Chapter 3

ELIGIBILITY

INTRODUCTION

COC 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 COC 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 COC.
  - 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 COC's collection and use of family information as provided for in COC-provided consent forms.
  - Not currently receiving a duplicative subsidy.
  - ~~Upon the COC's full implementation of HOTMA, M~~m~~eet net asset and real property ownership restriction requirements.
- COC must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or COC.

This chapter contains three parts:

Part I: Definitions of Family and Household Members. This part contains HUD and COC 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 current conduct (e.g. criminal activity) that can cause COC to deny admission as well as the asset limitation for public housing.

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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 to explain HUD's eligibility rules.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.105(a)(2), 24 CFR 5.100, 24 CFR 5.403, Notice PIH 2023-27, and FR Notice 2/14/23]

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

Family:

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless 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 ; an otherwise eligible youth who has attained at least 18 years of age and not more than 24 years of age and who has left foster care, or will leave foster care within 90 days, in accordance with a transition plan described in section 475(5)(H) of the Social Security Act (42 U.S.C. 675(5)(H)), and is homeless or is at risk of becoming homeless at age 16 or older; 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, and the remaining member of a tenant family. COC has the discretion to determine if any other group of persons qualifies as a family.

Gender Identity means actual or perceived gender characteristics [24 CFR 5.100].

Sexual orientation means homosexuality, heterosexuality, or bisexuality [24 CFR 5.100] .

COC Policy

A family also includes two or more individuals who are not related by blood, marriage, adoption, 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.

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 COC' s permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

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

Family Breakup

Except under the following conditions, COC 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, stalking, or human trafficking, COC must ensure that the victim retains assistance. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, stalking,- and human trafficking see section 16-VII.D of this ACOP.)
- If a court determines the disposition of property between members of the assisted family, COC is bound by the court's determination of which family members continue to receive assistance.

  COC Policy

  When a family on the waiting 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 waiting list is open.

  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, COC will abide by the court's determination.

  In the absence of a judicial decision or an agreement among the original family members, COC will determine which family will retain their placement on the waiting list or continue in occupancy. In making its determination, COC 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, stalking, or human trafficking, 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 resident family who remains in the unit when other members of the family have left the unit. 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."

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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.

COC 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. A minor who is emancipated under state law may be designated as head of household.

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

A family may have a spouse or cohead, but not both.

Spouse means the marriage partner of the head of household.

COC Policy

A *marriage partner* includes the partner in a "common law" marriage as defined in state law. 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. A family can have only one cohead.

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.

3-I.F. DEPENDENTS AND MINORS [24 CFR 5.603]

A *minor* is a member of the family, other than the head of family or spouse, who is under 18 years of age.

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:

COC 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 50 percent or more of the time.

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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, COC will make the determination based on available documents such as court orders, an IRS income 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 (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction and (2) 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]

Elderly Persons

An *elderly person* is a person who is at least 62 years of age [24 CFR 5.100].

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age [24 CFR 945.105].

Elderly Family

An *elderly family* is one in which the head, spouse, cohead, or sole member is an elderly person [24 CFR 5.403]. Identifying elderly families is important because these families qualify for the elderly family allowances and the medical allowances from income 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]

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. 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, COC 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 COC'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

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allowance and the medical allowances 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 COC 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.

COC Policy

A resident family must notify COC when overnight guests will be staying in the unit for more than 3 days. A guest can remain in the unit no longer than 14 consecutive days or a total of 30 cumulative calendar days during any 12-month period.

A family may request in writing an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 14 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. An exception must be approved by COC.

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 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[24 CFR 5.603]

Foster children or adults are permitted to live in an assisted unit with the PHA's permission. A PHA refusal to allow a family to have a foster child or foster children may constitute a violation of the familial status provisions of the Fair Housing Act.

A *foster adult* is a member of the household who is 18 years of age or older and meets the definition of a foster adult under state law. In general, a foster adult is a person who is 18 years of age or older, is unable to live independently due to a debilitating physical or mental condition, and is placed with the family by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction.

The term *foster child* is a member of the household who meets the definition of a foster child under state law. In general, a foster child is placed with the family by an authorized placement

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agency (e.g., public child welfare agency) or by judgment, decree, or other order of any court of competent jurisdiction.

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].

COC Policy

A foster child or foster adult may be allowed to reside in the unit if their presence would not overcrowd the unit.

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 reason including educational activities, placement in foster care, employment, and illness.

Definitions of Temporarily and Permanently Absent

COC Policy

Generally an individual who is or is expected to be absent from their unit for 180 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 their unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

COC 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 COC 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.

