

**Subchapter 7. Office of Migrant Services**  
**Article 1. General**

**§ 7600. Authority and Purpose.**

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. New Subchapter 7 (sections 7600-7665, not consecutive) filed 6-3-80; designated effective 1-1-81 (Register 80, No. 22).
2. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
3. Repeater filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

**§ 7601. Federal Law and Regulations.**

(a) This subchapter shall be interpreted to be consistent with all applicable federal law and regulations and, in the event of conflict, federal law or regulations will prevail.

(b) The Department of Housing and Community Development and its contractors and subcontractors shall comply with all state and federal civil rights laws and regulations and shall not discriminate based on race, color, sex, creed, religion, national origin, age, or any physical handicaps.

(c) Any information, documents or sources obtained by a contractor or the Department from resident shall remain confidential, and shall be released only pursuant to the requirements of the Information Practices Act of 1977 (Government Code Section. 1798 and following) and other applicable state and federal law.

(d) The Department shall review and approve the form of all notices, applications, and other documents required by these regulations, before they are provided to residents.

(e) The Department shall designate a period, of 180 days each calendar year, unless otherwise extended to or reduced by written agreement between the Department and the contractor, during which the housing center(s) shall be open to migratory agricultural workers and their families for occupancy, which period will be referred to as the on-season. The remaining period of time during each calendar year shall be referred to as the off-season.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

**§ 7602. Definitions.**

(a) "Agricultural employment" means work on a farm, ranch or orchard, or the processing of agricultural products.

(b) "Applicant" means an individual who signs an application for admission to a migrant housing center.

(c) "Contractor" means a housing authority, school district, health agency or other appropriate local public or private nonprofit agency and its agents and other appropriate local public or private nonprofit agency and its agents and employees which has contracted with the Department to operate and maintain and provide services for one or more migrant centers pursuant to Subchapter 8.5 of Part 2 of Division 31 of the Health and Safety Code, commencing with Section 50710.

(d) "Department" means the Department of Housing and Community Development, Office of Migrant Services.

(e) "Earned income" means income received as payment for work.

(f) "Household" means immediate family members who reside, or who have made application to reside together, as a single family at a migrant center.

(g) "Immediate family" means a migrant center resident and his or her parents, children and spouse, or any other related dependents or persons who regularly live with the family and whose income(s) and resources are available for use in meeting the living expense of the group. In addition to sons and daughters of a resident, "children" shall include minors who are financially dependent on a resident, whether or not they are related to the resident. "Spouse" shall include a person who acts as the husband or wife of the resident, whether or not they are legally married.

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(h) "Migrant center" and "migrant housing center" mean a housing center administered by the Department and operated by a contractor for the purpose of providing housing for migratory agricultural workers pursuant to Health and Safety Code section 50710 and shall include all housing units, common areas and structures, equipment and furniture within a housing center, excepting those facilities owned exclusively by a contractor or other interests and not meant for the use of migratory agricultural workers.

(i) "Migratory agricultural worker" means an individual who:

(1) has the employment status of one of the following:

(A) during the current or preceding calendar year, derived at least 50 percent of his/her total annual household earned income from agricultural employment, or

(B) can produce current evidence of a current job offer in agricultural employment; and

(2) performs, has performed, or will perform such agricultural labor during the current or preceding calendar year under conditions which require round trip travel exceeding 100 miles per day such that he/she was unable to return to his/her chosen place of residence within the same day of labor; and

(3) has resided together with his/her immediate family outside a 50 mile radius of the migrant center for at least 3 months out of the preceding 6 month period.

(j) "Operating costs" means the amount of the total expenditures necessary to pay for the costs of operating a migrant family housing center in compliance with Sections 50710 through 50713 of the Health and Safety Code and Sections 7601 through 7665 of Title 25 of the California Code of Regulations. Costs shall include permanent salaries/wages, temporary salaries/wages, and personnel benefits; center office supplies, household supplies, communication, travel and gas/oil; minor equipment and repair/maintenance; purchases under \$150.00; major equipment purchase and repair/maintenance, equipment rental, electricity, and gas; garbage, trash, sewer, and water; other costs; electric/plumbing/paint/solar supplies and services; lumber and materials; grounds maintenance; rehabilitation and repairs; debt service; replacement reserves; administrative support services, travel and auditing expenses.

(k) "Resident" means an individual migratory agricultural worker who signs a lease to reside in a migrant center.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Sections 50710 and 50712.5, Health and Safety Code.

### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

3. Editorial correction of subsection (d) (Register 95, No. 30).

4. Amendment of subsections (g) and (i) filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).

5. Change without regulatory effect amending subsections (g) and (i) filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).

6. Amendment of subsections (g), (i)(1)(A) and (i) filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

## Article 2. Admissions

### §7610. Eligibility for Admission.

An applicant and his/her immediate family are eligible for admission to a migrant center if they meet all of the following criteria:

(a) The applicant or applicant's spouse is a migratory agricultural worker. In determining status as a migratory agricultural worker, as defined in Section 7602, the combined earned income of all members of the applicant's household shall be considered, and as long as 50% of the household's combined earned income is derived from agricultural employment, any individual household members may engage in non-agricultural employment. Income from employment at a migrant center shall be included as agricultural employment in the total annual household income when evaluating compliance with the above 50% requirement.

(b) There is more than one person in the applicant's household and all household members are members of the applicant's immediate family.

(c) The applicant and his/her household conform to the occupancy standards set out in Section 7612.

(d) The contractor may determine that an applicant is not eligible for admission if, on the basis of substantial, factual evidence of that person's prior actions there is good cause to believe that the applicant or any member of his/her household will repeatedly fail to pay rent, will create a substantial threat to the health and safety of other residents, or

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will repeatedly breach material requirements of the lease. Unsubstantiated oral statements will not be deemed substantial factual evidence.

(e) The above eligibility criteria shall be exclusive and no other factors shall be considered in determining eligibility of applicants.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of subsections (a) and (d) filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of subsection (a) filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
3. Change without regulatory effect amending subsection (a) filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
4. Amendment of subsection (a) filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

### §7611. Admission Priorities.

(a) Applicants shall apply for admission on a first-come, first-serve basis, on the day that each migrant center opens for housing registration. An alternative method permitting preferential admission for residents of the migrant center's previous season may be used if approved by the Department.

