



100 Broad Street Providence, RI 02903 www.pha-providence.com

January 27, 2017

In an effort to remove barriers to affordable housing for those formerly incarcerated and those with criminal records, the Providence Housing Authority (PHA) has developed proposed amendments to their admissions policy along with other minor changes within the policy. The proposed admission policy changes have also triggered HUD's requirements to include the proposed policy as part of our upcoming Annual Plan.

In accordance with HUD regulations, said policy and plan will be open to a forty-five (45) day public comment period commencing on 1/30/17 and ending on 3/16/17. A public hearing will be held on 3/16/17 at the PHA's Facilities Management building located at 40 Laurel Hill Avenue, Providence, RI from 6:00 PM to 7:00 PM.

Written comments are encouraged and welcomed and should be sent via email to lisac@pha-providence.com or via US mail to the Providence Housing Authority, 100 Broad Street, Providence, RI 02903.

In addition to enclosing the proposed policy for your review (policy also available at www.pha-providence.com), the following is a summary of the most significant amendments:

1. **ELIMINATE** automatic applicant denials for criminal history
2. **ELIMINATE** the PHA's ONE STRIKE RULE
3. **REDUCE 10 YEAR LOOK BACK PERIOD TO 5 YEARS** since date of conviction for violent criminal or drug related activity
4. **ELIMINATE** any consideration of **MISDEMEANOR CRIMES**
5. **ELIMINATE** denials based solely on arrests
6. **ALLOW** applicant households to remove any culpable household members as a condition of eligibility
7. **CREATE** a deferral status for those charged pending adjudication
8. **IMPLEMENT** more tolerant definition of currently engaged in illegal drug use; reduce to 6 months vs 2 years

NOTE: HUD MANDATORY DENIAL OF ADMISSIONS FOR PUBLIC HOUSING:

- *Production or manufacture of methamphetamine on the premises of federally assisted housing*
- *Applicant and/or household member who is subject to state lifetime or mandatory sex offender registration requirement*
- *Previously evicted from federally subsidized housing*

We wish to thank you for your interest in this initiative.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul J. Tavares", is written over a light blue horizontal line.

Paul J. Tavares
Executive Director
Providence Housing Authority

CHAPTER 3

ELIGIBILITY

INTRODUCTION

The PHA is responsible for ensuring that every individual and family admitted to the public housing program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the PHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the public housing program:

- The applicant family must:
 - Qualify as a family as defined by HUD and the PHA.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of family members.
 - Provide social security number information for household members as required.
 - Consent to the PHA's collection and use of family information as provided for in PHA-provided consent forms.
- The PHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or the PHA.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and PHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the PHA to deny admission.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

Some eligibility criteria and program rules vary depending upon the composition of the family requesting assistance. In addition, some requirements apply to the family as a whole and others apply to individual persons who will live in the public housing unit. This part provides information that is needed to correctly identify family and household members, and explains HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD

[24 CFR 5.105(a)(2), 24CFR5.403, FR Notice 02/03/12, and Notice PIH 2014-20]

The terms *family* and *household* have different meanings in the public housing program.

FAMILY

To be eligible for admission to public housing, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status: a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family. The PHA has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics.

Sexual orientation means homosexuality, heterosexuality, or bisexuality.

PHA Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, guardianship, or other operation of law, but who either can demonstrate that they have lived together previously or certify that each individual's income and other resources will be available to meet the needs of the family and will be living in the same dwelling unit.

Each family must identify the individuals to be included in the family at the time of application, and must update this information if the family's composition changes.

HOUSEHOLD

Household is a broader term that includes additional people who, with the PHA's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAKUP AND REMAINING MEMBER OF A FAMILY

FAMILY BREAKUP

Except under the following conditions, the PHA has discretion to determine which members of an assisted family continue to receive assistance if the family breaks up:

- If the family breakup results from an occurrence of domestic violence, dating violence, sexual assault, or stalking, the PHA must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking see section 16-VII.D of this plan.)
- If a court determines the disposition of property between members of the assisted family, the PHA is bound by the court's determination of which family members continue to receive assistance.

PHA Policy

When a family on the wait list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may submit a new application with a new application date if the wait list is open.