COC Policy

If a child has been placed in foster care, COC 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, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

COC Policy

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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.

Individuals Confined for Medical Reasons

COC Policy

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, COC will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

COC Policy

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

3-I.M. LIVE-IN AIDE [24 CFR 5.403]

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 persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services.

COC 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)]. 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.

COC Policy

A family's request for a live-in aide must be made orally or in writing. COC 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 COC 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, (2) would not be living in the unit except to provide the necessary supportive services, and (3) hours the care will be provided.

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COC will not provide an individual bedroom for a live-in aide.

COC 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 COC in connection with Section 8 or public housing assistance under the 1937 Act.

Within 30 business days of receiving a request for a live-in aide, including all required documentation related to the request, COC will notify the family of its decision in writing.

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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.

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 and Notice PIH 2023-27]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income eligible, a family must be a *low-income* family. Income and net family assets of household members are excluded when determining income eligibility; however, household members are considered for purposes of unit size and subsidy standards.

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Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted to from COC's waiting list to the public housing program during COC's 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:

- Ten percent of public housing waiting list admissions during the PHA fiscal year
- Ten percent of waiting list admission to the PHA's housing choice voucher program during the PHA fiscal year
- 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.

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3-II.B. OCCUPANCY BY OVER-INCOME FAMILIES [24 CFR 960.503]

A PHA that owns or operates fewer than 250 public housing units may lease a unit in a public housing development to an over-income family (a family whose annual income exceeds the limit for a low-income family at the time of initial occupancy), in accordance with its PHA annual plan (or supporting documents), if all the following conditions are satisfied:

- There are no eligible low-income families on the PHA waiting list or applying for public housing assistance when the unit is leased to an over-income family;
- The PHA has publicized availability of the unit for rental to eligible low-income families, including publishing public notice of such availability in a newspaper of general circulation in the jurisdiction at least 30 days before offering the unit to an over-income family;
- The over-income family rents the unit on a month-to-month basis for a rent that is not less than the PHA's cost to operate the unit;
- The lease to the over-income family provides that the family agrees to vacate the unit when needed for rental to an eligible family; and
- The PHA gives the over-income family at least 30 days' notice to vacate the unit when the unit is needed for rental to an eligible family.

COC Policy

COC does not admit any non-income-eligible families.

3-II.C. 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.

All applicant families must be notified of the requirement to submit evidence of their citizenship status or eligible immigration status or to elect not to contend that they have eligible status when they apply for assistance [24 CFR 5.508(f)(1)(i)]~~when they apply~~.

Declaration [24 CFR 5.508]

HUD requires each family member , regardless of age, ~~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 for minors by an adult residing in the assisted unit who is responsible for the child ~~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.

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U.S. Citizens and Nationals

U.S. citizens or U.S. nationals (or the parent/guardian for family members under age 18) must sign a declaration of their status, under penalty of perjury. In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit COC to request additional documentation of their status, such as a passport. HUD strongly encourages PHAs to require that families provide proof of citizenship by such means as birth certificates, naturalization certificates, passports, or other documentation [HUD Secretary Letter 12/16/25].

COC Policy

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

Eligible Noncitizens

Eligible noncitizens (or the parent/guardian for family members under age 18) must sign a declaration of their status, under penalty of perjury. In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with COC 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. Family members who do not sign a declaration of their status or provide the required supporting documentation will be considered ineligible for housing assistance.

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.

When reviewing applicants for assistance, if a PHA formally makes a finding of fact or conclusion of law, supported by a determination from the Department of Homeland Security

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(DHS) or the Executive Office of Immigration Review (e.g., a Final Order of Deportation), that an individual is not lawfully present in the United States, then the PHA must provide to DHS a report of the person's name, address, and other identifying information that the PHA has. Note that a SAVE response of no service record or verification of an immigration status that makes the individual ineligible for housing assistance is not a finding of fact or conclusion of law that the individual is not lawfully present. At least four times annually, PHAs must provide such information to DHS. If a PHA has knowledge of an individual who is not lawfully present in the United States, they must provide a report to DHS within 45 days after the close of the appropriate calendar year quarter [HUD Secretary Letter 12/16/25].

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)]

COC 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 COC that the individual or at least one family member is eligible [24 CFR 5.512(a)].

COC Policy

COC will not provide assistance to a family before all family members have been verified as a citizen, national, or eligible noncitizen.

When a COC 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 COC. The informal hearing with COC 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.

Grievance hearing procedures are contained in Chapter 14.

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Time Frame for Determination of Citizenship Status [24 CFR 5.508(g)]

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

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

COC Policy

COC will verify the status of applicants at the time all other eligibility factors are determined.

