fitting the categories listed above must be Members or they shall be prohibited from being designated a successor to the unit.

3. Any person listed above, in order to become a duly designated successor, must meet all SCPHA

requirements to be a Homebuyer and must sign a successor Homebuyer's Occupancy Document agreeing to be bound by all the terms and conditions of the original Homebuyer's Occupancy Document.

4. SCPHA may apply to the appropriate court for an order determining succession rights to the unit.

5. If no appropriate and eligible successor can be determined, SCPHA shall terminate the Occupancy Document and assign the unit to the first eligible person on the waiting list.

XI. TRANSFERS.

A. General Policy. Transfers will be made without regard to race, color, national origin, sex, religion, or familial status. Occupants can be transferred to accommodate a disability.

B. Initial Offer. Occupants will receive one offer of transfer. Refusal of the offer without good cause will result in termination of the Occupancy Document for mandatory transfers or the removal of the household from the transfer list for voluntary transfers.

C. Mandatory Transfers. Priority for transfer and the order in which Families are transferred are as follows. The following transfers shall take priority over new admissions:

1. Transfers when the unit or building conditions poses an immediate threat to occupant life, health or safety, as determined by SCPHA. Emergency transfers within sites or between sites may be made to permit repair of unit defects hazardous to life, health, or safety; or to alleviate verified disability problems of a life threatening nature.

2. Transfers to provide housing options to occupants who are victims of hate crimes or extreme harassment; alleviate verified disability problems of a serious (but not life-threatening) nature; permit modernization or demolition of units; or permit a Family that requires a unit with Accessible features to occupy such a unit. Requests for these transfers will be made to the Executive Director of SCPHA or other designated person. The Occupant shall provide the necessary documentation to substantiate the need for such transfers. Transfers also may be initiated by SCPHA (*e.g.*, moving a person with mobility problems to a unit with Accessible features).

3. Administrative transfers within sites or between sites to correct serious occupancy standards problems. Transfers to correct occupancy standards will only be made if the Family size is so small that it includes fewer persons than the number of bedrooms, or so large that the household members over age three would equal more than two

persons per bedroom. If a Family's size is between the smallest and the largest size permissible for the unit, the Family may request a transfer.

4. Transfers within sites or between sites to correct occupancy standards and to avoid concentration of the most economically and socially deprived families. Such transfers shall be voluntary if the Family is between the minimum and maximum occupancy standard but the Family requests a transfer, for example, to permit older children of opposite sexes to have separate bedrooms.

D. Processing Transfers.

1. SCPHA will administer a centralized transfer waiting list. SCPHA staff is responsible for submitting requests for transfer, including necessary documentation, to the Executive Director.

2. Transfers will be sorted into priority by SCPHA.

3. Transfer applications will be sorted by the date that the completed file (including any verification needed) is received.

4. Transfers to correct occupancy standards may be recommended at the time of re-examination or interim redetermination. This is the only method used to determine over/under housed status.

5. Occupants in a over/under housed status will be advised in their thirty-day "Notice of Result of Reexamination" that a transfer is recommended and that the Family has been placed on the transfer list. Interviewers will record transfer recommendations in duplicate for each Family affected by the transfer.

6. Split-family transfers will be processed as administrative transfers. Families that split into two "new" households may be transferred to two different units or a portion of the "old" household may be transferred to a single unit depending on Family circumstances and unit availability. Options for split-family transfers will be considered in order to minimize the impact on vacant units. Such transfers will be made in a manner that best benefits SCPHA.

7. Administrative transfers will be processed with new admissions using a ratio of one transfer for every four new admissions. This ratio is discretionary and will be reviewed at least annually to determine its effects on vacancy. Based on recommendations from staff, SCPHA may authorize a change in this ratio or suspend the processing of this type of transfer.

E. Good Record Requirement for Transfers.

1. In general, and in all cases of all resident-requested transfers, occupants will be considered for transfers only if the Head of Household, or any other Family members or guests for the past three years:

(a) Have not engaged in drug-related or activity that threatens the health and safety of Occupants and staff;

(b) Do not owe back rent or other charges, or evidence a pattern of late payment;

(c) Meet reasonable housekeeping standards and have no housekeeping Occupancy Document violations;

(d) Can get Utilities turned on in the name of the Head of Household; and

(e) Have no other serious or repeated violations of the material terms of a lease or other good cause for Occupancy Document termination as evidenced by a Notice of Termination issued.

2. Exceptions to the good record requirements may be made for emergency transfers or when it is to SCPHA's advantage (*e.g.*, a single person is living alone in a three bedroom unit and does not want to move) to move forward with the transfer. The determination to make an exception to the good record requirement will be made by SCPHA.

