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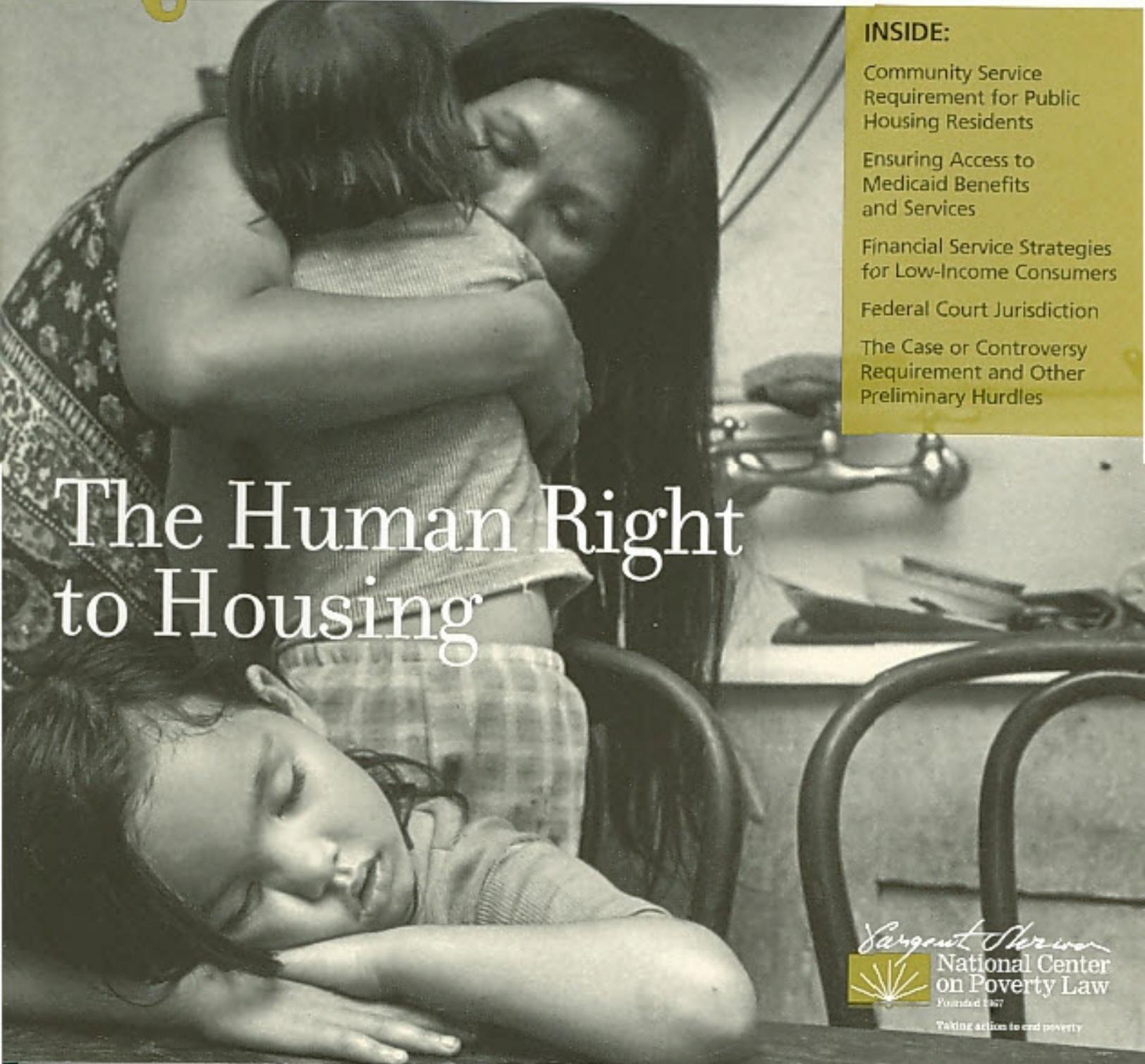
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Community Service Requirement for Public Housing Residents: States' Implementation and Strategies for Advocates

By Judith Goldiner and Risa E. Kaufman



Since October 31, 2003, public housing residents have faced a new condition on their tenancies: mandated community service. On that date public housing authorities began implementing the community service requirement included in the 1998 Public Housing Act (Quality Housing and Work Responsibility Act of 1998).¹ The act requires public housing residents to “volunteer” eight hours a month of community service, participate in an “economic self-sufficiency program,” or face eviction.² The requirement may not pose a hardship for many public housing residents, but a significant number of residents face barriers which make compliance difficult, dangerous, or simply impossible. The requirement is particularly troubling, given that noncompliance by one adult member of a household means that the entire family may be evicted. In this article we examine the community service requirement, its origin and its mandate, and discuss how public housing authorities across the country are implementing it. We conclude with strategies that advocates may use to assure that states implement lawful plans and to assist residents of public housing in complying with the requirement or obtain necessary exemptions.