3-II.D. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH 2018-24]

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 six has been added to an applicant family within the six 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.

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

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3-II.E. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230 and 24 CFR 5.232

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, the form HUD-52675, Debts Owed to Public Housing Agencies and Terminations, and other consent forms as The consent form remains effective until the family is denied assistance, assistance is terminated, or the family provides written notification to revoke consent.

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.

COC must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow COC to obtain information that the COC has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b) and 24 CFR 5.232(a)].

However, this does not apply if the applicant or participant, or any member of their family, revokes their consent with respect to the ability of COC to access financial records from financial institutions, unless COC establishes a policy that revocation of consent to access financial records will result in denial of admission or termination of assistance [24 CFR 5.232(c)].

COC Policy

COC has established a policy that the family's revocation of consent to allow COC to access records from financial institutions will result in denial of admission.

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3-II.F. EIV SYSTEM SEARCHES [; EIV FAQs; EIV System Training 9/30/20; and Notice PIH 2023-27]

Existing Tenant Search

Prior to admission to the program, the COC must search for all household members using the EIV Existing Tenant Search module. The COC must review the reports for any SSA matches involving another PHA or a multifamily entity and follow up on any issues identified. COC must provide the family with a copy of the Existing Tenant Search results if requested. At no time may any family member receive duplicative assistance.

If the tenant is a new admission to COC, and a match is identified at a multifamily property, COC must report the program admission date to the multifamily property and document the notification in the tenant file. The family must provide documentation of move-out from the assisted unit, as applicable.

COC Policy

COC will contact the other PHA, or owner identified in the report to confirm that the family has moved out of the unit and obtain documentation of current tenancy status, including a form HUD-50058 or 50059, as applicable, showing an end of participation. COC will only approve assistance contingent upon the move-out from the currently occupied assisted unit.

Debts Owed to PHAs and Terminations

All adult household members must sign the form HUD-52675, Debts Owed to Public Housing and Terminations. Prior to admission to the program, the PHA must search for each adult family member in the Debts Owed to PHAs and Terminations module.

If a current or former tenant disputes the information in the module, the tenant should contact the PHA directly in writing to dispute the information and provide any documentation that supports the dispute. If the PHA determines that the disputed information is incorrect, the PHA will update or delete the record from EIV. Former tenants may dispute debt and termination information for a period of up to three years from the end of participation date in the program.

COC Policy

COC will require each adult household member to sign the form HUD-52675 once at the eligibility determination. Any new members added to the household after admission will be required to sign the form HUD-52675 prior to being added to the household.

COC will search the Debts Owed to PHAs and Terminations module as part of the eligibility determination for new households and as part of the screening process for any household members added after the household is admitted to the program. If any information on debts or terminations is returned by the search, COC will determine if this information warrants a denial in accordance with the policies in Part III of this chapter.

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EIV Income Report

For each new admission, COC is required to review income information in EIV to confirm and validate family reported income within 120 days after the move-in information is transmitted to HUD. COC must print and maintain copies of the reports in the tenant file and resolve any discrepancies with the family.

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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.

In addition, HUD requires or permits COC to deny admission based on certain types of current or past behaviors of family members as discussed in this part. COC'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 or as a direct result of the fact that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(b)].

The regulations state that COC must prohibit admission for certain types of criminal activity and give COC the option to deny for other types of previous criminal history,

~~HUD does not require the adoption of "One Strike" policies~~ COC should safeguard the due process rights of applicants and tenants.

This part covers the following topics:

- Required denial of admission
- The asset limitation in public housing
- 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, stalking, or human trafficking
- Notice of eligibility or denial

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

COC is required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if COC 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 COC prohibit admission for a prescribed period of time after some disqualifying behavior or event, COC may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

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COC Policy

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

- COC 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 behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

  COC Policy

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

- If COC 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.

  COC Policy

  In determining reasonable cause, COC will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol. COC will also consider evidence from treatment providers or community-based organizations providing services to household members.

  If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied admission.

  Any household member is subject to a lifetime registration requirement under a state sex offender registration program, the family will be denied admission.

~~**Upon the PHA's HOTMA 102/104 compliance date, the following section on the asset limitation is added. The asset limitation does not apply until the PHA's HOTMA compliance date.**~~

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3-III.C. RESTRICTION ON ASSISTANCE BASED ON ASSETS [24 CFR 5.618]

There are two circumstances under which a family is ineligible for the program based on asset ownership.

First, assistance may not be provided to any family if the family's net assets exceed the HUD-published asset limitation amount (adjusted annually by HUD).

- This amount is listed in HUD's current year Inflation-Adjusted Values tables.