(b) Applicants who have previous or current agricultural employment shall be given priority for occupancy of units during the opening day each season over those who have no history of current or past agricultural employment, but have offers of employment.

(c) If more eligible applicants apply than there are available units, the contractor shall maintain a waiting list with applicants listed in order of date and time of application. A priority number shall be issued upon application and shall be noted on the application form. When a housing unit becomes vacant, the contractor shall offer the unit to the first eligible appropriate candidate on the list. If after a good faith effort the contractor is unable to contact the first applicant on the list, the contractor may offer the unit to the next eligible appropriate candidate on the list, until the list is exhausted. If an applicant has not checked in with the contractor in the prior 24 hours, his/her name may be dropped from the waiting list.

(d) The foregoing priority shall be followed without regard to race, creed, religion, sex, color, or national origin or any other factor precluded by law.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

### § 7612. Occupancy Standards.

(a) Each migrant center shall remain open 180 days each calendar year. The period of time during which a migrant center is open may be extended or reduced pursuant to written agreement between the Department and the contractor responsible for the operation and maintenance of that migrant housing center.

(b) A migratory agricultural worker and his/her immediate family may not occupy more than two housing units at any one time.

(c) To avoid overcrowding and prevent waste of space, dwellings are to be assigned in accordance with the occupancy standards set forth as follows:

<i>Number of Bedrooms</i>	<i>Maximum number of Persons</i>
1	4
2	7
3	10
4	13

These maximum standards may be waived by the contractor when appropriate in order to make temporary use of available vacant units or to house families in urgent need.

If a resident is living in a unit which is too small for his/her household according to these occupancy standards, the contractor may transfer resident to the next available unit of appropriate size or may provide resident with an available

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additional unit. In addition, contractor may require a resident who is living in a unit which is too large for his/her household to exchange units with a resident who is living in a unit which is too small.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7613. Application and Admission Requirements.

(a) The Application for Admission constitutes the basic record of each migratory agricultural worker and his/her household who has applied for admission to a migrant housing center. Each applicant shall provide all information requested in the Application for Admission, sign the application, and attest to the accuracy of the data provided.

(b) Each application for Admission shall reflect the date and time of application by the applicant.

(c) Applications for Admission shall be available in English and the language spoken by a majority of applicants. The contractor shall provide assistance to all applicants in filling out the application.

(d) The Application for Admission and all other materials relating to the eligibility of the applicant and his/her household, including applicants who are found ineligible, shall be kept in an active file.

(e) The Application for Admission shall call only for information necessary to determine the eligibility of the applicant and his/her household as defined in Section 7610. Such information shall include the size and composition of the applicant's household.

NOTE: Authority cited: Section 50710, Health and Safety Code; Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7614. Verification.

(a) The contractor shall verify information provided by the applicant.

(b) The contractor shall accept a document submitted by an applicant for verification if it provides credible evidence of applicant's eligibility. The department may determine which types of documents do not provide credible evidence. The following are examples of acceptable documents but other forms of documentation offered by the applicant may be accepted:

(1) Income tax reports (e.g. W-2 forms) or other statements from employers or other income sources.

(2) Signed employer verification form,

(3) Migrant transfer record,

(4) Unemployment insurance benefits reports,

(5) Vehicle license number,

(6) Driver license.

(7) Signed current letter from employer or potential employer verifying current job offer for an applicant with no prior history of agricultural employment.

(c) Information obtained by telephone or personal interview may be used for admission, provided that no other documentation can be provided by applicant. A memorandum shall be placed in the verification records summarizing the information, stating the source and date of contact, and shall be signed and dated by the contractor's agent or employee who prepared the memorandum.

(d) In order to determine whether an applicant is ineligible for admission on the grounds stated in Section 7610 (d), the contractor may rely upon, for example, written records of a migrant center or other housing management, statements of a migrant center manager or other housing manager or owner or a chairperson of a resident council, and written records of administrative and court hearings in cases where action was brought against the applicant regarding conduct in a migrant center or other housing. Only credible information regarding the applicant's prior actions may be taken into account.

(e) Documents and other verification information shall be required only for the purpose of determining eligibility under the criteria in Section 7610 and shall not be required for any other purpose.

(f) Verification information shall be reviewed and evaluated as received for completeness, accuracy, and conclusiveness. Where the information received, at the time of application, is not adequate to verify the applicant's eligibility, the contractor may exercise discretion and either notify applicant that he/she is ineligible or permit applicant an additional 24 hours to produce the necessary documents. If during the verification process it becomes evident that for

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one or more reasons an applicant is ineligible, the investigation is to be discontinued and the applicant notified of his/her ineligibility and the reasons therefor, and of his/her right to a hearing as provided in Section 7615.

(g) If a determination is made that an applicant is not eligible the reasons for that finding and a summary of the information upon which that finding is based shall be written on the application form and signed by the staff person who made the determination.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. New subsection (b)(7) filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

### § 7615. Notification to Applicants.

(a) Each applicant shall be notified as promptly as possible regarding his/her eligibility status. If determined to be ineligible for admission, the applicant is to be informed in writing of the determination, the reasons for the determination, and of his/her right to request a hearing pursuant to subsection (b) of this section. For each such case, a record shall be maintained, including a notation of the circumstances involved, final action taken, and the dates. A form for requesting a hearing shall be in English and in any other language spoken by a majority of applicants.

(b) An applicant must request a hearing within 24 hours after written notification of ineligibility is personally delivered, or his/her rights to a hearing shall be deemed to be waived.

(c) Except where an applicant is refused admission due to lack of appropriately- sized housing units, contractor shall hold an appropriate unit vacant until the time to request a hearing has passed or, if a hearing is timely requested, until after a hearing is conducted.

(d) A hearing requested pursuant to subdivision (b) shall be held promptly, and shall be conducted in the primary language of the applicant or with a translator who speaks such language. Applicant shall not be required to miss work in order to appear at the hearing. The hearing requested pursuant to this section shall be conducted by a supervisor of the person who made the determination that the applicant was ineligible. Such decision shall be in writing and set forth the reasons and findings for the decision.

(e) Each applicant determined to be eligible for admission shall be housed promptly. The date that housing units are assigned may be designated by the Department.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7616. Execution and Amendment of Dwelling Lease.

(a) At the time of admission, the applicant accepted for admission shall sign the lease. The lease shall comply with Section 7623 and shall be prepared in triplicate. One copy shall be given to the applicant, one copy to the Contractor, and the original shall be filed in the permanent record folder established for the applicant at the center office.