The individual who signs the pre-application/application form "owns" the application. If the individual who signed the application is the one that is leaving the family, s/he may designate another member of the family as the "owner" of the application so long as the newly named person was:

1. Listed as a family member on the original application;
2. Is at least 18 years old, and
3. The family has been on wait list for at least one year.

Should the owner of the application pass away, another adult member of the applicant family may assume ownership of the application by notifying the PHA of the death and providing proof of same.

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will retain occupancy of the unit.

If a court determines the disposition of property, between members of an applicant or resident family, the PHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the PHA will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, the PHA will take into consideration the following factors:

1. The interest of any minor children, including custody arrangements;
2. The interest of any ill, elderly or disabled family members;
3. The interest of any family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, including a family member who was forced to leave a public housing unit as a result of such actual or threatened abuse, and provides documentation in accordance with Section 16-VII.D of this ACOP;
4. Any possible risks to family members as a result of criminal activity; and
5. The recommendations of social service professionals.

REMAINING MEMBER OF A TENANT FAMILY [24 CFR 5.403]

The HUD definition of family includes the remaining member of a tenant family, which is a member of a tenant family who remains in the unit when other members of the family have left the unit. [PH Occ GB, p. 26] Household members such as live-in aides, foster children and foster adults do not qualify as remaining members of a family.

If dependents are the only "remaining members of a tenant family" and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-I.B, for the policy on "Caretakers for a Child."

PHA Policy

If the remaining member is a signatory to the lease, head of household, cohead or spouse, this person may be able to continue to reside in the unit under the original lease.

If the remaining person is an adult (over18) and is named on the lease but did not sign the lease, the PHA will determine whether it would be willing to enter into a lease with this person. This determination will be made based on a suitability screening and the remaining member's ability to uphold the lease terms.

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

PHA Policy

The family may designate any qualified family member as the head of household.

The head of household must have the legal capacity to enter into a lease under state and local law.

3-I.E. SPOUSE, COHEAD AND OTHER ADULT

A family may have a spouse or cohead but not both. [HUD-50058 IB, p. 13]

Spouse means the marriage partner of the head of household.

PHA Policy

A marriage partner includes the partner in a "common law" marriage as defined in state law. Although Rhode Island law has no statutory definition of "common law" marriage, case law has recognized "common law" marriages in certain instances. The term "spouse" does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A cohead is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse.

PHA Policy

Minors who are emancipated under state law may be designated as a cohead.

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults. [HUD-50058 IB, p. 14]

3-I.F. DEPENDENT [24 CFR 5.603]

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

JOINT CUSTODY OF DEPENDENTS

PHA Policy

Dependents that are subject to a joint custody arrangement will be considered a member of the family, if they live with the applicant or resident family 50 percent or more of the time.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the PHA will make the determination based on available documents such as court orders, an IRS income tax return showing which family has claimed the child for income tax purposes, school records, or other credible documentation.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

A *full-time student* (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to determine if attendance is full-time is defined by the educational institution.

Identifying each FTS is important because:

- Each family member that is an FTS, other than the head, spouse or cohead, qualifies the family for a dependent deduction, and
- The income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

[24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]

ELDERLY PERSONS

An elderly person is a person who is at least 62 years of age.

NEAR-ELDERLY PERSONS

A near-elderly person is a person who is 50-61 years of age.

ELDERLY FAMILY

An elderly family is one in which the head, spouse, cohead, or sole member is an elderly person. Identifying elderly families is important because these families qualify for the elderly family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY

[24 CFR 5.403,FR Notice 02/03/12]

PERSONS WITH DISABILITIES

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individuals with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

As discussed in Chapter 2, the PHA must make all aspects of the public housing program accessible to persons with disabilities and consider requests for reasonable accommodations when a person's disability limits their full access to the unit, the program or the PHA's services.

DISABLED FAMILY

A disabled family is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for the disabled family allowance and the medical allowance as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the PHA from denying admission or taking action under the lease for reasons related to alcohol and drug abuse in accordance with the policies found in Part III of this chapter and in Chapter 13.

3-I.J. GUESTS [24 CFR 5.100]

A *guest* is defined as a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

The lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near PHA premises [24 CFR 966.4(f)].

PHA Policy

A resident family must notify the PHA when overnight guests will be staying in the unit for more than 5 days.

A family may request an extension for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 20 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the public housing unit address as their residence address or address of record for receipt of benefits or any other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered to be unauthorized occupants, and their presence constitutes violation of the lease.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609(c)(2)].