I. The Quality Housing and Work Responsibility Act

In 1998 Congress enacted the Community Service Self-Sufficiency Requirement as part of the Quality Housing and Work Responsibility Act, an omnibus law that revised public housing and Section 8 programs.³ Although Congress delayed implementation of the community service requirement for a number of years, local federally funded public housing authorities now must implement the measure. Housing authorities were required to give tenants written notice of the requirement by July 31, 2003, and to implement the requirement fully by October 31, 2003.

The community service requirement mandates that public housing residents perform “community service” or engage in an “economic self-sufficiency” activity for eight hours a month.⁴ The regulations implementing the requirement define community service as “the performance of voluntary work or duties that are a public benefit, and that serve to improve the quality of life, enhance resident self-sufficiency, or increase self-responsibility in the community.”⁵ The statute defines “economic

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¹Quality Housing and Work Responsibility Act of 1998, Pub. L. No. 105-276, 112 Stat. 2539.

²The community service requirement is codified at 42 U.S.C. § 1437j(c) (2002) and is implemented by the U.S. Department of Housing and Urban Development (HUD) in regulations at 24 C.F.R. pt. 960, subpt. F (2003).

³42 U.S.C. § 1437j.

⁴*Id.* § 1437j(c)(1); 24 C.F.R. § 960.703(a).

⁵24 C.F.R. § 960.601(b).

self-sufficiency program” as “any program designed to encourage, assist, train, or facilitate the economic independence of participants and their families or to provide work for participants, including programs for job training, employment counseling, work placement, basic skills training, education, workfare, financial or household management, apprenticeship, or other activities as the Secretary may provide.”⁶ All adult residents of federal public housing must comply with the new requirement unless they qualify for an exemption. In order to prove compliance with the requirement, residents must submit a signed certification by the organization where they perform the community service.⁷

Housing authorities must include a description of their community service programs in their annual public housing agency plans.⁸ Because the community service requirement entails a modification of or amendment to many authorities’ current annual plans, the authorities must give 45 days’ notice to tenants and the public and an opportunity to comment on as well as respond to any comments of the resident advisory board before implementing or significantly changing their plans.⁹

The federal law contains many exemptions from the community service and self-sufficiency requirement. Local

housing authorities are mandated to include these federal exemptions in their own implementation plans, although nothing precludes them from expanding on these exemptions.¹⁰ Housing authorities must exempt anyone who is 62 or older.¹¹ They must exempt individuals who are blind or disabled, as defined by Section 216(i)(1) or 1614 of the Social Security Act, or the primary caretaker of such an individual.¹² And they must exempt anyone who is engaged in a welfare work activity as defined by the federal welfare law establishing the Temporary Assistance for Needy Families (TANF) program.¹³ The U.S. Department of Housing and Urban Development (HUD) “encourages” local housing authorities to consider thirty hours a week as the minimum number of hours necessary to obtain this work activity exemption, although the law and implementing regulations make no mention of a minimum number of hours.¹⁴

The federal law also exempts any public housing resident who is “a member of a family receiving assistance, benefits or services” under a TANF program.¹⁵ Although not interpreted uniformly by housing authorities, this provision indicates that when any member of the family receives such benefits or services, all members of the household who are on the lease should be exempt from com-

⁶42 U.S.C. § 1437j(g).

⁷24 C.F.R. § 960.607(a).

⁸42 U.S.C. §§ 1437c-1(d)(12), 1437j(c)(5).

⁹*Id.* § 1437c-1(g).

¹⁰*Id.* § 1437j(c)(2).

¹¹*Id.* § 1437j(c)(2)(A).

¹²*Id.* § 1437j(c)(2)(B); Social Security Act, 42 U.S.C. §§ 416(i)(1), 1382(c) (2002).

¹³*Id.* § 1437j(c)(2)(C). The definition of welfare work activity is found in Section 407(d) of the Social Security Act, 42 U.S.C. § 607(d), and includes subsidized and unsubsidized employment, work experience, on-the-job training, vocational education, job search and job readiness, and education related to employment in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency. *Id.*

¹⁴Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, Reinstatement of the Community Service and Self-Sufficiency Requirement, Notice PIH 2003-17(HA) (June 20, 2003), available at www.hcdch.state.hi.us/phaplan03.html.

¹⁵24 C.F.R. § 960.601(b)(5). See also 42 U.S.C. § 1437j(c)(2)(E); Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, Admission and Occupancy Final Rule FAQ, I A-4 (Oct. 29, 2003), at www.hud.gov/offices/pih/phr/about/ao_faq.cfm.

munity service even if an individual member does not receive the benefit.¹⁶ Moreover, in many states, the types of assistance, benefits, and services that the state provides with TANF funds are wide-ranging, including prekindergarten, state earned income tax credits, and some after-school programs.¹⁷ Although not all housing authorities recognize the full scope of this exemption, it can potentially excuse a large number of public housing residents from community service.