3. Absent a determination of exception, the following policy applies to transfers:

(a) If back rent is owed, the occupant will not be transferred until a payment plan is established or, if prior payment plans have failed, back rent is paid in full.

(b) An occupant with housekeeping standards violations will not be transferred until he or she passes a follow-up housekeeping inspection.

F. Cost of Transfers. Participants shall bear the cost of most transfers. Transfers requested or required by SCPHA, such as demolition, modernization, or accessibility transfers, will be paid for or made by SCPHA.

XII. OCCUPANCY RULES CONCERNING FIREARMS, DOGS, LIVESTOCK AND FOWL.

A. Firearms. Careless maintenance or use of firearms in a reckless or unacceptable manner is dangerous and threatens the health, safety, and welfare of residents, guests, and employees of SCPHA projects. Accordingly, no Participant, or any member of or guest in such Participant's household, may discharge a firearm in or around a SCPHA

project. Participants are responsible for the acts of their resident Family and are required to take all reasonable steps to assure compliance by their guests and other invitees. Violation of the Firearms Policy may be grounds for termination of Participant's Occupancy Document with SCPHA and for other legal sanctions. Any proposed termination based on the discharge of a firearm shall be initiated and conducted pursuant to the terms of the SCPHA Collection and Termination Policy.

B. Dogs. Unleashed and unconfined dogs pose a threat to the health, safety, and welfare of SCPHA project residents, guests, and employees. It is therefore the policy of SCPHA that all Participants are responsible for keeping their dogs leashed or confined within a secure enclosure. Failure to comply may be grounds for termination of a Participant's Occupancy Document with SCPHA and for other legal sanctions. Any proposed termination based on the presence of an unleashed or unconfined dog shall be initiated and conducted pursuant to the terms of the SCPHA Collection and Termination Policy.

C. Livestock and Fowl. Participants residing in cluster housing or subdivisions shall not keep livestock or fowl in or around the housing unit, whether confined within a secure enclosure or free-range. For the purposes of this provision, the term "livestock" includes cattle, sheep, pigs, goats, horses, donkeys, and mules. The term "fowl" includes chickens, ducks, geese, turkeys, and pheasants. Failure to comply may be grounds for termination of a Participant's Occupancy Document pursuant to the terms of the SCPHA Collection and Termination Policy and other legal sanctions.

XIII. SUBLEASES.

A. Policy Statement. SCPHA recognizes that some of the Participants residing in SCPHA-assisted units may, from time to time, temporarily need to leave the Pueblo for various reasons. SCPHA therefore sets forth the following policy to allow these Participants the opportunity to vacate their homes temporarily without jeopardizing their Occupancy Documents.

B. General Provisions.

1. All Participants have entered into a lease with SCPHA, known as either the Tenant's Occupancy Document or the Homebuyer's Occupancy Document, agreeing that the home would be their primary place of residence and that they would abide by all the terms and provisions contained in the Occupancy Document. A Homebuyer may

permanently leave the Homebuyer Program, and the home would be turned back to SCPHA for reassignment to another Family. However, if a Participant determines that he or she must temporarily vacate the home, he or she can do one of the following:

(a) Sublease the unit to another person or Family for the duration of the Participant's absence, subject to prior written approval of SCPHA. Participants may be allowed to sublease their units if absence from the home is necessitated by any of the following conditions:

- (1)** Temporary employment outside the Pueblo;
- (2)** Pursuit of educational opportunities outside the Pueblo;
- (3)** U.S. military obligations;
- (4)** Medical related treatment or confinement;
- (5)** Religious obligations or traditional/cultural practices; or
- (6)** Other circumstances as approved by the Board on a case by case basis.

Provided, however, the person and/or each Family member covered under the sublease must be a Member or Permitted Resident; except that a Family member who is a Non-Member and 17 years of age or less shall be permitted to occupy the unit if the Non-Member resides with his or her parent or legal guardian and such parent or legal guardian is a Member or Permitted Resident. Any person or Family member who fails to meet the requirements under this section shall be prohibited from occupying the unit.

(b) Submit an alternate proposal to SCPHA, to be approved by SCPHA before the Participant vacates the unit. If the Participant is pursuing education or employment-related opportunities and no suitable sublessee can be found, the Participant may terminate the Occupancy Document or may submit an alternate proposal to SCPHA for its consideration and recommendation. In no event may an alternate proposal violate HUD statutory, regulatory, or contractual (including Occupancy Document) requirements.

2. A single sublease agreement will be for a maximum period of one year, but may be extended, under extraordinary circumstances, for additional terms of one year each, up to a maximum of four years. Such extensions will not be automatic but must be approved on an annual basis by the Board. It will be the sole responsibility of the Participant

to request such extensions.