The term *foster child* is not specifically defined by the regulations.

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction. [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

PHA Policy

A *foster child* is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be temporarily or permanently absent from the unit for a variety of reasons including educational activities, placement in foster care, employment, and illness.

DEFINITIONS OF TEMPORARILY AND PERMANENTLY ABSENT

PHA Policy

Generally an individual who is or is expected to be absent from the public housing unit for 120 consecutive days or less is considered *temporarily absent* and continues to be considered a family member. Generally an individual who is or is expected to be absent from the public housing unit for more than 120 consecutive days is considered *permanently absent* and no longer a family member. In addition, Tenant(s) shall notify Management of any extended absence from the premises in excess of 7 days prior to leaving the housing development. **[PHA Lease Section L-21].**

Exceptions to this general policy are discussed below.

ABSENT STUDENTS

PHA Policy

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the PHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

ABSENCES DUE TO PLACEMENT IN FOSTER CARE [24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

PHA Policy

If a child has been placed in foster care, the PHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, or the child is anticipated to be removed from the home for more than 6-months, the child will be counted as a family member.

ABSENT HEAD, SPOUSE, OR COHEAD

PHA Policy

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

ABSENCES DUE TO CONFINEMENT FOR MEDICAL REASONS

PHA Policy

A family member who becomes confined to a nursing home, hospital or other medical facility on a permanent basis will no longer be considered a family member. The tenant family may present evidence at any time that a family member is confined outside the assisted unit on a permanent basis and request that the confined person not be considered a family member.

If there is any question concerning the permanent status of a family member who is in a hospital or nursing facility, the PHA will request verification from a responsible medical professional and will use this assessment of the health professional to determine the status of the family member.

If the responsible medical professional cannot provide a determination on the length of stay, the tenant will initially be considered temporarily absent. This status will be reviewed periodically by PHA staff every 30 days. If the family member remains in the nursing home or hospital for more than 120 consecutive days, the family member will be determined to be permanently absent.

The Director, Property Management Department, may extend the time allowed for an individual confined to a medical facility by an additional 60 days so long as a responsible health professional from the facility certifies that there is a high probability that the family member will be returning to the assisted unit within this additional time.

RETURN OF PERMANENTLY ABSENT FAMILY MEMBERS

PHA Policy

The family must request PHA approval for the return of any adult family members that the PHA has determined to be permanently absent. The returning individual is subject to the eligibility and screening requirements discussed in this chapter.

Family absence from the unit is discussed in Chapter 13, Section 13-III.C Other Authorized Reasons for Termination. *[24 CFR 982.551(i)]*

3-I.M. LIVE-IN AIDE

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the person(s), (2) is not obligated for the support of the person(s), and (3) would not be living in the unit except to provide the necessary supportive services. [24 CFR 5.403]

The PHA must approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR 8.

A live-in aide is considered a household member but not a family member. The income of the live-in aide is not counted in determining the annual income of the family [24 CFR 5.609(c)(5)]. Live-in aides are subject to the same criminal history check performed on all other adult applicants.

Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

PHA Policy

A family's request for a live-in aide must be made in writing. The PHA will verify the need for a live-in aide with a reliable, knowledgeable professional as provided by the family, such as a doctor, social worker or case worker. For continued approval, the family must submit a new, written request -- subject to PHA verification -- at each annual reexamination.

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The PHA has the discretion not to approve a particular person as a live-in aide, and may withdraw such approval, if: [24 CFR 966.4(d)(3)(i)]

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the PHA or to another Public Housing Agency in connection with Section 8 or public housing assistance under the 1937 Act.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the PHA will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

INCOME LIMITS

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes in a particular area or county. To be eligible for public housing, an applicant must have an annual income that is no more than the "Low-Income" limit for the jurisdiction.

TYPES OF LOW-INCOME FAMILIES [24 CFR 5.603(b)]

- **Low-income family.** A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.
- **Very low-income family.** A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.
- **Extremely low-income family.** A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size. (Used for income targeting only, not program eligibility.)

HUD may establish income ceilings higher or lower than 30, 50 or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

USING INCOME LIMITS FOR ELIGIBILITY [24 CFR 960.201]

Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, the annual income of an applicant must be within the low-income limit.