Another provision in the federal law exempts residents who meet the requirements for exemption from work activity under a TANF-funded state program or any other welfare program of the state in which the housing authority is located.¹⁸ HUD guidance makes clear that this provision exempts “anyone whose characteristics or family situation meet the welfare agency exemption criteria and can be verified,” whether or not the family receives welfare.¹⁹ Thus, for example, in New York this exemption should excuse all residents who are 60 or older, have a child younger than 1 year, are ill, disabled or incapacitated, are caring for someone who is ill, disabled, or incapacitated, or are eight months pregnant.²⁰ In all states it would excuse single custodial parents who have children younger than 6 years and are unable to comply with the community service requirement because no adequate child care is available, and, for two-parent households, it would appear to exempt

the spouses of residents who work full-time.²¹ In states that have adopted the Family Violence Option, it would exempt victims of domestic violence if performing the community service requirement would put them at risk.²² And, in states which exempt individuals from welfare work requirements if they are participating in drug rehabilitation programs or caring for disabled children, this exemption should exclude such residents from community service as well. While not all housing authorities have fully implemented this exemption, either, it should be a powerful tool for ensuring that residents who cannot and should not perform community service are excused from doing so.

Local housing authorities determine whether individuals are eligible for an exemption from community service and whether families have complied with the requirement. Federal law obligates housing authorities to review resident compliance with the community service requirement and certify performance annually at least thirty days before the end of the twelve-month lease term.²³ The penalty for noncompliance with the community service requirement is non-renewal of the lease and termination of tenancy.²⁴ Housing authorities must offer to enter with residents into agreements allowing them to cure any non-compliance by engaging in the requisite hours of community service or self-sufficiency programs during the following twelve-month lease term.²⁵

¹⁶24 C.F.R. §§ 960–601(b)(5).

¹⁷E.g., New York State uses its Temporary Assistance for Needy Families (TANF) surplus funds to pay for the earned income tax credit, food pantries, and summer youth employment. See Statewide Emergency Network for Social and Economic Security, Temporary Assistance for Needy Families or Tentatively Available Nonprofit Funding, at www.sensesny.org/tanfchart.htm (last visited Feb. 18, 2004).

¹⁸42 U.S.C. § 1437j(c)(2)(D).

¹⁹Office of Public and Indian Housing, U.S. Department of Housing and Urban Development, Admission and Occupancy FAQ, IV.Q13 (Oct. 29, 2003), at www.hud.gov/offices/pih/phr/about/ao_faq4.cfm (last visited Feb. 17, 2004).

²⁰See N.Y. Soc. Serv. Law § 332(1) (2003).

²¹42 U.S.C. § 607(c)(1)(B), (e)(2) (2003).

²²*Id.* § 602(a)(7).

²³24 C.F.R. § 960.605(c)(3).

²⁴42 U.S.C. § 1437j(c)(3)(C).

²⁵*Id.* § 1437j(c)(3)(C)(ii); 24 C.F.R. § 960-607(c)(1).

Federal law gives tenants a right to file a grievance challenging a denial of an exemption from the community service requirement in addition to the right to grieve any termination of their tenancy. The regulations implementing the requirement mandate that the notice of noncompliance, sent to families when the housing authority determines that a family member who must fulfill a service requirement violated the obligation, include a statement regarding the resident's right to request a grievance proceeding.²⁶ Constitutional due process protections likely require that this notice be given at the time that the housing authority makes the determination to deny an exemption as well and require that residents be notified of the reason for the denial of an exemption.²⁷

II. Local Implementation of the Community Service Requirement

With approximately 3,300 public housing authorities around the country, implementation of the community service requirement has yielded a multitude of approaches at the local level. Some housing authorities have interpreted the federal exemptions generously—exempting many public housing residents from service. Others have taken a narrow approach and, in some cases, have failed to implement even the baseline exemptions required under the law. Here we review a few examples of housing authority responses; we highlight the work of advocates working with housing authorities to implement the community service requirement in a way that is fair and reasonable for public housing residents; we also point out some frustrations that advocates have experienced.

A. New York City

The New York City Housing Authority, the largest public housing authority in the country, is charged with implementing the community service requirement for over 500,000 residents. Although residents were notified of the impending change in October 2003, they did not start feeling the effects of the requirement until January 2004, when many were called in for recertification and lease renewal.²⁸ Before that, housing and poverty advocates in New York City met repeatedly with housing authority officials to discuss implementation of the requirement, to urge the authority to interpret the federal law expansively, and, at the very least, to implement each and every baseline exemption required by the federal law. The housing authority's interpretation of at least two of the federal exemption requirements, however, is far narrower than the federal statute or regulations entail.

The New York City Housing Authority interprets the exemption pertaining to residents who “meet the requirements for being exempt” from a work activity under a TANF program or other state welfare program to mean that residents must actually receive public assistance and have been exempted from work by the City's welfare agency, the Human Resources Administration.²⁹ Neither the federal statute nor the regulations contain any requirement, advocates have told the housing authority, that the individual actually be exempted by the state welfare authority in order to be exempt from community service. Rather, this provision requires that residents meet the *requirements* for being exempt from a work activity, whether or not they in fact

²⁶24 C.F.R. § 960.607(B)(2).