(b) If, through any cause, the signer of the lease ceases to be a member of the resident household, a new lease shall be signed by the family member qualifying as head of the household, provided the household remains eligible for continued occupancy.

(c) If a resident household transfers to a different migrant center a new lease shall be executed to reflect the new dwelling.

(d) If, at any time during the term of the lease, any other change in the resident's status results in the need to change or amend any provisions of the lease, the lease should be amended to reflect the changes.

(e) All lease revisions are to be dated and signed by the resident.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of subsection (a) filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of subsection (a) filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

Article 3. Lease

§ 7620. Local Rules and Regulations.

In addition to the requirements in the lease, each contractor may adopt reasonable rules and regulations necessary for the proper operation of each migrant housing center and consistent with this subchapter. Such rules and regulations shall be submitted to the resident council for comment and to the Department for approval prior to their becoming effective. Such rules and regulations shall be given to each applicant at the time the lease is signed.

NOTE: Authority cited: Section 507 10, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

- 1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No.9).

§ 7621. Rents.

Rents shall be charged according to a schedule of rents established by the Department. Rents shall not be adjusted except in accordance with Section 7650 or 7653.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

- 1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

§ 7622. Replacement Charges.

The charges to residents for damages caused to the migrant center property shall be made in accordance with a schedule of replacement costs which shall be adopted by each contractor and posted in the management office of each migrant center, and shown to applicant at the time the lease is signed.

NOTE: Authority cited: Section 507 10, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

- 1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

§ 7623. Lease.

Each contractor shall use the following lease when leasing a unit in a migrant housing center. The lease shall be in English and a copy provided in the language spoken by a majority of applicants.

HOUSING AUTHORITY
BOARD OF SUPERVISORS
BOARD OF DIRECTORS

OF THE \_\_\_\_\_ OF \_\_\_\_\_

MIGRANT CENTER UNIT NO. \_\_\_\_\_

OCCUPANCY DATE \_\_\_\_\_ BEDROOM SIZE \_\_\_\_\_

The \_\_\_\_\_ of the \_\_\_\_\_ of \_\_\_\_\_ (Management),
relying upon statements in the resident's application for housing, agrees to lease to (Resident), the residence described
above, under the terms and conditions stated in this lease. The following people will occupy the residence:

Blank lines for listing names of occupants.

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**1. TERM OF LEASE**

The term of this lease shall be one month. The lease shall be automatically renewed for successive terms of one month unless terminated in accordance with Paragraph 6 of this lease.

**2. OCCUPANCY**

Resident, and members of Resident's household, as listed in Resident's application for housing, shall have the exclusive right to use and occupy the residence. Resident shall not sublet nor assign this lease. Resident agrees to comply with the transfer procedures in the Resident's Handbook for Migrant Centers.

**3. RENT**

The daily rent for these premises is \_\_\_\_\_. The rent shall be paid \_\_\_\_\_ weekly, \_\_\_\_\_ bi-weekly, \_\_\_\_\_ monthly (check one) in advance on the day of each \_\_\_\_\_.

**4. SECURITY DEPOSITS**

Resident agrees to pay \$ \_\_\_\_\_ as a security deposit upon the terms and conditions contained in the Resident's Handbook for Migrant Centers. Resident agrees to pay \$25.00 as an additional security deposit for the first two electronic gate security cards assigned to a household at Centers that have electronic gates, and \$25 for each additional card after the first two. These security deposits shall be returned to the Resident upon the conditions contained in the Resident's Handbook for Migrant Centers.

**5. UTILITIES**

Management shall pay for the cost of all utilities, except telephone.

**6. TERMINATION OF LEASE**

(a) Resident may terminate this lease at any time. Rent is only paid for the period Resident actually occupied the housing unit. Any unused rent shall be returned to Resident according to the termination terms and conditions contained in the Resident's Handbook for Migrant Centers.

(b) Management may terminate this lease only for good cause. Management shall terminate this lease in accordance with the provisions contained in the Resident's Handbook for Migrant Centers.

**7. RESIDENT'S HANDBOOK FOR MIGRANT CENTERS**

The provisions contained in the Resident's Handbook for Migrant Centers shall be a part of this lease. Resident and Management agree to be bound by the terms of the Handbook.

DATED: \_\_\_\_\_

\_\_\_\_\_  
RESIDENT

DATED: \_\_\_\_\_

\_\_\_\_\_  
MANAGEMENT

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

**HISTORY**

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of lease form heading and paragraph 4. filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
3. Amendments filed and operative 2-26-96 invalidated by *Martinez v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS 0 1752 (December 19, 1996).
4. Amendment filed 3-27-97 as an emergency; operative 3-27-97 (Register 97, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-25-97 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 3-27-97 order by operation of Government Code section 11346.1(f) (Register 97, No. 31). Emergency amendment filed and operative 3-27-97 invalidated by *Orejel v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS01752 (May 28, 1997).

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6. Change without regulatory effect repealing amendments filed and operative 2-26-96 filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
7. Editorial correction amending section and HISTORY 5 and adding HISTORY 6 (Register 98, No. 12).
8. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

### § 7624. Resident's Handbook.

Each contractor shall give the Resident a copy of the following Resident's Handbook for Migrant Housing Centers at the time of the execution of the lease. This Handbook shall be in English and the language spoken by a majority of applicants. The provisions of this Handbook are binding on all Residents, contractors, and the Department.

#### RESIDENT'S HANDBOOK FOR MIGRANT HOUSING CENTERS

Welcome to the Migrant Housing Center. This Handbook contains important information concerning the rights and responsibilities of residents and management of the migrant center. Please read it carefully and keep it with you while you are living at the center.

#### RENT

Rent shall be paid either monthly, bi-weekly, or weekly, depending on your agreement with the manager.

The department shall establish a schedule of rents from a statewide base for 1998 of seven dollars and fifty cents (\$7.50) per day for a two-bedroom dwelling. An additional fifty cents (*\$0.50*) per day shall be charged for a three-bedroom unit, and an additional one dollar (\$1.00) per day shall be charged for a four-bedroom or larger unit. In any year, any household which occupies more than one two-bedroom unit shall pay one dollar (\$1.00) per day for the second unit.

