

Chapter 6

SCREENING CRITERIA

Screening is the determination that an otherwise eligible household has the ability to pay rent on time and meet the requirements of the lease. O/As are required to establish written screening criteria to prohibit admission of certain individuals and are permitted to establish additional written screening criteria to determine whether applicants will be suitable tenants.

Live-in aides are screened using the same requirements listed for applicants, with the exception of any criteria involving credit or ability to pay rent.

The cost of screening must not be charged to applicants.

RAD Requirements [Notice H 2019-09]

As stated in Chapter 5, pursuant to RAD statute, at conversion, current households are not subject to rescreening provisions. Current households will be grandfathered for conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.

6-A. REQUIRED DENIAL OF ADMISSION [HUD Handbook 4350.3, REV-1, CHG-4, Section 4-7; 24 CFR Part 5, Subpart I]

HUD requires the O/A to deny assistance in the following cases:

- Any member of the household has been evicted from federally assisted housing in the last three years for drug-related criminal activity. HUD permits but does not require the O/A to admit an otherwise-eligible family if the household member has completed an O/A-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).

O/A Policy

The O/A will admit an otherwise-eligible family who was evicted from federally assisted housing within the past five years for drug-related criminal activity, if the O/A is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the O/A, or the person who committed the crime is no longer living in the household.

- The O/A determines that any household member is determined to be currently engaged in the illegal use a controlled substance (e.g., marijuana). A controlled substance is defined in section 102 of the Controlled Substances Act [21 U.S.C. 802].

O/A Policy

Currently engaged in is defined as any use of illegal drugs during the previous three months.

- The O/A 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.

O/A Policy

In determining reasonable cause, the O/A will consider all credible evidence, including but not limited to, any record of convictions or arrests of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. A record of arrests will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity. The O/A will also consider evidence from treatment providers or community-based organizations providing services to household members.

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

O/A Policy

At the time of application processing, the O/A will screen all applicants and household members for state sex offender registration in all states where the applicant and members of the applicant's household have resided using the Dru Sjodin National Sex Offender Database (<http://www.nsopw.gov>).

If it is determined that a household member is subject to a state lifetime sex offender registration requirement, the household will be denied, or assistance will be terminated, unless the ineligible household member is removed from the household. For applicant households, the ineligible household member must be removed from the application, or the application will be denied.

The O/A will screen all household members for state sex offender registration and criminal history at the time of each resident's annual recertification. Should there be any evidence that any member of the applicant/resident household is subject to a state lifetime sex offender registration program or that any prior records have been falsified or not properly disclosed, or that a criminal history is discovered that violates the above policies in effect at the time of the annual recertification, the resident's lease may be immediately terminated or the family will be given the opportunity to remove the offender from the household.

In the cases listed above, proof that the ineligible member has been removed from the household must be provided to management. This would include (1) executing a new lease without the ineligible household member, or (2) established utility account at another address, or (3) verification of a change in address from the U. S. Postal Service for the ineligible member.

- Any member of the family fails to sign and submit consent forms for obtaining information.
- The family does not meet the restrictions on net assets and real property ownership as required by 24 CFR 5.618.

6-B. ASSET LIMITATION [24 CFR 5.618]

There are two circumstances under which a family is ineligible to receive assistance based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed \$100,000 (adjusted annually by HUD).

Second, the family has real property (as defined under state law in which the property is located) that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property; and
- A legal right to reside in the real property; and
- The effective legal authority to sell (based on state or local laws of the jurisdiction where the property is located) the real property.

The O/A does not have the discretion not to enforce or provide limited enforcement of the asset limitation at admission. However, the real property restriction does not apply in the following circumstances:

- Any property for which the family is receiving assistance for a manufactured home under 24 CFR 982.620 or under the HCV Homeownership program;
- Any property that is jointly owned by a member of the family and at least one non-household member who does not live with the family, if the non-household member resides at the jointly owned property;
- Any family that is offering the property for sale; or
- Any person who is a victim of domestic violence, dating violence, sexual assault, or stalking.
 - When a family asks for an exception because a family member is a victim of domestic violence, dating violence, sexual assault, or stalking, the O/A must comply with all the confidentiality requirements under the Violence Against Women Act (VAWA). The O/A must accept a self-certification from the family member, and the restrictions on requesting documentation under VAWA apply.

A property is considered *suitable for occupancy* unless the family demonstrates that it:

- Does not meet the disability-related needs for all members of the family (e.g., physical accessibility requirements, disability-related need for additional bedrooms, proximity to accessible transportation, etc.);
- Is not sufficient for the size of the family;

O/A Policy

The O/A defines *not sufficient for the size of the family* as being overcrowded based on the O/A's occupancy standards in Chapter 4 of this policy.

- Is geographically located so as to be a hardship for the family (e.g., the distance or commuting time between the property and the family's place of work or school would be a hardship to the family, as determined by the O/A);

O/A Policy

In general, the O/A defines *a geographic hardship* to include when a family members' work, school, health care provider, or other necessary service is located an unreasonable distance from the real property or there is a lack of adequate transportation options for the family to access work, school, health care, or other necessary services. The O/A will consider circumstantial details a family faces when determining whether a geographical hardship is present.

- Is not safe to reside in because of the physical condition of the property (e.g., property's physical condition poses a risk to the family's health and safety and the condition of the property cannot be easily remedied); or
- Is not a property that a family may reside in under the state or local laws of the jurisdiction where the property is located.

If a family meets one of the above exceptions, the real property is not automatically excluded from the calculation of net family assets. Unless the real property is specifically excluded from net family assets as described in 24 CFR 5.603, it will be included in net family assets. If the value of that real property brings the net family assets above \$100,000 (as adjusted for inflation), the family is out of compliance with the asset limitation.