²⁷The statute mandating the community service requirement states that “such determinations shall be made in accordance with the principles of due process and on a nondiscriminatory basis.” 42 U.S.C. § 1437j(c)(3)(B).

²⁸On January 13, 2004, New York City Housing Authority issued GM-3704, providing guidelines for the authority's administration of the community service and family self-sufficiency requirements. Rowland Laedian, Assistant Department General Manager for Operations for Management, New York City Housing Authority, Community Service for Public Housing Residents, GM-3704 (Jan. 13, 2004), available at www.probono.net/ny/housing/library/nycha.

²⁹*Id.*, app. A, at 4.

receive welfare assistance. Nevertheless, the housing authority refuses to exempt residents who do not receive welfare benefits but would be eligible for a welfare work exemption; such residents include those who are 60 or older, have a child younger than 1 year, are temporarily ill, disabled or incapacitated, are caring for someone who is ill, disabled, or incapacitated, are eight months pregnant, are a parent and married to a full-time worker, or are a victim of domestic violence if performance of the community service requirement would put this person at risk. Although advocates in New York City successfully lobbied the housing authority to exempt single-parent residents who are unable to find child care for their children younger than 6 years (or under age 13 if they are not in school), the state welfare law in fact exempts parents who have children up to age 13 and can show no available child care.³⁰

Despite language in the federal regulations exempting public housing residents who are members of a family receiving *assistance, benefits, or services* under TANF, the New York City Housing Authority narrowly interprets the TANF provision to exempt only residents receiving welfare cash assistance from the Human Resources Administration or participating in a state-administered welfare-to-work program. Advocates note that New York uses TANF funds for a wide range of benefits and services in addition to cash assistance, or welfare, grants. For example, New York uses its TANF grant to pay for the state earned income tax credit, preventive services from the Agency for Children's Services, the Women, Infants and Children program, food pantries, and extended day programs for school children.³¹ Nevertheless, the housing authority will

not grant an exemption to individuals receiving assistance, benefits, or services under any TANF-funded program in New York other than welfare. The housing authority, however, exempts recipients of the wholly state-funded welfare program, the Safety Net Assistance Program.

The New York City Housing Authority further interprets the TANF exemption to require that each resident be on the family budget or otherwise verify receiving welfare assistance or being in a state-administered welfare-to-work program. Contrary to the plain meaning of the federal statute, the housing authority does not grant an exemption to residents if someone else in their family receives benefits, services, or assistance under TANF, safety net assistance, or Supplemental Security Income (SSI).

B. Chicago

The Chicago Housing Authority is the second largest housing authority in the country. Initially the housing authority proposed a fairly liberal community service policy which exempted many residents including but not limited to residents who (1) work ten hours a week or more, (2) are 60 and older, (3) do not receive disability benefits but supply medical documentation that they cannot perform community service due to their disability, (4) are part-time students, and (5) are responsible for the care of a child under 1.³²

Unfortunately, in late 2003, the housing authority changed its policy.³³ Under the final plan, nonexempt adults are required to perform thirty hours of "neighborhood service" a month—a substantial increase over the federal requirement but allegedly allowed because Chicago is a "Moving to Work"

³⁰Under New York and federal law, the state may not sanction individuals by reducing or terminating assistance for failure to meet work requirements if the individual is a single parent caring for a child who is younger than 6 years (13 years of age under New York law) and is demonstrably unable to find appropriate child care. 42 U.S.C. § 607(e)(2); N.Y. Soc. SERV. LAW § 341(6)(a).

³¹See Statewide Emergency Network for Social and Economic Security, *supra* note 17.

³²Chicago Housing Authority, Community Service Requirement Procedures (Draft 2001 Pub. Cmt.) (on file with Judith Goldiner and Risa E. Kaufman)

³³*Id.*, Economic Independence Policy (Nov. 12, 2003), available at www.thecha.org/transformplan/files/acop_0504.pdf.

jurisdiction.³⁴ Nonexempt adults who have a hardship exemption to the minimum rent requirements are required to do thirty-eight hours of “neighborhood service” a month. Residents who work less than thirty hours a week may reduce their monthly neighborhood service hours by the number of hours they work in an average week.

The Chicago Housing Authority exempts adults who are (1) 62 or older, (2) disabled and unable to work, (3) the full-time caretaker of a disabled person who cannot work, (4) retired (not age-based) and receiving a pension, (5) working at least thirty hours per week, or (6) a full-time student. Chicago has not implemented many of the federally required exemptions including the requirement to exempt (1) individuals who meet the requirements for being exempt from a work activity under TANF or the state welfare program; (2) members of families receiving assistance, benefits, or services under TANF or a state welfare program; and (3) individuals who are engaged in work activities which may not be employment.

The Chicago Housing Authority states that it will, to “the greatest extent feasible and practicable,” suggest names and contacts of agencies that have openings for volunteers including those with disabilities.³⁵ The housing authority’s policy makes clear that a resident may challenge its determination at every stage of the process through the grievance procedure.

With its changes in policy, Chicago has become the worst housing authority in the country in its treatment of residents.