The base rent shall be adjusted, if necessary, at the beginning of each state fiscal year to an amount calculated by the Department considering total statewide operating cost throughout the state and total state and other funds available for all centers and after an opportunity for resident comment. There may be additional mid-season adjustments in rent after 30 days written notice. The exact rules for rent adjustments are in the Office of Migrant Services Housing Center Regulations, Sections 7650 and 7653.

#### SECURITY DEPOSIT

The security deposit will be no less than \$100.00 and no more than \$125.00. This deposit may only be used by management for unpaid rent, for any cost to clean the unit beyond normal wear and tear, and for the cost to repair damages beyond normal wear and tear caused by you or your guests. The security deposit may not be used for charges caused by normal wear and tear.

An additional security deposit of \$25.00 is required for the first two electronic gate security cards issued to you, and for each additional card thereafter, if your center has an electronic security gate. In the event an electronic gate security card is lost or not returned, you will forfeit this deposit. An additional deposit will be required before a new electronic gate security card is issued to you. If an electronic gate security card is returned damaged, you must pay actual replacement cost of the gate card.

Management shall make arrangements with you to pay these deposits at a later time if you cannot afford to pay the full amount at the time you are admitted to the center.

The rules for getting back your deposit at the end of the residency are as follows:

If you give management at least three days notice that you are leaving, management shall return the deposit to you on the day you move out. If management keeps all or part of deposit, they must provide a written statement explaining why those amounts were withheld.

If you do not give management at least three days notice that you are leaving, management will make permissible deductions and send the deposit to your forwarding address within two weeks. If the management does not have a forwarding address, management will hold your deposit for six months. After six months your deposit is forfeited. If management must hold your deposit, it will not entitle you to preference for admission the next year.

#### UTILITIES

All utilities (excluding telephone service), are to be paid by management at no additional charge to you.



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### TRANSFER

If you are living in a housing unit which is too small for your family, according to the occupancy standards set forth in the Office of Migrant Services Housing Center Regulations, management may transfer your family to the next available appropriate unit, or may provide your family with an additional available housing unit.

In addition, if you are living in a unit which is too large for your family, management may require you to exchange units with a family which is living in a unit which is too small. If there is such an exchange, the family in the larger unit must receive at least seven (7) days written notice from management.

### GUESTS

You may have guests (including overnight), but you must get permission from management if guests will be staying more than 3 days.

### MANAGEMENT RIGHTS AND OBLIGATIONS

- (a) All center personnel are answerable to management.
- (b) Management is authorized to provide free housing and utilities to center personnel who received or who will receive said housing benefits as a condition of their employment.
- (c) During the off-season management is authorized to enter into sublease agreements with federal, state, and local public entities for use of the common facilities. Such facilities shall be available for use by center residents during the on-season.
- (d) Management is to keep the center in a decent, safe, and sanitary condition. Repairs are to be made promptly.
- (e) Management shall repair and maintain all electrical, plumbing, sanitary, heating, ventilating, and cooling equipment, and appliances supplied by the Department in accordance with contractor's budget.
- (f) Management and residents shall cooperate on all matters pertaining to energy conservation.
- (g) Management is authorized to reduce or stop charging rent on housing units which develop major defects that make the unit a threat to the health or safety of the resident and his/her family. However, management shall repair the unit or move the residents to another unit as soon as possible.
- (h) The Department shall provide funds to contractor for the purpose of relocating residents displaced as a result of rehabilitation activities of management. Replacement housing shall be provided without any additional cost to resident and his/her family.

### RESIDENT'S RIGHTS AND OBLIGATIONS

You, as a resident, agree to:

- (a) Use your residence only as a private dwelling unit for you and your family;
- (b) Keep your yard in a clean and safe condition;
- (c) Dispose of rubbish properly in a safe and sanitary manner;
- (d) Keep your family or guests from damaging or removing the property of the Migrant Center;
- (e) Pay for damages caused by those under your control, according to a schedule of maintenance and repair charges;
- (f) Keep from disturbing the other residents;
- (g) Keep no pets on the premises;
- (h) Park vehicles only at areas designated for this purpose. Vehicles shall not be abandoned, repaired or maintained within the center; however, routine servicing is permitted if it does not involve toxic substances (including, but not limited to, oil and brake fluids or car batteries) or does not create a danger for the residents, and if it is consistent with local rules and regulations;
- (i) Make no major additions or changes to your residence, its equipment, or furniture provided by management.
- (j) Tell the management if you and your family will be away for more than three (3) days;
- (k) Leave your residence clean and in good condition when you vacate the premises;
- (l) Obey the rules and policies governing the Migrant Centers in existence when you moved in;
- (m) Report damages and needed repairs to management. If management does not repair your unit in a reasonable time, the request should be submitted in writing. In the event management does not respond to your written request within a reasonable time, you may do such repairs up to two times each year, each time spending an amount equal to one (1) month's rent and deduct this amount from your rent payments;

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(n) If there are major defects in the housing unit that make the unit a threat to your health or safety you may ask for immediate repairs or to be relocated to another unit. If management does not make repairs or relocate you, within a reasonable time, you may stop paying rent and pay only reasonable rental value for your unit.

(o) You must physically occupy your unit within seven days after being admitted to the center and must continue to physically occupy the unit until you leave the center. If you leave the unit vacant for more than seven days and there are other eligible families waiting for housing, management may lease your unit to another family. Management may, at their discretion, permit you to leave the unit vacant for a longer period of time.

(p) Comply with other rights and obligations agreed upon by management and the Resident Council and approved by the California Department of Housing and Community Development;

(q) You and your guests, upon advance notice to management, may use the common facilities of the Migrant Center for meetings or other lawful activities which do not interfere with other activities or the rights of other residents;

(r) You and your guests have a right to privacy;

(s) Management may not retaliate against you for any lawful action including exercising the rights given you under this handbook and/or the laws of the United States or the State of California.

### RULES, REGULATIONS AND POLICIES

You and management both agree to follow the written rules, regulations, laws and policies governing the Migrant Centers. Local management rules and policies may be changed only if residents are given 30 days written notice of changes.

The following rules and regulations are to be made available to you in English and in the language spoken by the majority of residents:

- (a) Schedule of Rents;
- (b) Schedule of Maintenance and Repair Charges;
- (c) Occupancy and Eligibility Policies;
- (d) Local Management Rules, Regulations and Policies;
- (e) Grievance Procedures;
- (f) Department of Housing and Community Development, Office of Migrant Services Regulations.