USING INCOME LIMITS FOR TARGETING [24 CFR 960.202(b)]

At least 40 percent of the families admitted from the PHA waiting list to the public housing program during a PHA fiscal year must be *extremely low-income* families. This is called the “basic targeting requirement.”

If admissions of extremely low-income families to the PHA’s housing choice voucher program during a PHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the PHA’s public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

1. Ten percent of public housing waiting list admissions during the PHA fiscal year.
2. Ten percent of waiting list admissions to the PHA’s housing choice voucher program during the PHA fiscal year.
3. The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

DECLARATION [24 CFR 5.508]

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the PHA's Limited English Proficiency Plan, the notice must be in a language that is understood by the individual if the individual is not proficient in English.

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children or foster adults.

U.S. CITIZENS AND NATIONALS

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the PHA to request additional documentation of their status, such as a passport.

PHA Policy

Family members who declare citizenship or national status will not be required to provide additional documentation unless the PHA receives information indicating that an individual's declaration may not be accurate.

ELIGIBLE NONCITIZENS

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with PHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [*Public Law 106-504*].

INELIGIBLE NONCITIZENS

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The PHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [*24 CFR 5.522*]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

MIXED FAMILIES

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered *mixed families*. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of informal hearing procedures.

INELIGIBLE FAMILIES *[24 CFR 5.514(d), (e), and (f)]*

The PHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member *[24 CFR 5.512(b)]*. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the PHA that the individual or at least one family member is eligible *[24 CFR 5.512(a)]*.

PHA Policy

The PHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When the PHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the PHA. The informal hearing with the PHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process. Informal hearing procedures are contained in Chapter 14.

TIME FRAME FOR DETERMINATION OF CITIZENSHIP STATUS *[24 CFR 5.508(g)]*

For new occupants joining the resident family, the PHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the PHA must grant such an extension for no more than 30 days. *[24 CFR 5.508(h)]*.

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

PHA Policy

The PHA will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2012-10]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age 6 has been added to an applicant family within the 6 months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed a SSN, has previously disclosed a SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement, and remain exempt even if they move to a new assisted unit.

The PHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in *[24 CFR 5.216]*.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION -[24 CFR 5.230]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The PHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the PHA to obtain information that the PHA has determined is necessary in administration of the public housing program *[24 CFR 960.259(a) and (b)]*.

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II must be denied admission to public housing.

In addition, HUD requires or permits the PHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The PHA's authority in this area is limited by the Violence against Women Act of 2013 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(b)].

Part III covers the following topics:

- Required Denial of Admission
- Other Permitted Reasons for Denial of Admission
- Screening
- Criteria for Deciding to Deny Admission
- Prohibition Against Denial of Admission to Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- Notice of Eligibility or Denial

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

HUD requires public housing agencies to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity, or if the PHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the PHA may choose to continue that prohibition for a longer period of time. [24 CFR 960.203(c)(3)(ii)].

MANDATORY DENIAL - HUD requires the PHA to deny assistance in the following two cases, **without exception**:

1. Any household member that has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

PHA Policy

If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in federally assisted housing the family will be denied admission.

2. Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

PHA Policy

Any household member who is subject to a lifetime or mandatory registration requirement under a state sex offender registration program will be denied admission.

DISCRETIONARY DENIAL - HUD requires the PHA to deny assistance in the following three cases, **unless** applicant's circumstances fall within an enumerated mitigating exception:

1. Any member of the household has been evicted from federally-assisted housing in the last three (3) years for violent criminal or drug-related activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

PHA Policy

The PHA will not admit an applicant household to a PHA owned dwelling unit for three (3) years from the date of eviction for a drug related and/or a violent criminal activity of a household member.

However, the PHA may admit an otherwise eligible family who was evicted from federally-assisted housing within the past three (3) years for drug-related criminal activity so long as the person who committed the crime is no longer living in the household.

The PHA will also consider for admission an otherwise-eligible family who was evicted from federally-assisted housing within the past three (3) years for drug-related criminal activity, if the PHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the PHA or has otherwise been rehabilitated successfully.

Drug-Related Criminal Activity is defined as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

2. The PHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

PHA Policy

The PHA defines *currently engaged in* the illegal use of a drug as any use of illegal drugs during the previous six months.