Advocates in Chicago are not sure what prompted the authority to change its policy so drastically, to go so far beyond what federal law requires in terms of hours of service, and to refuse to implement the federally required exemptions. Advocates are continuing to meet with the housing authority to reinstate the originally proposed exemptions.³⁶

C. Cambridge and Somerville, Massachusetts

Based on materials prepared by the Massachusetts Law Reform Institute, several public housing authorities in Massachusetts have adopted plans with broad exemptions from community service. The institute’s advocate’s guide details who must be exempt under federal law in Massachusetts because a family member is receiving aid under a state program under Title IV-A or a state welfare program or because the person meets the requirements for a state TANF program work exemption.³⁷ The institute also prepared a model plan for housing authorities based on these exemptions.³⁸ Though specific to Massachusetts, the materials are a useful example for other states.

Advocates at Cambridge and Somerville Legal Services persuaded the Cambridge and Somerville housing authorities to adopt plans that reflect the Massachusetts Law Reform analysis. The Cambridge plan includes, among others, exemptions for a resident who is a *member of a family* receiving public assistance, SSI, subsidized child care, the state earned income tax credit, or state veteran’s services.³⁹ The Cambridge plan exempts—based on the state TANF program work exemp-

³⁴Moving-to-Work jurisdictions are exempt from many federal requirements. Moving to Work was a pilot program set up by HUD in the late 1990s. Appropriations Act of 1996, § 204, Pub. L. No. 104-134, 110 Stat. 1321.

³⁵Chicago Housing Authority, *supra* note 32, at 4.

³⁶E-mail from Richard Wheelcock, Supervising Attorney, Housing Law Project, Legal Assistance Foundation of Metropolitan Chicago, to Judith Goldiner (Apr. 22, 2004) (on file with Goldiner).

³⁷Massachusetts Law Reform Institute, Advocate’s Guide to the Public Housing Community Service/Self-Sufficiency Requirement in Massachusetts (Nov. 2003), available at www.masslegalservices.org/page/164025;cat_id=1854.

³⁸*Id.*, Model Community Service Plan for PHAs (2003), available at www.masslegalservices.org/page/169136;cat_id=1854.

³⁹Cambridge Housing Authority, Community Service/Self-Sufficiency Policy (Dec. 2003) (on file with Goldiner and Kaufman).

tions—a resident who is 60 or older, disabled, parent of a child younger than 2 years, caring for a disabled family member, or pregnant and in the last four months of pregnancy.⁴⁰ The plan exempts any person who is engaged in eight hours of work activity a month.

The Somerville Housing Authority adopted an exemption checklist similar to one in the model plan developed by Massachusetts Law Reform Institute.⁴¹ The checklist has the same family and individual exemptions as the Cambridge plan. A resident who becomes exempt during the year is exempt for the entire year. The Somerville plan also states that the authority does not impose a sanction unless it provides the family with an appropriate and available placement, “with due regard to the nonexempt member’s linguistic capabilities, disabilities and transportation needs.”⁴² Similar to the Peoria Housing Authority’s commitment, discussed below, this commitment is a model for the rest of the country. The Somerville plan provides that a resident may comply by doing ninety-six hours of community service a year and need not do eight hours every month.⁴³

D. Seattle

The Seattle Housing Authority exempts many of its most vulnerable residents.⁴⁴ Its plan exempts residents who are (1) 62 or older, (2) blind or disabled, (3) employed more than eight hours a month, (4) the parent or legal guardian of a child under 13, and (5) a member of a household with someone who is in compliance with the state welfare pro-

gram or TANF. Seattle allows residents to self-certify that they are (1) blind or disabled and unable to perform community service, (2) a victim of domestic violence and performance of community service would put them at risk, (3) graduated from an educational or training program within the last six months and currently job searching (exemption for up to six months from graduation), and (4) 55 or older and unable to comply with the service provisions. With third-party verification, a resident is exempt if (1) work exempt from a state welfare, TANF, or Social Security Administration program, (2) the primary caretaker of someone disabled or elderly, (3) providing child care for someone doing the community service requirement, (4) pregnant, (5) awaiting decision on a pending SSI or unemployment compensation application, (6) involved in a dispute with the Social Security Administration or the state social services department, (7) sick or suffering from a temporary disability expected to last sixty days or more, (8) home schooling a child under 18, and (9) an active duty reservist or military personnel. Attendance at school (high school and higher education), an English-as-a-second-language program, vocational training, on-the-job-training, or an economic self-sufficiency program also exempts a resident from community service.⁴⁵

Nonexempt family members must find their own opportunities to do community service. If an individual misses a month of service, the individual must make up for it in the next month with

⁴⁰Disabled persons receiving Supplemental Security Income (SSI) or state general assistance (called EAEDC in Massachusetts) qualify their families for a family exemption. Disabled persons receiving Social Security Disability Insurance or Medicaid due to disability, or those who have a disability that meets the state’s standard for TANF cash assistance, qualify for an individual exemption because they would be exempt from work under the state’s TANF cash assistance program.