### INSPECTION

When you move in, you must be provided with an inventory list detailing the condition of the unit and the equipment provided with the unit. The list is to be signed by both you and the management. If you disagree as to the conditions of the unit or its equipment, you should note this on the list before, or as soon after moving in as possible. Both you and the management are to keep a copy of this inventory. This list will help in determining how much of your security deposit will be returned to you.

### ENTRY OF RESIDENCE DURING TENANCY

Management may enter only during reasonable hours with either your permission or that of an adult member of your family. If management reasonable suspects an emergency exists, such as a fire, management may enter at any time.

After giving 24 hours written notice, management may enter your units to inspect, repair, maintain, or show it to others interested in renting the unit after you leave. This notice is not required if you requested such entry.

You shall not unreasonably deny management permission to enter your unit.

### TERMINATION OF LEASE

You may end your lease at any time. Rent is only paid for the period you actually occupied the housing unit. Any unused rent shall be returned to you. If you give at least three (3) days notice of intent to vacate the center, management must, on the day you move out, return the unused rent to you. If you do not give at least three (3) days notice of intent to leave, management has two (2) weeks within which to send the unused rent to your forwarding address. In the event you do not give management a forwarding address, management shall hold your unused rent for six months and return it to you if you pick it up or provide a forwarding address within six months. After six months, the rent is forfeited. If management must hold your unused rent, it will not entitle you to preference in admission to the housing center the next year.

Management may require you to move out if you have seriously or repeatedly violated important terms of the lease agreement such as not paying rent; serious interference with the rights of other migrant residents; knowingly giving false statements of important facts to management concerning your eligibility for migrant housing; or for other good cause.

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In order for management to begin termination of this lease, it must give you or an adult member of your household a written notice stating the reason(s) for termination and notifying you of your right to request a hearing as allowed under the grievance procedure.

If you have not paid your rent, management shall give you a seven (7) day notice to either pay the rent or move out. If your actions cause an immediate threat to the health and safety of the other residents, the management shall give you a reasonable time to move out, but not less than three (3) days.

In all other cases, 14 days notice shall be given to either comply with the terms of the lease or move out.

### GRIEVANCE PROCEDURE

If you and management disagree as to the rights and obligations under the lease, including the right of management to terminate your lease, these disagreements will be settled through the complaint and grievance procedure in the regulations of the Office of Migrant Services. You may not use the grievance procedure if management terminates your lease because your actions cause an immediate threat to the health and safety of your neighbors.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment of subsection entitled RENT filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Amendment of subsections entitled RENT, SECURITY DEPOSITS and subsection (h) of RESIDENT'S RIGHTS AND RESPONSIBILITIES filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
4. Editorial correction of RENT (Register 96, No. 37).
5. Amendments filed and operative 2-26-96 invalidated by *Martinez v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS01752 (December 19, 1996).
6. Amendment filed 3-27-97 as an emergency; operative 3-27-97 (Register 97, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-25-97 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 3-27-97 order by operation of Government Code section 11346.1(f) (Register 97, No. 3 1). Emergency amendment filed and operative 3-27-97 invalidated by *Orejel v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS0 1752 (May 28, 1997).
8. Change without regulatory effect repealing amendments filed and operative 2-26-96 filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 3 1).
9. Editorial correction amending section and HISTORY 7 and adding HISTORY 8 (Register 98, No. 12).
10. Amendment of RENT, SECURITY DEPOSIT AND RESIDENT'S RIGHTS AND OBLIGATIONS (h) filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

## Article 4. Complaint and Grievance Procedure

### § 7630. Complaint and Grievance.

All grievances of residents of migrant housing centers shall be resolved in accordance with the procedure set forth in this Article. A grievance is any factual or legal dispute which a resident may have with respect to contractor action or failure to act, in accordance with the lease, contractor policies, these regulations, or law which adversely affect the resident's rights, duties, welfare, or status. Failure to present a grievance shall not bar its use in any judicial proceeding.

Except in cases involving eviction of the resident, a resident may not request a grievance hearing until he/she has taken both of the following actions personally or through the tenant council:

(a) First, the resident must submit a written complaint to contractor. Contractor must respond, in writing, within 10 days after receiving the written complaint.

(b) If the problem has not been resolved after the resident has received contractor's written response or after the time for contractor to respond has passed, the resident must submit a written complaint to the department. The department must respond in writing within 10 days after receiving the written complaint. After the department has responded in writing or after the time to respond has passed, the resident may then request a grievance hearing, if the dispute has not been settled.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

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### § 7631. Bilingual Procedures.

Grievance hearings, conferences, notices, and summaries pursuant to this Article shall be in English or in the language of the majority of residents. If the resident speaks some other language a translator shall be provided.

NOTE: Authority cited: Section 507 10, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7632. Presentation of Grievance.

The resident shall personally present a grievance to the resident's migrant housing center manager or to the contractor's main office. For purposes of this section, grievances shall be accepted by the center manager until 5:00 p.m. The resident shall present the grievance within three (3) working days from receipt of notice in the case of a termination. In a case other than a termination, the resident must have complied with the procedures in Section 7630, and must present the grievance within 3 days after receiving a written response from the department or, if no response is received, within 3 days after the time for the department to respond has passed. The grievance may be presented orally or in writing. The contractor may request that an oral grievance be confirmed in writing by the resident. The contractor and the resident and any representative of either may discuss the grievance informally and attempt to settle the grievance without a hearing.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Editorial correction of section misnumbering (Register 96, No. 37).

### § 7633. Summary of Discussion.

If the contractor and the Resident are unable to settle the grievance informally, the contractor shall send to the resident a written summary of the grievance. The summary shall include:

- (a) The contractor's proposed disposition of the grievance;
- (b) The specific reasons for the proposed disposition;
- (c) The names of the participants and the dates of any meetings held to discuss the grievance; and
- (d) The procedure by which the resident may obtain a hearing to review the grievance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7634. Request for Hearing.

If the resident is not satisfied with the contractor's proposed disposition of the grievance contained in the summary, the resident shall submit a written request for a hearing to the contractor's main office or to the resident's migrant housing center manager's office. The resident shall submit the request within three (3) working days after receipt of the summary. The request shall specify the reasons for the grievance, and the action or relief sought.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7635. Selection of Hearing Officer or Panel.

