

Model Housing Authority Guidelines

A. General Policies for Applicants for Public Housing with Conviction Records

1. The PHA shall provide a housing application that includes information that explains the PHA's procedures and policies with regard to background checks, the applicant's right to review and explain/contest the information contained in the background check, and the applicant's right to show rehabilitative evidence as detailed in Part (E) below.
2. The PHA shall consider all applicants, including those with conviction records, for inclusion in all housing facilities.
3. The PHA shall perform background checks on all applicants in a uniform manner with a reputable background check organization.
4. The PHA will take into account conviction histories, but will not consider arrests or other unproven allegations, in considering the suitability of a potential resident.
5. The PHA shall consider both the desire for all residents to live in a safe and secure environment and the community's need to provide housing for all individuals, including individuals with conviction records. In making this consideration, the PHA shall create and maintain a record of its evaluations and decisions (see (F) below) to ensure compliance with this policy.
6. The PHA shall employ the following considerations in each case shall be:
 - a. Whether the potential resident's offense bears a relationship to the safety and security of the other residents;
 - b. The level of violence, if any, of the offense for which potential resident was convicted;
 - c. Length of time since the conviction;
 - d. The number of convictions that appear on the potential resident's conviction history;
 - e. If the potential resident is now in recovery for an addiction, whether the potential resident was under the influence of alcohol or illegal drugs at the time of the offense;
 - f. Whether, if the application is denied, the potential resident is likely to be rendered homeless as a result;
 - g. Any rehabilitation efforts that the potential resident has undertaken since the time of his/her conviction incarceration, detailed in Part (E) below.

B. General Policies for Existing Tenants with Conviction Records

1. If an existing tenant in public housing sustains a conviction, the PHA shall consider all circumstances surrounding the conviction in determining the existing resident's suitability for continued or returned residency at the completion of his or her sentence.

2. In particular, the PHA shall examine:
 - a. Whether the existing resident's offense bears a relationship to the safety and security of the other residents;
 - b. The level of violence, if any, of the offense for which existing resident was convicted;
 - c. Any prior convictions that appear on the existing resident's conviction history;
 - d. If the existing resident is now in recovery for an addiction, whether the existing resident was under the influence of alcohol or illegal drugs at the time of the offense;
 - e. Whether, if the existing resident is evicted, he or she is likely to be rendered homeless as a result;
 - f. Any rehabilitation efforts that the existing resident has undertaken, such as those detailed in Part (E) below.
3. The PHA shall consider the existing resident's entire household, and the result of excluding the resident from his or her family if he or she were to be evicted.
4. If the conviction results in the PHA determining to evict the existing resident, the PHA shall create a written record of its analyses of why, on balance, the need of the existing resident for stability is outweighed by the other concerns of the PHA.

C. Specific Considerations of Certain Conviction Histories for Potential or Existing Residents

1. If the conviction record shows methamphetamine production on the premises of federal housing, the applicant will not be admitted to public housing.
2. If the conviction history shows that the potential or existing resident is subject to a lifetime registration under state sex offender laws, the applicant will not be admitted to public housing.

D. Specific Treatment by PHA of Certain Criminal Histories

In this section, the Legal Action Center recommends that, for ease of administration, each PHA create its own list of potential felony and misdemeanor offenses that may bar an applicant from admission to public housing. The PHA should be sure, as required by HUD, that any offense that may bar admission is related to the person's suitability as a tenant. In addition, the length of time that the bar is in place should be reasonably related to the offense.

For example, New York City Housing Authority (NYCHA) [{link to housing guidelines}](#) has created general admissions standards for various classes of felonies and misdemeanors under the New York State penal code. For each class, it has determined the length of time that is appropriate to continue to consider the record. It then lists

those offenses which it chooses to discount in making a housing determination, such as: unlawful use of scientific material, trademark counterfeiting, manufacture of unauthorized recordings, advertising or sale of unauthorized recordings, subway fare evasion, self-abortion, fortune telling and unlawfully posting advertisements. In the view of the New York State Housing Authority, these offenses do not bear on the potential tenant's suitability.

Citing the New York guidelines as an example is not intended as an endorsement of their policies. In some cases, the number of years that the NYCHA will bar someone for an offense seems extreme compared to the severity of the offense and its relevance to a tenant's suitability. However, the guidelines provide a basic framework that can be used by other PHAs when devising their own policies.

E. Rehabilitative Evidence to be Considered for Potential Residents or Existing Residents with Conviction Records

1. In its consideration of any applicant with a conviction record, the PHA shall consider the following potential rehabilitative measures, as well as any others it deems relevant.
 - a. If the State offers any form of certification of rehabilitation following a conviction, the PHA will assume that a potential resident who has such a certificate has been rehabilitated since his or her conviction. The burden to show that the potential resident, who has such a certificate, is not suitable for public housing becomes the PHA's burden;
 - b. Potential/existing resident's participation in treatment program for addiction, if any, to illegal drugs or alcohol;
 - c. Potential/existing resident's employment status or efforts to seek employment;
 - d. Potential/existing resident's participation in any work training program or improvements in education;
 - e. Potential/existing resident's participation in counseling or other behavioral management;
 - f. Involvement of family, friends or community groups in support network for potential/existing resident;
 - g. Recommendations on behalf of potential/existing resident by parole or probation officer, case worker, counselor, family member, clergy, employer, community leader or other involved individuals;
 - h. Any rehabilitative efforts in which a potential or existing resident has participated, regardless of whether it appears on the above list, and
 - i. Any other information relevant to the current lifestyle of the individual.

2. For any applicant who is disabled, elderly, or otherwise unlikely to be able to participate in the rehabilitative measures outlined above, the PHA shall pay particular attention to any other factors such a potential resident brings to its attention and shall not discriminate against such an applicant for his or her failure to participate in specific activities.

F. Record-keeping Requirements for Applicants with Conviction Records

1. The PHA shall maintain records of all housing applicants for a minimum of two years from the date the PHA makes a determination about the application.
2. The decision-making and record-keeping process must be uniform and fair to all applicants.
3. All applicants will be given an opportunity to review and explain any conviction record to the PHA before any decision is made. The PHA must consider the potential resident's explanation about the circumstances of any conviction and/or any inaccuracies in the conviction record.
4. If the applicant is a person with a conviction record, the PHA shall create a written statement of its analysis of the person's record in accordance with the guidelines set forth in (A) and (C) above. The record shall include the PHA's consideration of all factors set forth in (A) and (C).
5. The records shall include:
 - a. A copy of the original application;
 - b. A copy of the document provided to the applicant explaining his/her rights and receipt that applicant received this material;
 - c. A copy of the conviction record, financial record, or any other material the PHA obtained in connection with evaluating the application, and evidence that such material was provided to the applicant along with an explanation that the applicant has a right to discuss the information and provide rehabilitative evidence;
 - d. The written statement created by the PHA detailing its analysis and decision;
6. If the application is denied, the PHA shall provide to the potential resident:
 - a. A complete copy of the application material, including the conviction record on which any decision was based;
 - b. An explanation of the denial of housing;
 - c. Information about applicant's right to appeal the decision;
 - d. Referral information to local legal services that could assist the potential resident with an appeal of the PHA's decision.

7. The potential resident has the right to appeal any denial of housing that is based in whole or in part on the person's conviction record.