⁴¹Somerville Housing Authority, Community Service Policy (revised Nov. 2003) (on file with Goldiner and Kaufman).

⁴²*Id.* at 5.

⁴³The Fall River Housing Authority also has adopted a plan following the Massachusetts Law Reform Institute model. E-mail from Judith Liben, Staff Attorney, Massachusetts Law Reform Institute, to Judith Goldiner (Feb. 18, 2004) (on file with Goldiner).

⁴⁴Seattle Housing Authority, Community Service and Self-Sufficiency Requirement (Jan. 27, 2004), available at www.seapha.org/Residents/ForResidents/TenantInfo/CommunityService.html.

⁴⁵The third exemption requires third-party verification by an established oversight agency.

authorization from the property manager. The Seattle Housing Authority will offer some volunteer opportunities at individual housing developments, but what those will be is not clear.

E. Other Jurisdictions

The following are additional brief examples of how public housing authorities in other jurisdictions are implementing the community service requirement.

1. Exemptions

The Atlanta Housing Authority exempts residents who are (1) 62 or older, (2) blind or disabled, (3) the primary caretaker of someone who is blind or disabled, (4) temporarily disabled, (5) a part- or full-time student, (6) working at least twenty hours a week, (7) a participant in a state welfare program and in compliance with the program, or (8) able to certify that “a member of my household receives assistance benefits or services for me under a State welfare program with a work requirement and the family member is in compliance with all program requirements.”⁴⁶ Disability must be documented by a doctor’s letter demonstrating that the individual meets the disability requirement, or by proof of receipt of medical assistance, worker’s compensation (with a doctor’s letter), SSI, Social Security Disability Insurance (SSDI), or interim SSDI. The breadth of the eighth exemption is not clear, although on its face it appears to include people who do not receive state welfare benefits if a member of their household receives those benefits.

In Kentucky advocates have discussed the community service requirement with local public housing authorities to try to make the community service requirement less burdensome, especially since the authorities acknowledge that many residents are currently performing community service and that few community service opportunities are available in the immediate jurisdiction.⁴⁷ For example, the Richmond, Kentucky, Housing Authority exempts residents who are (1) working ten hours a week or more, (2) 62 or older, (3) blind or disabled, (4) the primary caretaker of someone who is blind or disabled, (5) meets the requirements for being exempt from a work activity under the TANF program or a welfare program of the state, or (6) a member of a family receiving assistance, benefits, or services under TANF or a state welfare program.⁴⁸ The Richmond Housing Authority allows residents to self-certify their exemption, and it will charge residents who leave owing community service hours at the minimum wage rate per hour—essentially acknowledging that such hours are “work” that will not be paid to the nonexempt resident.

The Boston Housing Authority plan exempts residents who are (1) 62 or older, (2) blind or disabled as defined under the Social Security Act, (3) a primary caretaker of a person described in (2), (4) engaged in a work activity, (5) exempt from a work activity under a TANF or state welfare-to-work program, or (6) a member of a household receiving benefits, services, or assistance under a TANF-funded program or state welfare program.⁴⁹ The Boston Housing Authority’s

⁴⁶Letter from Wayne Hood, Director of Real Estate Investment, Atlanta Housing Authority, to Atlanta Housing Authority tenants (July 29, 2003) (exemption request form) (on file with Goldiner and Kaufman).

⁴⁷E-mail from Rita Caufield, Managing Attorney, Access to Justice Foundation, to Sylvia Brennan, Staff Attorney, Director of Government Relations: Legislative and Administrative Advocacy, National Housing Law Project (Aug. 1, 2003) (on file with Goldiner and Kaufman).

⁴⁸Housing Authority of Richmond, Community Service and Self-Sufficiency Policy (June 20, 2003) (on file with Goldiner and Kaufman). The housing authority exempts only residents who show that they are receiving public assistance benefits and are in compliance with the program. *Id.*

⁴⁹Boston Housing Authority, Admissions and Continued Occupancy Policy for the Public Housing Programs (Jan. 21, 2004), available at www.bostonhousing.org/pdfs/OCC2004ACOP.pdf. If a resident does not meet the social security definition of blind or disabled, the resident may apply for an exemption from community service as a reasonable accommodation. An applicant for SSI or Social Security Disability Insurance is deemed disabled unless the application is denied. Letters from treating physicians shall be evidence of disability. *Id.* at 128–29. Regarding the fifth exemption, the Boston Housing Authority exempts only residents who show that they were exempted by the welfare department. *Id.* at 129.

plan does not comport with federal law, advocates commented, for example by not adequately identifying households and individuals exempt by virtue of receiving TANF and by not notifying residents about their right to grieve a determination that they are not eligible for an exemption.⁵⁰ The Boston housing authority agreed to reconsider its policies as part of its 2004 annual planning.⁵¹

The community service exemptions in several jurisdictions—Peoria, Illinois; Kansas City, Missouri; Stanford, Florida; Oakland, California; Camden, New Jersey; and Hartford, Connecticut—largely track, with some variations, the federal statute.⁵²

The Peoria Housing Authority exempts residents who work twenty hours or more a week.⁵³ Residents who are disabled must present proof of receiving SSI, SSDI, or TANF or a statement from their physician.⁵⁴ A resident who is disabled but cannot meet the definition of disability may apply for a reasonable accommodation. The Peoria Housing Authority exempts those who would be exempt from work if they received public assistance but requires third-party documentation of their status. If a nonexempt family member becomes exempt during the year, the Peoria Housing Authority

exempts the member for the entire year.⁵⁵ Residents need not report a change in status from exempt to nonexempt until the end of the lease term.

