

Proposed Revisions to  
HOC's Administrative Plan for the Housing Choice Voucher Program

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Please note: Existing language is in **BLACK**, proposed changes are in **RED**, and proposed deletions are shown with strikethrough.

**Removal of One-Strike Policy**

Chapter 2: Eligibility for Admission

**F. OTHER CRITERIA FOR ADMISSIONS** [24 CFR 982.552(b)]

The PHA will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

- The family must not have violated any family obligation during a previous participation in the Section 8 program for three years prior to final eligibility determination.
- The PHA will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.
- The family must pay any outstanding debt owed the PHA or another PHA as a result of prior participation in any federal housing program within 30 days of PHA notice to repay.
- The family must be in good standing regarding any current payment agreement made with another PHA for a previous debt incurred, before this PHA will allow participation in its Section 8 program.
- ~~The PHA will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the section on One-Strike policy in the "Denial or Termination of Assistance" chapter.~~
- If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).

Program eligibility restrictions have been extended to include any individual who:

- Is enrolled as a student at an institution of higher education, as defined under section 102 of the Higher Education Act of 1965;
- Is under 24 years of age;
- Is not a veteran of the United States military;
- Is unmarried;
- Does not have a dependent child, and

- Is not otherwise individually eligible, or has parents who, individually or jointly, are not eligible on the basis of income to assistance under section 8 of the 1937 Act.

For a student under the age of 24 who is not a veteran, is unmarried, does not have a dependent child and who is seeking Section 8 Assistance, there is a two part eligibility test. Both parts of this test must be met. That is, both the student and the student’s parents (the parents individually and jointly) must be income eligible for the student to receive Section 8 Assistance. If it is determined that the parents are not income eligible, the student is ineligible to receive Section 8 Assistance.

The student’s parent income may not be relevant if the student can demonstrate the absence of, or his or her independence from, parents. All of the following criteria must be met:

- The individual must be of legal contract age under state law.
- The individual must have established a household separate from parents or legal guardians for at least one year prior to application for occupancy.
- Meet the status of Independent Student as defined by the US Department of Education.
- The individual must not be claimed as a dependent by parents or legal guardians pursuant to IRS regulations.
- The individual must obtain a certification of the amount of financial assistance that will be provided by parents, signed by the individual providing the support. The certification is required even if no assistance will be provided.

The restrictions do not affect students residing in a Section 8 assisted unit with his or her parents or who reside with parents who are applying to receive Section 8 assistance. The restriction is focused on a student under the age of 24 who is already residing in a section 8 assisted unit without his or her parents, or who is seeking on his or her own to reside in a section 8 assisted unit.

### Chapter 15: Verification Procedures

#### **B. ~~"ONE STRIKE" POLICY CRIMINAL SCREENING CRITERIA~~**

##### **Purpose**

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of Housing Opportunities Commission to fully endorse and implement a policy designed to:

Help create and maintain a safe and drug-free community;

Keep our program participants free from threats to their personal and family safety;

Support parental efforts to instill values of personal responsibility and hard work;

Help maintain an environment where children can live safely, learn and grow up to be productive citizens; and

Assist families in their vocational/educational goals in the pursuit of self-sufficiency.

### **Administration**

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex or other legally protected groups.

To the maximum extent possible, the PHA will involve other community and governmental entities in the promotion and enforcement of this policy.

This policy may be posted on the PHA's bulletin board and copies made readily available to applicants and participants upon request.

The head of household must notify HOC within ten (10) days of the arrest of any household member or any person arrested in the voucher-assisted unit.

### **Screening of Applicants**

In an effort to prevent future drug related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by the Notice 96-27, the PHA will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior.

Such screening will apply to any member of the household who is 18 years of age or older.

### **HUD Definitions**

1. ***Drug-related criminal activity*** is the illegal manufacture, sale, distribution, use or possession with an intent to manufacture, sell, distribute or use of a controlled substance.
2. ***Violent criminal activity*** is any criminal activity that has as one of its elements, the use, attempted use, or threatened use of physical force against a person or property.
3. ***Preponderance of evidence*** is evidence which is of greater weight or more convincing than evidence which is offered in opposition to it so that the evidence, as a whole, shows the facts sought to be proved, are more probable than not.

### **Confidentiality of Criminal Records**

The PHA will ensure that any criminal record received in connection with a determination of qualification, termination or denial of assistance is maintained confidentially, not misused, nor improperly disseminated and destroyed once the purpose for which it is requested is accomplished. Misuse of the information by any employee of the PHA may be grounds for termination of employment and legal penalties for misuse may be pursued.

## **Standard of Violation**

1. The PHA will deny participation in the Housing Choice Voucher Program to applicants and terminate assistance to participants in instances in which the PHA determines there is reasonable cause to believe that the family, or guest, or a family member is illegally using a controlled substance or is engaged in a pattern of illegal use, or if the family or a family member abuses alcohol, or exhibits a pattern of abuse, that may interfere with the health, safety or right of peaceful enjoyment of the premises by other residents.
2. A pattern of abuse of a controlled substance or abuse of alcohol will be deemed to have been established if there is more than one (1) incident during the previous twenty-four (24) months.

In evaluating the evidence, the PHA will give fair consideration to the seriousness of the activity, the extent of participation of individual family members, mitigating circumstances, the effects of denial or termination of assistance of other family members who are not involved, and the likelihood of favorable conduct in the future. The PHA will make its determination or denial or termination of assistance based on a preponderance of the evidence presented to it.

## **Additional Criteria of Ineligibility for Admission**

1. Persons evicted from Public Housing, Indian Housing, Section 23 Housing, or any Section 8 Program because of drug related criminal activity or violent criminal activity, are ineligible for admission to the Section 8 Program for a three (3) year period beginning on the date of such eviction unless, with respect to drug related activity, the evicted family member successfully completes a rehabilitation program approved by the PHA.
2. The PHA may deny assistance to any family determined to be involved in any drug related or violent criminal activity or other criminal activity which would adversely affect the health, safety or peaceful enjoyment of the premises by other residents. The PHA may, after 3 years from the date of the conviction or at the end of the incarceration/probationary period, whichever is longer, require the applicant as a condition of admission to the Program, to submit evidence sufficient to ensure that the individual or individuals in the applicant's household who have engaged in criminal activity for which denial was made, have not engaged in such criminal activity during such time.

## **Notice of Termination of Assistance**

In any case where the PHA decides to terminate assistance to the family, the PHA must give the family written notice which states:

The reason(s) for the proposed termination,

The effective date of the proposed termination,

The family's right, if they disagree, to request an Informal Hearing to be held before termination of assistance.

The date by which a request for an informal hearing must be received by the PHA.

The PHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance. The Notice to the owner will not include any details regarding the reason for termination of assistance.

**Appeal of Denial or Termination of Assistance**

In any case in which the PHA determines to deny or terminate assistance to a family for drug related criminal activity or violent criminal activity, PHA shall provide an opportunity for an Informal Review or Informal Hearing, as the case may be, pursuant to Chapter 19.