If the PHA determines that the family will be denied admission based on a family member being currently engaged in the use of illegal drugs, and the family claims that the culpable family member has successfully completed a supervised drug rehabilitation program or has been rehabilitated successfully, it shall be the responsibility of the family to provide evidence that this has occurred.

Acceptable evidence is written verification of a completed substance abuse program from a recognized substance abuse treatment facility and at least six (6) months of drug sobriety.

3. The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

PHA Policy

In determining reasonable cause, the PHA will not consider misdemeanor arrest or conviction records. However, the PHA will consider evidence from treatment providers or community-based organizations providing services to household members.

A *pattern of illegal drug use* means more than one incident of any use of illegal drugs during the previous six months.

A pattern of abuse of alcohol means more than one incident of any such abuse of alcohol during the previous six months.

If the PHA determines that the family will be denied admission based on a family member's pattern of illegal drug use and/or pattern of abuse of alcohol, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program or has been rehabilitated successfully, it shall be the responsibility of the family to provide evidence that this has occurred.

Acceptable evidence is written verification of a completed substance abuse program from a recognized substance abuse treatment facility and at least six (6) months of drug and/or alcohol sobriety.

In making its decision to deny assistance, the PHA will consider the factors discussed in Sections 3-III.E & F. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny assistance.

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits, but does not require the PHA to deny admission for the reasons discussed in this section.

The PHA is responsible for screening family behavior and suitability for tenancy. In doing so, the PHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property, drug-related criminal activity and other criminal acts which might adversely affect the health, safety or welfare and right to peaceful enjoyment the premises by tenants.

VIOLENT CRIMINAL OR DRUG RELATED ACTIVITY [24 CFR 960.203(c)]

PHA Policy

If any household member has a history of criminal activity involving any of the following or similar criminal activities within the past five (5) years (*5 year look-back period*), the family may be denied admission.

- **Drug-Related Criminal Activity** such as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].
- **Violent Criminal Activity** is any criminal activity that has, as one of its elements, the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.
- **Criminal Sexual Conduct**, including but not limited to sexual assault, incest, open, and gross lewdness, or child abuse.
- **Criminal Activity That May Threaten Others** is defined as any criminal activity that may threaten the health, safety, or welfare of other tenants, PHA personnel, contractors, subcontractors, or agents. [24 CFR 960.203(c)(3)].

Misdemeanor criminal activity is excluded from consideration in the *5 year look-back period*.

Evidence of such history of criminal activity includes, but is not limited to, an Applicant's record of convictions and record of arrests for the above-referenced criminal activities. Records of conviction may be used as both evidence and proof of engagement in criminal activity; while records of arrest may be used as evidence of engagement in criminal activity, records of arrest may not be used as proof of the same. As such, the above-referenced **5 year look-back period** will be measured from **Date of Conviction** for criminal activity.

Records of Arrest and Conviction – Fully Adjudicated

A record of conviction includes convictions resulting from trial verdicts, guilty pleas and pleas of nolo contendere. Fully adjudicated convictions are convictions which have not been appealed and/or where no appeal is pending. A fully adjudicated arrest is an arrest which led to charges and a final disposition of those charges: conviction, dismissal of case or charges dropped. The PHA places no weight on an arrest record where case was dismissed or where charges were dropped. Convictions may additionally include some form of post-conviction sentencing requirement: e.g., incarceration, suspended sentence, parole, probation.

Consistent with PHA policy of not issuing blanket denials based on records of criminal activity unless mandated to do so, PHA will not automatically deny based solely on Applicant having an adjudicated record of conviction for criminal activity, even when that record (inclusive of any post-conviction sentence) falls within the **5 year look-back period**. Rather, the PHA shall review all such Applicants on a case-by-case basis.

Records of Arrest and Conviction – Not Adjudicated

In the case of an un-adjudicated arrest, charges are pending without final disposition having entered (conviction, dismissal of case, charges dropped). Though rare, an un-adjudicated conviction may arise where an Applicant has been convicted but has appealed that conviction and the appeal is pending.

The PHA will treat Applicants with un-adjudicated records of arrest and conviction in the following manner. Both Applicant-types shall be placed in "Deferral" status under which the PHA will neither admit nor automatically deny the Applicant but shall continue with application

processing until arrest(s) and/or conviction(s) have been adjudicated. This policy shall apply to Applicants who present at time of eligibility certification with un-adjudicated records of arrest and/or conviction as well as to Applicants who develop un-adjudicated records of arrest and/or conviction at any time after eligibility certification but prior to PHA's admission decision.