Kansas City's exemption for a member of a family receiving assistance, benefits, or services under any welfare program states that "if you are *not receiving* daycare, transportation, or training, you are required to do the community service requirement."⁵⁶ Whether Missouri TANF funds are used to pay for day care, transportation, or training so that these residents must be exempt, or whether the Kansas City Housing Authority is requiring even residents without child care or transportation to perform community service is unclear. The Kansas City plan does not specify a number of work hours necessary to qualify for an exemption.

The Stanford, Florida, Housing Authority and the Oakland, California, Housing Authority require thirty hours of work for an exemption, and Oakland allows residents to self-certify that they are eligible for an exemption.⁵⁷ The Camden Housing Authority exempts residents who work more than twenty hours a week and those who are full-time students.⁵⁸ The Hartford Housing Authority plan does not specify a number of hours required for the "engaged in work activ-

⁵⁰Boston Housing Authority, FY2004 Annual Plan: Summary of Comments 8–11 (2004), available at www.bostonhousing.org.

⁵¹*Id.*

⁵²Peoria Housing Authority, Community Service and Self-Sufficiency Policy (Sept. 2003) (on file with Goldiner and Kaufman); Camden Housing Authority, Continued Occupancy and Community Service (no date) (on file with Goldiner and Kaufman); Housing Authority of Hartford, Community Service Policy (no date) (on file with Goldiner and Kaufman); Letter from Caster B. Bimon, Deputy Executive Director of Public Housing Operation, Housing Authority of Kansas, Missouri, to Residents (Nov. 13, 2003) (on file with Goldiner and Kaufman); Stanford Housing Authority, Community Service and Self-Sufficiency Policy (no date) (on file with Goldiner and Kaufman); Letter (and Community Service Eligibility Form) from Housing Management Department, Oakland Housing Authority, to Residents (July 21, 2003) (on file with Goldiner and Kaufman).

⁵³E-mail from Willa Lucas, Resident Services Manager, Peoria Housing Authority, to Sylvia Brennan, Staff Attorney, National Housing Law Project (April 26, 2004) (on file with Goldiner and Kaufman).

⁵⁴Peoria Housing Authority, *supra* note 52, at 4.

⁵⁵*Id.*

⁵⁶Letter from Bimon, *supra* note 52 (emphasis added).

⁵⁷Stanford Housing Authority, *supra* note 52; Oakland Housing Authority, *supra* note 52. The Oakland Housing Authority confusingly deleted "member of a family" from its claimed exemption form but kept it in its letter to residents. *Id.* How the housing authority is interpreting the "member of a family" language with regard to the TANF exemption is not clear.

⁵⁸Camden Housing Authority, *supra* note 52.

ities” exemption or define any exemptions or any other terms in its plan.⁵⁹

2. Finding Placements

The Peoria Housing Authority has committed to contact a reasonable number of eligible community service host agencies to develop potential placements for residents to perform community service.⁶⁰ It will give families with nonexempt members a list of approved community service placements containing a description of the placement and the name, address, and phone number of the contact person.⁶¹ If a nonexempt member wishes to perform community service at an alternative organization, the member may seek approval from the housing authority. Peoria will make some community service placements available within the authority.

The Camden Housing Authority pledged to coordinate with social service agencies, local schools, and the human resources office to identify volunteer opportunities. It may create volunteer positions such as hall monitoring, litter patrols, and supervising and record keeping. The housing authority agreed to give a list of volunteer opportunities, information about obtaining volunteer opportunities, and a volunteer time sheet and to assign family members to a volunteer coordinator who “will assist the family members in obtaining appropriate volunteer positions and in meeting their responsibilities. The volunteer coordinator will track the family member’s progress monthly and will meet with the family member as needed to best encourage compliance.”⁶²

The Hartford Housing Authority states that it will work “collaboratively with the Community Agencies” but does not explain this.⁶³ The Kansas City Housing Authority states that it has developed relationships with some community-based organizations allowing public housing residents to perform community service at those organizations.⁶⁴ The Stanford Housing Authority “to the greatest extent possible and practical” will supply the names and contacts of agencies where residents can perform community service and will offer “in-house” opportunities for community service.⁶⁵ The Boston plan indicates that the housing authority will directly administer some community service and economic self-sufficiency activities, make some activities available through a contractor, and develop partnerships with qualified organizations.