3. The Participant must return to occupy the unit at the expiration of the sublease, unless an extension is granted by SCPHA. Absent any such extension, SCPHA may terminate the Occupancy Document if the Participant fails to return to the unit.

4. During the term of any sublease, the Participant remains obligated to comply with all other terms of the Occupancy Document (with the exception of occupancy of the unit), including making monthly payments and providing for maintenance. Failure to comply with the terms of the Occupancy Document on the part of Participant may, in the absolute discretion of SCPHA, result in termination of the Occupancy Document and the subsequent termination of the sublease.

5. During the term of any sublease, the required monthly payment will continue to be computed or adjusted for the Participant (using the income, including but not limited to rental income received under the sublease, and Family composition of the Participant) in accordance with the requirements of the Occupancy Document and SCPHA policies, even though the Participant is not residing in the unit.

6. SCPHA's approval of a sublease does not waive any provisions of the Occupancy Document, other than the provision requiring the Participant to reside in the unit during the sublease period.

7. SCPHA shall review all sublease agreements to ensure that the agreements do not violate or contradict any of the terms of the Occupancy Document or any of the policies and procedures of SCPHA. SCPHA shall not be a direct party to any sublease agreement which shall be binding upon, and a contract between, the Participant and the Sublessee only.

8. A Participant who has a delinquent account will not be eligible to sublease his or her unit, except under extraordinary circumstances, until or unless the account is brought current.

9. All requests to sublease must be approved by the Board before any sublease goes into effect. If a Participant subleases, in writing or otherwise, a SCPHA unit without approval from the Board, the Participant will be considered to be in breach of his or her Occupancy Document and the sublease shall be null and void.

C. Procedures.

1. All Participants will be required to abide by the following procedures if they wish to sublease their unit, request an extension of a sublease, or to submit an alternative plan:

(a) Submit a written statement to the Board requesting permission to sublease the unit or stating the alternate plan for the unit along with a non-refundable fee as may be determined from time to time, in writing, by the Board and the Executive Director. The formal request or statement must be submitted to SCPHA at least sixty calendar days prior to the anticipated date of absence from the unit. The formal request must also contain the following information:

- (1)** Reasons for the request;
- (2)** Anticipated dates of the sublease or alternate plan (not to exceed one year);
- (3)** Identity of the sublessee or relevant other party (if known);
- (4)** Status of the Participant's account.

(b) Along with the formal request to sublease, submit a copy of the intended sublease agreement.

(c) Along with the formal statement requesting an alternate plan, submit a copy of any applicable written agreement.

(d) Submit any other information requested by SCPHA.

2. The Board will review the Participant's request at its next regular scheduled meeting and will notify the Participant, in writing, of its decision within five working days of the meeting.

APPENDIX A
SAMPLE SUBLEASE
Sublease

THIS Sublease is entered into this _____ day of _____, _____, by and between _____, whose address is _____ (Sublessor), and _____, whose address is _____ as (Sublessee).

RECITALS

WHEREAS Sublessor is a Participant in the Pueblo of Santa Clara Housing Authority (SCPHA) Homebuyer or Low-Rent program; and

WHEREAS Sublessor entered into an Occupancy Document, dated _____, for the occupancy of a certain housing unit located on the Pueblo of Santa Clara (Pueblo) and more particularly identified as Project _____, Unit _____ (Premises); and

WHEREAS Sublessor finds it necessary to be away from the Pueblo for an extended period of time for the purpose of _____; and

WHEREAS Sublessee has shown to the satisfaction of Sublessor that he or she is willing and able to pay periodic rent as described herein;

WHEREAS Sublessee has shown to the satisfaction of Sublessor that he or she and all Family members who shall reside on the Premises are Members, Non-Members, or Permitted Residences in accordance with Chapter 27 of the Santa Clara Pueblo Law and Order Code, and

WHEREAS Sublessor wishes to lease the Premises to Sublessee, and Sublessee wishes to lease the Premises from Sublessor;

NOW, THEREFORE, in consideration of the Recitals hereinabove mentioned and the terms, conditions, covenants, and warranties hereinafter mentioned to be kept, honored, and performed by the parties, it is hereby agreed as follows:

TERMS AND CONDITIONS

1. Sublessor hereby leases to Sublessee the Premises.
2. This Sublease shall be effective commencing on _____ and expiring on _____, (dates not to exceed one year), subject to the written approval of SCPHA, as indicated at the end of this Sublease.
3. Sublessee will abide by **ALL** the terms and provisions of Sublessor's Occupancy Document, a copy of which is attached hereto and incorporated herein by reference.
4. Sublessee shall use and occupy the Premises as a private Family residence for uses normally incident thereto and for no other purpose, for the duration of the Sublease or until such time as the Sublease is terminated, whichever comes first.