PREVIOUS BEHAVIOR [960.203(c) and (d) and PH Occ GB, p. 48]

HUD authorizes the PHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, the PHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, the PHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, sexual assault, or stalking.

PHA Policy

The PHA may deny admission to an applicant family if the PHA determines that the family:

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent, within the past five (5) years.
- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past five (5) years which may adversely affect the health, safety, or welfare of other tenants.
- Has a pattern of eviction from housing or termination from residential programs within the past five (5) years (considering relevant circumstances).
- Owes rent or other amounts to this or any other Public Housing Authority or any assisted housing program.
- Has misrepresented or failed to provide complete information related to eligibility, including income, criminal history, award of preferences for admission, expenses, family composition, and rental history.

In making its decision to deny admission, the PHA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, the PHA may, on a case-by-case basis, decide not to deny admission.

The PHA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

SCREENING FOR ELIGIBILITY

Public Housing Agencies are authorized to obtain criminal conviction records and arrests records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the PHA in complying with HUD requirements and PHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the PHA must require every applicant family to submit a consent form signed by each adult household member *[24 CFR 5.903] [PIH Notice 2015-19]*.

Additionally, the PHAs must ask whether the applicant, or any member of the applicant's household, is subject to a lifetime or mandatory registered sex offender registration requirement in any state *[Notice PIH 2012-28]*.

The PHA is also required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime or mandatory registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided *[24 CFR 960.204(a)(4)]*.

The PHA may not pass along to the applicant the costs of a criminal records check *[24 CFR 960.204(d)]*.

PHA Policy

The PHA will perform criminal background checks through local law enforcement for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the PHA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

If the PHA proposes to deny admission based on a criminal record or on lifetime or mandatory sex offender registration information, the PHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission *[24 CFR 5.903(f) and 5.905(d)]*.

OBTAINING INFORMATION FROM DRUG TREATMENT FACILITIES [24 CFR 960.205]

PHA Policy

The PHA will not directly obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity.

SCREENING FOR SUITABILITY AS A TENANT [24 CFR 960.203(c)]

The PHA is responsible for the screening and selection of families to occupy public housing units. The PHA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

PHA Policy

The PHA will consider the family's history with respect to the following factors:

- Payment of rent and utilities.
- Caring for a unit and premises.
- Respecting the rights of other residents to the peaceful enjoyment of their housing.
- Criminal activity that is a threat to the health, safety or property of others.
- Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C.
- Compliance with any other essential conditions of tenancy.

RESOURCES USED TO CHECK APPLICANT SUITABILITY [PH Occ GB, pp. 47-56]

Public Housing Agencies have a variety of resources available to them for determination of the suitability of applicants. Generally, Public Housing Agencies should reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

PHA Policy

In order to determine the suitability of applicants the PHA will examine applicant history for the past five years.

1. Past Performance in Meeting Financial Obligations

Such financial background checks may include but not be limited to:

- Public/private landlord references for the past five years;
- Information about past performance meeting rental obligations such as rent payment record, late payment record;
- Information on whether the public/private landlord ever began or completed lease termination for non-payment;
- Information on whether utilities were ever disconnected in the unit;
- Ask public/private landlords if they would rent to the applicant family again;
- Information from utility companies covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.);
- If an applicant has no rental payment history the PHA may check court records of eviction actions and other financial judgments, and credit reports;
- An applicant with no rental payment history may be asked to provide the PHA with character references.
- If previous landlords or the utility company do not respond to requests from the PHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

2. Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

Such housekeeping and behavior background checks may include but not be limited to:

- Public/private landlord references for the past five years,
- Information on whether the applicant kept a unit clean, safe and sanitary;
- Information on whether the applicant violated health or safety codes;
- Information on whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost;
- Information on whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.
- Obtain police and court records within the past five years to determine if there is any evidence of disturbance of neighbors or destruction of property that might have resulted in a conviction. A record of arrest(s) will not be used as the basis for the denial or proof that the applicant engaged in disqualifying activity.
- Home visits will be used for all applicants for General Occupancy Housing (family housing) to determine the applicant's ability to care for the unit. A failed home visit will be grounds for denial.