3. Noncompliance

If the Peoria Housing Authority finds a family member noncompliant with the community service requirement, it will inform the head of household of the specific facts supporting that conclusion and the resident’s right to file a grievance and to cure.⁶⁶ The Peoria plan states that the housing authority “shall not impose any sanction on a family with non-exempt members unless it first provides the family with an appropriate placement with due regard to the non-exempt member’s linguistic capabilities, disabilities, and transportation needs.”⁶⁷ This language mirrors the Somerville Housing Authority’s commitment.

⁵⁹Hartford Housing Authority, *supra* note 52.

⁶⁰Peoria Housing Authority, *supra* note 52, at 4.

⁶¹*Id.*

⁶²Camden Housing Authority, *supra* note 52, at 14.5(D).

⁶³Hartford Housing Authority, *supra* note 52.

⁶⁴Letter from Bimon, *supra* note 52.

⁶⁵Stanford Housing Authority, *supra* note 52, at 4.

⁶⁶Peoria Housing Authority, *supra* note 52, at 4.

⁶⁷*Id.*

III. Advocacy Strategies

Advocates serving public housing residents likely will be called upon to assist clients in complying with the community service requirement or seeking exemptions. Advocates are urged to familiarize themselves with their local public housing authority's plan and the available exemptions as well as the grievance mechanism in place for challenging denials of exemptions. Public education regarding the new requirement is critical since residents may be unaware or confused by the new rules. Many residents may not know about their right to an exemption, and advocates can be instrumental in ensuring that residents who cannot or should not perform community service do not feel compelled or coerced to do so.

Advocates can also assist by urging their local housing authorities to be expansive in the exemptions that they recognize. While the federal law requires housing authorities to include numerous exemptions in their community service requirement plans, nothing precludes local authorities from going beyond those contained in the federal law.

For example, the federal law states that local housing authorities shall exempt individuals who are blind or disabled, as defined by Section 216(i)(1) or 1614 of the Social Security Act, or the primary caretaker of such an individual.⁶⁸ Many individuals with disabilities may not meet these narrow definitions. These include those who do not meet the high standard required by the Social Security Act, those currently supported by family members or friends and not receiving entitlements, those whose applications for SSI and SSDI are still pending or awaiting appeal decisions, and those who currently lack the income or health insurance necessary to ensure that their medical conditions and disabilities are fully assessed. By urging local housing authorities to adopt a more expansive definition of disability—permanent and

temporary—to include a wider range of disabled individuals, advocates can help ensure that persons who have disabilities and for whom community service would be difficult or impossible are exempt from the requirement.

Moreover, advocates can help ensure that individuals with disabilities are accommodated where necessary. Persons with disabilities may be limited in the community service placements that they can accept because they require, for example, (1) modifications in the physical setting, (2) office equipment designed for people with disabilities, or (3) information or instructions in large print, Braille, or tape format for people with visual impairments and in other formats for people with learning or other cognitive disabilities. Advocates should insist that persons who have disabilities and are not exempt from community service not be penalized for their inability to comply for lack of an accommodation. Where necessary, advocates can enforce through litigation the rights to reasonable accommodations of persons with disabilities—for example, by seeking to enforce rights under the Americans with Disabilities Act.

Advocates can take a more active role in ensuring that local housing authorities properly implement the federal requirements of the community service law. For example, advocates can enforce the federal requirements regarding amendments to and modifications of authority plans. Housing authorities must describe in their annual plans how they will comply with the community service requirement.⁶⁹ For many housing authorities, this entails modifying or amending their current annual plan. Federal law mandates a particular process for any significant changes in or alterations of policies, rules, regulations, or public housing agency plans: housing authorities must give forty-five days' notice to tenants and the public and an opportunity to comment, and they must respond to any comments of the resident

⁶⁸Social Security Act, 42 U.S.C. §§ 416(i)(1), 1382(c), 1437(c)(2)(B).

⁶⁹*Id.* § 1437c-1(c)(12).

advisory board.⁷⁰ Advocates may consider bringing a legal challenge against housing authorities that do not comport with these notice and hearing requirements when implementing their community service plan and when significantly changing their community service policy.

Advocates can mount a legal challenge on behalf of residents for a housing authority's failure to implement the full range of exemptions required under the federal law. The law apparently authorizes private suits to ensure that housing authorities comply with federal plan requirements, whether or not HUD reviews and approves or disapproves a housing authority's annual plan.⁷¹ Thus, if a local housing authority fails to include in its plan the full range of baseline exemptions, advocates can sue for proper implementation of the law.



The community service requirement is an unprecedented one for public housing residents. With public housing authorities across the country implementing a wide range of plans, advocates need to familiarize themselves with the federal law and their local housing authority's plan, give clear information to public housing residents, and advocate creatively to minimize the harm that the requirement threatens to inflict on the most vulnerable.

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⁷⁰*Id.* § 1437c-1(g).

⁷¹Although HUD may conduct a minimal paper review of the public housing authority plan, the statute provides that this review "shall not preclude judicial review regarding such compliance pursuant to chapter 7 of Title 5, or an action regarding such compliance under . . . 42 U.S.C. § 1983." *Id.* § 1437c-1(i)(4)(B).