Second, the family has real property that is suitable for occupancy by the family as a residence and the family has:

- A present ownership interest in the real property;
- 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 PHA 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 PHA must comply with all the confidentiality requirements under VAWA. The PHA 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;

  COC Policy

  COC defines *not sufficient for the size of the family* as being overcrowded based on the COC's occupancy standards in Chapter 5.
- 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 PHA or owner);

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COC Policy

In general, COC 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. COC will consider circumstantial details a family faces when determining whether a geographical hardship is present.

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- 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 and Chapter 6 of this policy, it will be included in net family assets. If the value of that real property brings the net family assets above the HUD-published asset limitation amount, the family is out of compliance with the asset limitation.
- See Chapter 7 for information on verifying net family assets for purposes of the asset limitation.

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

Criminal Activity [24 CFR 960.203(c)]

COC is responsible for screening family behavior and suitability for tenancy. In doing so, COC may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

COC Policy

If any household member is currently engaged in or has engaged in any of the following criminal activities within the past three years for misdemeanors and seven years for felonies, 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 [24 CFR 5.100].

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 [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal mischief or disorderly conduct against a person or property;
Criminal activity that may threaten the health or safety of COC staff, contractors, subcontractors, or agents.

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

Criminal activity that shows a pattern or history of abuse of alcohol, illegal or prescription drugs and narcotics;

Eviction from public housing for illegal drug activity;

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past three years.

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

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#	TYPE	CRIME CATEGORY	SUBCATEGORY	REVIEW PERIOD
1	Mandatory HUD	Lifetime sex offender registration; Production or manufacture of methamphetamine on the premises of federally assisted housing.	Felony Misdemeanor	Lifetime
2	Drug-Related Criminal Activity	Any household member has ever been convicted of drug-related criminal activity. Possession with intent to manufacture, sell, distribute or use the drug; Criminal activity that shows a pattern or history of abuse of alcohol, illegal or prescription drugs and narcotics	Felony Misdemeanor	Currently Engaged 7 years for Felonies 3 years for Misdemeanors
3	Violent Criminal Activity	Criminal Forcible Sexual Conduct (child molestation, child sexual abuse, child pornography); Terrorism; Homicide, Murder, Manslaughter; Use of Firearm Against a Person; Armed Robbery Offenses; Kidnapping, Abduction, Human Trafficking;	Felony	Currently Engaged 7 years for Felonies
		Assault and battery; non-forcible sex offenses; Stalking; Domestic Violence	Felony Misdemeanor	Currently Engaged 7 years for Felonies 3 years for Misdemeanors
		Burglary Breaking and Entering; Robbery Offenses	Felony Misdemeanor	Currently Engaged 7 years for Felonies 3 years for Misdemeanors
4	Criminal Activity	Possession or Sale of Illegal Firearms	Felony Misdemeanor	Currently Engaged 7 years for Felonies 3 years for Misdemeanors
		Theft; Stolen Property; Fraud Related offenses Destruction of Property, Vandalism, Arson	Felony Misdemeanor	Currently Engaged 7 years for Felonies 3 years for Misdemeanors
		Criminal Mischief, Disorderly Conduct Against a Person or Property, Financial Crimes including but not limited to: Welfare Fraud, Forgery, Grand Theft and Identity Fraud, Any Corrupt or Criminal Act in Connection with any Federal Programs	Felony Misdemeanor	Currently Engaged 7 years for Felonies 3 years for Misdemeanors
5	Multiple Offenses	2,3,4	If Two or More Convictions	7 years

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Inability to Secure Utilities:

COC Policy:

COC will deny admission to any family that is unable to demonstrate ability to put electricity and gas in the name of the head of house, spouse, or co-head at a site where a family is responsible for turning on and paying for said utility

Previous Behavior [960.203(c) and (d)]

HUD authorizes COC 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, COC 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, COC 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.

COC Policy

COC will deny admission to an applicant family if COC determines that the family:

Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past three 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 COC or owner 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.

Owes rent or other amounts to any PHA in connection with Section 8, public housing, or other public housing assistance under the 1937 Act, unless the family repays the full amount of the debt prior to being selected from the waiting list.

When denying admission due to family debts as shown in HUD's EIV system, COC will provide the family with a copy of the EIV Debt Owed to PHA and Termination report.

If the family wishes to dispute the information in the report, the family must contact the PHA that entered the information in EIV in writing, explaining why EIV information is disputed. The family must also provide a copy of the letter and all applicable verification to COC to support the family's claim. COC will consider the information provided by the family prior to issuing a notice of denial.

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Has engaged in or threatened violent or abusive behavior toward COC personnel

Abusive or violent behavior towards COC 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.