5. Occupancy of the Premises shall be limited to Sublessee's immediate Family members or unrelated individuals identified in writing by Sublessee and provided to and approved by Sublessor and SCPHA. Other than temporary residency of less than two weeks, occupancy of the Premises by non-Family members without prior written notice shall be deemed a breach of this Sublease.
6. Sublessor may immediately terminate this Sublease upon Sublessee's breach of any of the terms and provisions contained in this Sublease or the Sublessor's Occupancy Document; **or** either party may terminate this Sublease upon thirty calendar days written notification to the other party.
7. Sublessee agrees to pay directly to Sublessor the sum of _____ upon execution of this Sublease and the sum of _____ on the 1st day of each month thereafter, as rent, for the duration of the Sublease.
8. Sublessee shall deliver up the Premises to Sublessor peaceably and quietly upon the expiration or termination of this Sublease.
9. Sublessee shall, during the term hereof, pay all charges for telephones, gas, electricity, and water used in or on the Premises and for the removal of rubbish therefrom, before any such charges shall become delinquent, and Sublessee shall hold Sublessor harmless from any liability therefor.
10. Sublessee will be charged for any damages resulting from failure to maintain sufficient heat, unless failure results from conditions beyond the control of Sublessee, such as unusually severe weather and general failure of the utility company to supply heat to the entire area.
11. It is understood and agreed by the parties hereto that SCPHA reserves, and shall have, the right through its agents and employees to enter on the Premises at any and all reasonable times to inspect the Premises, in accordance with policies and rules established by SCPHA.
12. Sublessee shall not assign this Sublease or any interest therein and shall not sublet the Premises or any part thereof. Any assignment or subletting shall be void and shall be considered a material breach of this Sublease.
13. Sublessee agrees that, if any default be made in the payment of rent or of any part thereof, or if any default be made in the performance of any other covenant herein contained, this Sublease at the option of Sublessor shall terminate, and Sublessor and/or SCPHA may re-enter the Premises and remove all persons therefrom.
14. SCPHA's approval of this Sublease does not waive any provisions of the Sublessor's Occupancy Document other than the provision requiring Sublessor to reside in the unit.
15. No delay or omission to exercise any right, power, or remedy accruing under this Sublease shall impair such right, power, or remedy, nor shall it be construed to be a waiver of or acquiescence in a breach of or default under the Sublease or Sublessor's Occupancy Document. **BOTH PARTIES SPECIFICALLY AND AFFIRMATIVELY AGREE NOT TO CONSTRUE THE CONDUCT, DELAY, OR OMISSION OF THE OTHER PARTY AS ALTERING IN ANY WAY THE PARTIES' AGREEMENTS AS DEFINED IN THIS SUBLEASE.** Any waiver, permit, or approval of any breach of or default under this Sublease must be in writing, approved by SCPHA, and, because the language of this paragraph was negotiated and intended by both parties to be binding and is not a mere recital, both parties hereby agree that they will not raise waiver or estoppel as affirmative defenses so as to limit or negate the clear language and intent of this paragraph. All remedies, either under this Sublease, by law, or otherwise afforded to either party shall be cumulative, not alternative.
16. Notice shall be deemed to have been given when deposited in the United States mail, postage prepaid, and addressed to the other party at the address indicated on the first page of this Sublease, or at such other address as either

party shall hereafter furnish the other in writing.

17. Upon determination of breach or default of this Sublease by one of the parties, the other party and/or SCPHA shall have the right to recover from the breaching party all reasonable attorneys' fees, expert witness fees, and court costs incurred in enforcing its rights hereunder or in successfully defending itself against the claims by the breaching party.

18. If any provision in this Sublease shall be held invalid or unenforceable by a court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Sublease.

19. This Sublease shall be deemed to have been negotiated by both parties and to have been entered into on the land of the Pueblo, which shall be the appropriate legal forum.

20. This Sublease constitutes the final and entire agreement between the parties, and there is no agreement or promise on the part of either party to do or omit to do any act or thing not herein mentioned. This Sublease is intended as a complete and exclusive statement of the terms and conditions of the parties' agreement and may not be effectively amended, changed, modified, or altered without the written consent of both parties, and approved by SCPHA.

21. Any noun or pronoun used herein shall refer to any gender and to any number as the context requires or permits.

22. Both parties understand and agree that SCPHA is not a party to this Sublease and that SCPHA's signature below is evidence only of SCPHA's acceptance of this Sublease and does not bind SCPHA in any way.

IN WITNESS WHEREOF, the parties have hereunto set their hands.

SUBLESSOR

SUBLESSEE

APPROVED:

Executive Director
SANTA CLARA PUEBLO HOUSING AUTHORITY