3-III.E. CRITERIA FOR DECIDING TO DENY ADMISSION

EVIDENCE

PHA Policy

The PHA may not rely solely on an arrest record to deny admission, terminate assistance, or evict tenants. When denying admission or terminating assistance, the PHA must look at other factors in addition to the arrest record such as police reports, witness statements, testimony, etc. *[PIH Notice 2015-19]*

The PHA will use the preponderance of the evidence as the standard for making all admission decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

CONSIDERATION OF CIRCUMSTANCES *[24 CFR 960.203(c) (3) and (d)]*

HUD authorizes the PHA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event the PHA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, the PHA may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

PHA Policy

The PHA will consider the following facts and circumstances prior to making its decision:

1. The seriousness of the case, especially with respect to how it would affect other residents' safety or property.
2. The effects that denial of admission may have on other members of the family who were not involved in the action or failure to act.
3. The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault, or stalking.

4. The length of time since the violation occurred, including the age of the individual at the time of the conduct, as well as the family's recent history and the likelihood of favorable conduct in the future.
5. While a record of arrest(s) will not be used as the sole basis for denial, an arrest may, however, trigger an investigation to determine whether the applicant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider:
 - Any statements made by witnesses or the applicant not included in the police report.
 - Whether criminal charges were filed.
 - Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal.
 - Any other evidence relevant to determining whether or not the applicant engaged in disqualifying activity.

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property.

6. Whether the applicant is compliant with probation requirements.
7. Evidence of the applicant family's participation in or willingness to participate in social service case management or other appropriate counseling service programs.
8. In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully.

The PHA will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

REMOVAL OF A FAMILY MEMBER'S NAME FROM THE APPLICATION

Should the PHA's screening process reveal that an applicant's household includes an individual subject to state lifetime or mandatory registered sex offender registration, the PHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the PHA must deny admission to the family [*Notice PIH 2012-28*].

For other criminal activity, the PHA may permit the family to exclude the culpable family members as a condition of eligibility. *[24 CFR 960.203(c)(3)(i)]*.

PHA Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

After admission to the program, the family must present evidence of the former family member's current address upon PHA request.

REASONABLE ACCOMMODATION *[PH Occ GB, pp. 58-60]*

If the family includes a person with disabilities, the PHA's decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with *[24 CFR Part 8]*.

PHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the PHA will determine whether the behavior is related to the disability. If so, upon the family's request, the PHA will determine whether alternative measures are appropriate as a reasonable accommodation. The PHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The Violence against Women Act of 2013 (VAWA) and the HUD regulation at [24 CFR 5.2005(b)] prohibit Public Housing Agencies from denying admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Definitions of key terms used in VAWA are provided in section 16-VII of this ACOP, where general VAWA requirements and policies pertaining to notification, documentation, and confidentiality are also located.

NOTIFICATION

VAWA 2013 expanded notification requirements to include the obligation for Public Housing Agencies to provide applicants who are denied assistance with a notice of **VAWA** rights and the form HUD-50066 at the time the applicant is denied.

PHA Policy

The PHA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a criminal record) that would warrant denial under the PHA's policies. Therefore, if the PHA makes a determination to deny admission to an applicant family, the PHA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VII.C of this ACOP, a notice of VAWA rights, a copy of the form HUD-50066. The PHA will request, in writing, that an applicant wishing to claim this protection notify the PHA within 10 business days.

DOCUMENTATION

Victim Documentation [24 CFR 5.2007]

PHA Policy

If an applicant claims the protection against denial of admission that VAWA provides to victims of domestic violence, dating violence, sexual assault, or stalking, the PHA will request in writing that the applicant provide documentation supporting the claim in accordance with section 16-VII.D of this ACOP.

PERPETRATOR DOCUMENTATION

PHA Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

- **To Remove.** A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit
- **To Remain.** Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

The PHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a PHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the PHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

PHA Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the PHA will notify the family in writing of the proposed denial using an *Intent To Deny* letter and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information. If the family does not contact the PHA to request a hearing to dispute the information within that 10 day period, the PHA will proceed with issuing the *Determination of Ineligibility* letter (denial letter) to the applicant. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process.

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, sexual assault, or stalking are contained in Section 3-III.F.