Grievances not resolved informally in accordance with Sections 7630, 7632 and 7633 shall be presented before a hearing officer or hearing panel. A hearing officer or panel shall be selected as follows:

(a) The hearing officer shall be an impartial, disinterested person selected jointly by the resident and the contractor.

(b) In the event they cannot agree, each will pick one member of a hearing panel, and the members so appointed shall select a third member. If the members appointed by the resident and the contractor cannot agree upon a third member, then the third member shall come from a community based organization mutually agreed upon by the contractor and the resident council.

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(c) In lieu of the procedure set forth in subparagraphs (a) and (b) of this section, a contractor may provide for the appointment of hearing officer or hearing panel by any method which is approved by the majority of the tenant council.

(d) In the event the hearing officers or members of the hearing panel are not fluent in the language most readily understood and spoken by the resident, the contractor will make a reasonable good faith effort to provide a translator for the benefit of all parties involved.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 507 10, Health and Safety Code.

### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7636. Scheduling of Hearing.

The hearing officer or panel shall promptly schedule a hearing for a date, time, and place reasonably convenient to the parties and shall notify the parties in writing of the date, time, place, and the procedures governing the hearing. Hearings shall be conducted no more than ten (10) working days after receipt of a request. Resident shall not be required to miss work in order to appear at the hearing.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7637. Due Process Hearing.

At and before the hearing, the resident shall be entitled to:

(a) Examine before the hearing any documents, regulations, and records of the contractor relevant to the hearing. The contractor may not, at the hearing, rely on any document requested by the resident before the hearing, but not made available to the resident. If the resident prevails, the cost of copying such documents shall be paid by the contractor;

(b) Be represented by counsel or other person chosen by the resident as his or her representative;

(c) Request a private or public hearing;

(d) Present evidence and arguments in support of the grievance, controvert evidence relied on by the contractor and confront and cross-examine all witnesses on whose testimony or information the contractor relies.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7638. Non-Appearance.

If either party or his/her representative fails to appear at a scheduled hearing, the hearing officer or panel may decide that the non-appearing party has waived his/her right to a hearing and shall notify the parties of the decision. The hearing may be continued to a later date, but no more than five (5) days, for a good cause.

If the resident does not appear, he can, within five (5) days request that the hearing be re-opened and any decision already made by the hearing officer or panel be stayed. Such request shall be granted if the resident makes a showing of good cause for his non-appearance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7639. Hearing Procedure, Evidence and Transcript.

(a) The hearing officer or panel shall conduct the hearing informally. At the hearing, the resident shall first explain why he or she is entitled to the relief sought in the grievance. Thereafter, the contractor shall sustain the burden of justifying its action or failure to act against which the grievance is directed.

(b) Oral or documentary evidence relevant to the facts and issues raised by the grievance may be received without regard to admissibility under judicial rules of evidence, but with appropriate regard to credibility, authenticity, relevance, and materiality.

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(c) Either party may arrange for a transcript of the hearing at the party's own expense. Any other interested person may purchase a copy of the transcript if the resident who requested the grievance so permits. Alternatively, upon the request of the resident, the hearing may be tape-recorded and the tape recording will be the official record of the hearing and available as set forth herein.

(d) Except as otherwise provided by this grievance procedure, or as otherwise provided by agreement of the parties in writing, the hearing procedure, the hearing decision, and enforcement of the decision shall be governed by the California statutes relating to arbitration agreements and awards, Code of Civil Procedure, Section 1280 et seq.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7640. Hearing Decision.

(a) The hearing officer or panel may render a decision without proceeding with the hearing if the hearing officer or panel determines that the issue presented by the grievance has been previously decided in another proceeding.

(b) Except as provided in paragraph (a) above, the hearing officer or panel shall render a decision based solely on the facts presented at the hearing or by a statement of facts agreed to by the parties.

(c) The hearing decision shall be written, shall state the reasons for the decision and shall be sent to the parties within seven (7) working days after the hearing.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7641. Effect of Decision and Right to Trial De Novo.

The decision of the hearing officer or panel shall be binding on the contractor and resident which shall take actions, or refrain from any actions necessary to carry out the decision. Nothing contained in this grievance procedure shall constitute a waiver of the resident's or contractor's right to a trial de novo or judicial review of any court action.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9)

### § 7642. Eviction Actions.

(a) If the grievance involves a contractor notice of termination of tenancy and if the resident has requested a hearing within the time limits specified above, then the contractor shall not file an unlawful detainer action until:

- (1) the hearing officer or panel has upheld the contractor's action to terminate the tenancy or the hearing has been waived by the resident's non-appearance;
- (2) the hearing decision has been sent to the resident; and
- (3) the contractor has sent to the resident a written notice to vacate the premises, following the decision.

(b) The notice to vacate the premises shall specify that if the resident fails to quit the premises within five (5) days, the contractor will file an unlawful detainer action against the resident in court, and the resident may be required to pay court costs.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 507 10, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-2-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7643. File of Decisions.

The contractor shall keep a copy of the hearing decision in the resident's file. The contractor shall also keep a copy of the hearing decision, with names and identifying references deleted, on file for inspection by any prospective complaining resident, his or her representative or a hearing officer or panel. Any hearing decision reversed by a court of law shall be noted as such.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-26-81; effective thirtieth day thereafter (Register 82, No. 9).

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### § 7644. Irregularities; Agreements.

(a) If either the contractor or the resident has failed to proceed in accordance with this grievance procedure, the other party may waive such an irregularity in procedure for good cause shown.

(b) The parties may agree in writing to follow a different procedure in the resolution of a grievance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### §7645. Resident's Right to Trial De Novo and Judicial Review.

HISTORY

1. Repealer filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7646. Inapplicability of Procedure.

This grievance procedure shall not apply to an eviction or termination of tenancy based upon a resident's creation of maintenance of an immediate threat to the health and safety of other residents or contractor's employees.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

## Article 5. Rent Raises

### § 7650. Rent Schedule.

(a) The Department shall establish a schedule of rents, which shall govern the amount of rent paid by residents for occupancy of units in migrant housing centers.

(b) The schedule of rents shall be established from a statewide base for the 1998 on-season of a rent rate of seven dollars and fifty cents per day for a two-bedroom dwelling.