Asset Limitation for Residents

The O/A has discretion with respect to the application of the asset limitation at annual and interim recertification. The O/A may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

O/A Policy

The O/A has adopted a policy of total nonenforcement of the asset limitation for all residents. The asset limitation only applies to initial eligibility determinations.

6-C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

The O/A is responsible for screening family behavior and suitability for tenancy.

O/A Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five years, the family will be denied admission:

Drug-related criminal activity, defined by HUD 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

Violent criminal activity, defined by HUD as 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 activity that may threaten the health, safety, or welfare of other tenants

Criminal activity that may threaten the health or safety of O/A staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions or arrests for suspected drug-related or violent criminal activity of household members within the past five years. A conviction for such activity will be given more weight than an arrest. A record of arrest will not be used as the sole basis for the denial or proof that the applicant engaged in disqualifying criminal activity.

The O/A will deny admission to an applicant family if the O/A determines that the family:

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past five years

Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three years which may adversely affect the health, safety, or welfare of other tenants

Owes rent or other amounts to this or any other O/A or PHA in connection with any assisted housing program

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition, or rent

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program

Has engaged in or threatened violent or abusive behavior toward O/A personnel

Abusive or violent behavior towards O/A personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

6-D. CONSIDERATION OF CIRCUMSTANCES

HUD authorizes the O/A to consider all relevant circumstances when deciding whether to deny admission based on a family's history except in the situations for which denial of admission is mandated.

In the event the O/A 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, O/As may give consideration to factors that might indicate a reasonable probability of favorable future conduct.

O/A Policy

The O/A will consider the following facts and circumstances prior to making its decision:

The seriousness of the case, especially with respect to how it would affect other residents' safety or property

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

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 a victim of domestic violence, dating violence, sexual assault, or stalking

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

While a record of arrests 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 O/A may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The O/A 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, if it indicates a demonstrable risk to safety or property

Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs

In the case of drug or alcohol abuse, the O/A will consider 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 O/A 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.

Further, the O/A acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, poor rental history, a record of previous damage to an apartment, a prior arrest record) due to adverse factors that would warrant denial under the O/A's policies.

While the O/A is not required to identify whether adverse factors that resulted in the applicant's denial are a result of domestic violence, dating violence, sexual assault, or stalking, the applicant may inform the O/A in accordance with Chapter 8 of this TSP that their status as a victim is directly related to the grounds for the denial. The O/A will request that the applicant provide enough information to the O/A to allow the O/A to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

Removal of a Family Member's Name from the Application

O/A Policy

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application.

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

Reasonable Accommodation

O/A 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 O/A will determine whether the behavior is related to the disability. If so, upon the family's request, the O/A will determine whether alternative measures are appropriate as a reasonable accommodation. The O/A will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission.

6-E. CREDIT HISTORY

O/A Policy

In order for a credit report to be considered acceptable, the credit report may show minor, moderate, or limited credit problems within the last five years. A lack of a credit history will not automatically result in an application being denied.

The O/A 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.

6-F. RENTAL HISTORY

O/A Policy

In order to determine the suitability of applicants, the O/A will examine applicant history for the past five years.

Any one of the following by any household member listed on the application may result in rejection of the application:

Any history that the applicant has moved out of a residence owing a balance

Any eviction from a previous residence in the last five years for eviction from federally assisted housing for drug-related criminal activity

Four or more late payments of rent within a 12-month period from a current or previous residence

Any one report that the applicant, or their household members or guests, were destructive to the unit or common areas at a current or previous residence

Any one report that the applicant has or had poor housekeeping habits rising to the level of a health or safety threat from a current or previous residence

Any one report that the applicant caused or was involved in disturbances at a current or previous residence

Any one report that the applicant did not abide by the rules and regulations at a current or previous residence

The O/A will also consider utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit, and whether the applicant can get utilities turned on in their 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 O/A will check court records of financial judgments and credit reports. A lack of rental history will not disqualify someone from becoming a resident, but a poor rental history may.

Applicants with no rental payment history will also be asked to provide the O/A with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

6-G. EXISTING TENANT SEARCH

As part of the application review process, HUD requires that the O/A use the EIV system to determine if the applicant or any member of the applicant household is currently receiving HUD assistance. The Existing Tenant Search will indicate if an applicant or any member of the household is currently receiving subsidy at another community. This report will be printed and maintained in the application file in accordance with HUD's recordkeeping requirements.

O/A Policy

If the EIV Existing Tenant Search reveals that the applicant or a member of the applicant's household is currently receiving HUD rental assistance at another residence, the O/A must follow up first with the resident to discuss the details of their circumstances, and then with the respective O/A or PHA to confirm the individual's program participation status prior to admission.

The O/A will also attempt to coordinate move-out and move-in dates with the resident and the respective O/A or PHA at the other location.

In addition, applicants will be verbally notified that rental assistance will not be provided for the new unit until the day after assistance stops in the current residence, as identified in TRACS.

Prior to move-in, the applicant will be required to submit to the O/A a move-out inspection form, signed and dated by the previous landlord.

6-H. MISREPRESENTATION OF INFORMATION

An application will be rejected if during the course of processing it becomes evident that an applicant or any applicant household member has falsified or otherwise misrepresented any facts about their current situation, history, or behavior in a manner that would affect eligibility or applicant selection criteria qualifications, including preferences, income, assets, allowances, or rent. This provision shall not be applied to minor and unintentional mistakes that produce no benefit to the applicant.