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

COC 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.

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3-III.E. SCREENING

Screening for Eligibility

COC is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to housing program. This authority assists COC in complying with HUD requirements and COC 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 COC must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

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

COC Policy

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

COC may perform a criminal background check for every adult household member age 18 and older once every five years at annual recertification. Additionally, COC will perform criminal background checks on participants if COC has knowledge or reason to believe a member of the household has engaged in criminal activity.

If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, COC will request a fingerprint card and will request information from the National Crime Information center (NCIC).

COC is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime 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)]. Applicants must provide a complete list of all states in which any household member has resided. Failure to accurately respond to any question during the application process is cause to deny the family admission [Notice PIH 2012-28].

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COC Policy

The COC will use National Sex Offender database to screen applicants for admission.

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

If COC proposes to deny admission based on a criminal record or on lifetime sex offender registration information, COC 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)].

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Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any charges incurred by COC for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant.

COC Policy

COC may obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when COC has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

Screening for Suitability as a Tenant [24 CFR 960.203(c)]

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

COC Policy

COC 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

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Resources Used to Check Applicant Suitability

COC Policy

In order to determine the suitability of applicants COC will examine applicant history for the past five years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

Landlord references for the past three years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. Landlords will be asked if they would rent to the applicant family again. (COC will provide form)

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 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 COC will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide COC 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.

If previous landlords or the utility company do not respond to requests from COC, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

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

Landlord references for the past three years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; 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; 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.

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Police and court records within the past three years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

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

Evidence

COC Policy

COC 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 COC 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 COC 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, COC may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

COC Policy

COC will consider the following factors 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

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(as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

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

When there is a record of arrest, the PHA may obtain a copy of the police report associated with the arrest and consider the circumstances of the arrest, including:

- 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

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, 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

- COC 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.

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Removal of a Family Member's Name from the Application

Should COC's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, COC 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, COC must deny admission to the family [Notice PIH 2012-28].

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

COC 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 stay as a guest in the housing unit.

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

Reasonable Accommodation [PH Occ GB, pp. 58-60]

If the family includes a person with disabilities, COC decision concerning denial of admission is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

COC Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, COC will determine whether the behavior is related to the disability. If so, upon the family's request, COC will determine whether alternative measures are appropriate as a reasonable accommodation. COC 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.

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3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, AND HUMAN TRAFFICKING

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

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violence, sexual assault, and stalking anywhere such a list appears.

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 requires PHAs to provide applicants who are denied assistance with a VAWA Notice of Occupancy Rights (form HUD-5380) and a domestic violence certification form (HUD-5382) at the time the applicant is denied.

COC Policy

COC acknowledges that a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking 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 COC's policies.

While COC 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, stalking, or human trafficking, the applicant may inform COC that their status as a victim is directly related to the grounds for the denial. COC will request that the applicant provide enough information to COC to allow COC to make an objectively reasonable determination, based on all circumstances, whether the adverse factor is a direct result of their status as a victim.

COC 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, and a copy of the form HUD-5382. COC will request in writing that an applicant wishing to claim this protection notify COC within 10 business days.

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Documentation

Victim Documentation [24 CFR 5.2007]

COC Policy

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

Perpetrator Documentation

COC 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:

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

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 their belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

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3-III.H. NOTICE OF ELIGIBILITY OR DENIAL

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

If COC 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 COC 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)].

COC Policy

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, COC will notify the family in writing of the proposed denial 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 from denial to dispute the accuracy and relevance of the information. If the family does not contact the COC to dispute the information within that 10 day period, COC will proceed with issuing the notice of denial of admission. 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, stalking or human trafficking are contained in Section 3-III.F.

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EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term *person with disabilities* means a person who has any of the following types of conditions.

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

  Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

  In the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:

  (A) IN GENERAL – The term *developmental disability* means a severe, chronic disability of an individual that-

  (i) is attributable to a mental or physical impairment or combination of mental and physical impairments;

  (ii) is manifested before the individual attains age 22;

  (iii) is likely to continue indefinitely;

  (iv) results in substantial functional limitations in 3 or more of the following areas of major life activity: (I) self-care, (II) receptive and expressive language, (III) learning, (IV) mobility, (V) self-direction, (VI) capacity for independent living, (VII) economic self-sufficiency; and

  (v) reflects the individual's need for a combination and sequence of special, interdisciplinary, or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated.

  (B) INFANTS AND YOUNG CHILDREN – An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital or acquired condition, may be considered to have a developmental disability without meeting 3 or more of the criteria described in clauses (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

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People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

   (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine

   (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means:

   (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation

   (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

   (c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

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