(c) If the Department determines that it is necessary, the Department shall establish a modified base rent for a two-bedroom dwelling unit, which may be as low as four dollars per day. The necessity to modify the base rent shall be determined based on factors which include, but are not limited to, the condition of the units; the funding level appropriated by the Legislature for the purposes of the Department; or the availability of other funds which subsidize the operation of the center. At the request of the Department, the contractor shall provide information necessary for this determination. Decreases in the base rent established pursuant to this subsection shall be rounded to the nearest twenty-five cents.

(d) (1) In order to assess whether a rent adjustment is necessary for the subsequent fiscal year, the Department shall develop a Projected Operating Fiscal Need. The Projected Operating Fiscal Need shall be the difference between the Projected Operating Costs and the Projected Available Operating Funding for the subsequent fiscal year, each of which is determined as follows:

(A) Total Projected Operating Costs for the subsequent fiscal year shall be determined as follows:

(1) The current fiscal year operating budget, with modifications based on cost trends from the two prior fiscal years' actual operating costs, and further adjusted to account for increases or decreases in the total number of units projected to be available for the subsequent fiscal year;

(2) The total amount of deferred rehabilitation and repairs anticipated to be funded during the subsequent fiscal year; and

(3) The total amount estimated to be necessary for an emergency contingency fund, not to exceed 5 percent of the total amounts of subparagraphs (1) and (2).

(B) Total Projected Available Operating Funding for the subsequent fiscal year shall be determined as follows:

(1) The current fiscal year's State General Fund appropriation for operations;

(2) The projected rent revenues and resources available at the end of the current fiscal year which were not allocated in a contract;

(3) The projected rent revenue to be remitted to the Department during the subsequent fiscal year, based upon the current schedule of rents;

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- (4) Any carry-over funds from Health and Safety Code Section 50710.1 reserves available at the beginning of the current fiscal year; and
- (5) Projected additional private, local, State and federal revenues available for the subsequent fiscal year.
- (2) If a Projected Operating Fiscal Need exists for the subsequent fiscal year, the Department shall seek funds from appropriate and available sources including, but not limited to, private, local, State and federal revenue sources. If the Department determines that sufficient funds will not be available from all revenue sources in the amount necessary to fully offset the Projected Operating Fiscal Need, the Department shall assess the need to keep all units open for the full duration of the on-season and thereafter may either adjust the schedule of rents in an amount equal to fully fund the Projected Operating Fiscal Need or in a lesser amount if any projected operating costs can be reduced by reducing any component of operating costs or the availability of units.
- (3) (A) The Department, through its Contractors, shall notify affected residents by written notice no less than 60 days prior to the effective day of the proposed schedule of rents. In addition, the Department shall instruct its Contractors to concurrently post the notice in a visible place at the migrant center. The residents and public shall have a 20-day comment period after the notice in which to respond to the new proposed schedule of rents. The notice shall inform the residents of their rights to inspect and copy records on file with the Department's Contractor which are related to the request throughout this 20-day comment period. Upon completion of the 20-day comment period without formal challenge, the Department shall cause a 30-day notice to be served on the affected residents of the effective date of the new schedule of rents; however, the new schedule of rents shall not become effective prior to the beginning of the subsequent fiscal year.
- (B) If the residents or residents' representative(s) file a notice with the Department opposing the proposed schedule of rents, the Department shall consider all opposing comments and make a formal determination to either adjust the proposed schedule of rents or accept the proposed schedule of rents. Thereafter, the Department shall cause a 30-day notice to be served on the affected residents of the effective date of the new schedule of rents and the amounts thereof.
- (4) In addition to the other provisions of this subdivision (d), and after 30 days' written notice, the Department may impose an additional rent rate adjustment increase or decrease during the fiscal year if the amount of the General Fund appropriation for operating costs in the final State Budget is significantly different than that provided in the determination of the Projected Operating Fiscal Need.
- (e) When establishing the 1998 on-season base rent, an additional fifty cents (\$.50) per day shall be charged for a three-bedroom unit, and an additional one dollar (\$ 1.00) per day shall be charged for a four-bedroom or larger unit. In any year, any household which occupies more than one two-bedroom unit shall pay one dollar (\$1.00) per day for the second two-bedroom unit, in accordance with Section 7612 occupancy standards.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Amendment of subsections (b) and (c), amendment and redesignation of sub-section (d) as (d)(1), new subsections (d)(1)(A)-(d)(5)(B) and amendment of subsection (e) filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
4. Amendments filed and operative 2-26-96 invalidated by *Martinez v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS 01752 (December 19, 1996).
5. Amendment filed 3-27-97 as an emergency; operative 3-27-97 (Register 97, No. 13). A Certificate of Compliance must be transmitted to OAL by 7-25-97 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to 3-27-97 order by operation of Government Code section 11346.1(f) (Register 97, No. 31). Emergency amendment filed and operative 3-27-97 invalidated by *Orejel v. California Department of Housing and Community Development*, Sacramento Superior Court No. 96CS01752 (May 28, 1997).
7. Change without regulatory effect repealing amendments filed and operative 2-26-96 filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 3 1).
8. Editorial correction amending section and HISTORY 6 and adding HISTORY 7 (Register 98, No. 12).
9. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

## § 7651. Rent Raises.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, no. 9).
2. Amendment filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
3. Repealer filed 3-17-98; operative 3-17-98 pursuant to Government Code Section 11343.4(d) (Register 98, No. 12).



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### § 7652. Requirements.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).
2. Repealer filed 11-2-88; operative 12-2-88 (Register 88, No. 46).

### § 7653. Special Rent Increases.

(a) The Department shall approve a contractor-initiated rent increase of up to \$1 per day per unit at a migrant housing center if all of the following conditions are met:

(1) The Contractor provides to the resident council for review and written comment a demonstration of a significant and critical need for the rent increase. Items which may create such a need include health and safety repairs, rehabilitation, maintenance of units, and increase in operating costs, other than personnel or administration. The resident council shall provide comments within 30 days of receipt of demonstration.

(2) After the resident-council provides written comments and at least 30 days prior to a hearing on the proposed rent increase, the contractor provides the residents and the resident council with a written notice, approved by the Department, which sets forth the proposed amount and specific purposes of the increase, and the time and date of the hearing at which the residents may comment on the amount and purposes of the increase. The Department shall approve or disapprove the proposed notice in writing within 30 days of a request for a review from the contractor. The hearing shall be held at the center for which the rent increase is proposed, and the written comments of the resident council shall be made available for review by the residents.

(3) Following the hearing, the contractor provides the Department with the following items:

(A) A written summary of all written and oral comments by residents and by resident council and a resolution from the resident council regarding the rent increase and its purpose;

(B) A detailed justification for the cost and nature of actions which address the items comprising the need for the rent increase;

(C) Any other relevant information the contractor may wish to provide.

(4) The Department provides written approval or disapproval of all or part of the rent increase within 30 days of the receipt of the items required in subsection (a)(3). The Department's approval shall be based on a determination that the need and the costs of activities, which address the items comprising the need, are reasonable and valid.

(5) Upon receipt of Department approval of the increase, the contractor provides at least 30 days written notice to each resident and the resident council of the increase. This provision does not apply if the contractor implements the increase in rent at the beginning of the next season following receipt of Department approval; however, the contractor shall provide written notice of the following to each resident at the time of the execution of the lease:

(1) The amount of rent increase from the previous season; and (2) the standard used to calculate the increase.

(b) The Department shall approve a resident council initiated rent increase of up to \$ 1.00 per day per unit at a migrant housing center if all of the following conditions are met:

(1) The resident council provides notice to the migrant center residents of the discussion of a special rent increase 15 days prior to the resident council meeting at which the special rent increase will be discussed. The resident council meeting shall be a public hearing, at which residents in attendance shall have the opportunity to vote on the proposed special rent increase.

(2) Following the resident council meeting, the resident council shall provide to the contractor for review and written comment a demonstration of a significant and critical need for the rent increase. Items which may create such a need include health and safety repairs, rehabilitation, maintenance of units, and increase in operating costs, other than personnel or administration. The contractor shall provide the resident council with comments and recommendations within 15 days of receipt of the demonstration.

(3) Within 15 days of the resident council approval of comments and recommendations from the contractor, the contractor provides the Department with the following items:

(A) A written summary of all written and oral comments by the residents and by the resident council, a record of the vote by center residents in attendance at the public hearing, and a resolution from the resident council regarding the rent increase and its purpose;

(B) A detailed justification for the cost and nature of actions which address the items comprising the need for the rent increase;

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(C) Any other relevant information the contractor may wish to provide.

(4) The Department provides written approval or disapproval of all or part of the rent increase within 30 days of the receipt of the items required in subsection (b)(3). The Department's approval shall be based on a determination that the need and the costs of activities, which address the items comprising the need, are reasonable and valid. The Department shall consider whether the requirements of this subsection have been met and whether the need and the cost of activities addressing the need are reasonable and valid.

(5) Upon receipt of Department approval of the increase, the contractor provides at least 30 days written notice to each resident and the resident council of the increase. This provision does not apply if the contractor implements the increase in rent at the beginning of next on-season following receipt of Department approval; however, the contractor shall provide written notice of the following to each resident at the time of the execution of the lease:

- (1) the amount of rent increase from the previous season; and
- (2) the standard used to calculate the increase.

(c) Any funds collected pursuant to this section shall be obligated by the Department for use at the center from which they originated, and shall not supplant any other funds that would have been allocated to the center for operations or rehabilitation costs. The contractor shall have primary responsibility for accounting for funds collected pursuant to this section; shall remit the funds collected to the Department; and shall report the name of the center from where the special rents were collected, the date the special rents were collected (less any rent refunds) and the net amount remitted to the Department. Rent collected under this section shall be remitted by the contractor to the Department by the tenth (10th) of each month. Upon receipt of the Department's approval, the contractor shall hold special rents in a special OMS Resident fund account and shall disburse the special rent funds only for the use for which the special rent was authorized. The contractor shall provide a detailed reporting of the funds received and expended as required by the Department.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. New section filed 11-2-88; operative 12-2-88 (Register 88, No. 46).
2. Amendment of subsections (a)(1)-(2), (a)(3)(A), and (a)(5), new subsections (b)-(b)(5) and subsection relettering, and amendment of newly designated subsection (c) filed 2-22-96; operative 2-22-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 8).
3. Change without regulatory effect amending subsections (a)(1)-(2), (a)(3)(A), and (a)(5), repealing subsections (b)-(b)(5), subsection relettering, and amendment of newly designated subsection (c) filed 7-31-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 31).
4. Amendment filed 3-17-98; operative 3-17-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 12).

## Article 6. Contractor Responsibilities

### § 7660. Contractor Responsibilities.

Each contractor shall provide administrative, fiscal, and management services, employ staff, and purchase, rent, and use supplies and materials as needed to operate, maintain, and protect each migrant housing center in accordance with these regulations and the contract executed between the Department and contractor.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7661. Contracts.

All contracts between the Department and any contractor shall be consistent with these regulations, and where there is a conflict, the regulations shall prevail.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

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### § 7662. Maintenance.

Each contractor shall maintain each migrant housing center in a safe and sanitary condition in accordance with standards prescribed by the Department, state law, and local ordinance.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7663. Records.

Contractor shall maintain such records and accounts, including property, personnel, and financial records, as are deemed necessary by the Department to ensure a proper accounting of all state and other migrant center funds and shall retain the same for at least three years after the expiration of each annual contract. The Department shall have access to and the right to examine and audit all reports, records, books, papers, or other documents related to contractor's performance under each annual contract.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7664. Resident Council.

Not more than 30 days after a migrant housing center has:

- (a) Become at least 50% occupied; or
- (b) Upon petition of 50% of the residing heads of households, contractor shall assist and encourage the residents of the migrant housing center to elect from among themselves a Resident Council which shall have the following responsibilities:

- (1) Elect from among themselves a chairperson;
- (2) Advise the contractor and/or the Department on any matter pertinent to the operation of the migrant housing center;
- (3) Represent all residents of the migrant housing center on matters which properly should be presented to the contractor and/or the Department.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).

### § 7665. Alterations to Migrant Centers.

Each contractor shall not make nor shall permit to be made any substantial alteration or addition to any migrant center without written consent of the contractor and the Department. This section shall not apply to facilities owned exclusively by a contractor or other interests and not meant for the use of migratory agricultural workers.

NOTE: Authority cited: Section 50710, Health and Safety Code. Reference: Section 50710, Health and Safety Code.

#### HISTORY

1. Amendment of NOTE filed 2-26-82; effective thirtieth day thereafter (Register 82, No. 9).