

Chapter 2

ELIGIBILITY FOR ADMISSION

[24 CFR Part 960, Subpart B]

INTRODUCTION

This Chapter defines both HUD's and the PHA's criteria for admission and denial of admission to the program. The policy of this PHA is to strive for objectivity and consistency in applying these criteria to evaluate the qualifications of families who apply. The PHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by the PHA pertaining to their eligibility.

The PHA shall not discriminate because of race, color, sex, religion, familial status, disability, national origin, marital status, or sexual orientation in the leasing, rental, or other disposition of housing or related facilities, including land, that is part of any development or developments under the PHA's jurisdiction covered by a contract for annual contributions under the United States Housing Act of 1937, as amended, or in the use or occupancy thereof.

To further its commitment to full compliance with applicable Civil Rights laws, the PHA will provide Federal/State/local information to public housing residents regarding "discrimination" and any recourse available to them if they believe they are victims of discrimination. Such information will be made available to them during the resident orientation session.

The PHA's developments are accessible to persons with disabilities. Accessibility for the hearing impaired is provided by the TDD telephone service provider.

A. QUALIFICATION FOR ADMISSION

It is the PHA's policy to admit qualified applicants only. An applicant is qualified if he or she meets the following criteria:

Is a family as defined in this Chapter;

Heads a household where at least one member of the household is either a citizen or eligible non-citizen. (24 CFR Part 5, Subpart E).

Has an Annual Income at the time of admission that does not exceed the low income limit for occupancy established by HUD and posted separately in the PHA offices.

Provides a Social Security number for all family members, age 6 or older, or will provide written certification that they do not have Social Security numbers;

Meets or exceeds the Tenant Selection and Suitability Criteria as set forth in this policy, including the attendance and viewing of the PHA's pre-occupancy video.

Timing for the Verification of Qualifying Factors

The qualifying factors of eligibility, including citizenship status, may be verified when the family is placed on the waiting list or when they are in a position on the waiting list to be offered a housing unit.

B. FAMILY COMPOSITION

Definition of Family

The applicant must qualify as a Family. A Family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited, and a group of persons may not be denied solely on the basis that they are not related by blood, marriage or operation of law. For occupancy standards purposes, the applicant may claim a spousal relationship (see chapter on Occupancy Guidelines.)

A group of persons is defined by the PHA as two or more persons who intend to share residency whose income and resources are available to meet the family's needs, and will live together in PHA housing.

Elderly, disabled, and displaced families are defined by HUD in CFR 5.403.

The term "Family" also includes, but is not limited to:

A family with or without children;

An elderly family;

A disabled family;

A displaced family;

The remaining member of a tenant family;

A single person who is not elderly, displaced, or a person with disabilities, or the remaining member of a tenant family;

Two or more elderly or disabled persons living together, or one or more elderly or disabled persons living with one or more live-in aides is a family;

Two or more near-elderly persons living together, or one or more near-elderly persons living with one or more live-in aides.

The temporary absence of a child from the home due to placement in foster care shall not be considered in determining the family composition and family size.

Occupancy by Police Officers

In order to provide an increased sense of security for public housing residents the PHA may allow public housing units to be occupied by police officers.

Police officers will not be required to be income eligible to qualify for admission to the PHA's public housing program.

Head of Household

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law.

A family may designate an elderly or disabled family member as head of household solely to qualify the family as an Elderly Family, provided that the person is at least partially responsible for paying the rent.

Spouse of Head

Spouse means the husband or wife of the head.

For proper application of the Noncitizens Rule, the definition of spouse is: the marriage partner who, in order to dissolve the relationship, would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, significant others, or co-heads.

Co-head

An individual in the household who is equally responsible for the lease with the Head of Household. A household may have either a spouse or co-head, but not both. A co-head never qualifies as a dependent.

Live-In Attendants

A Family may include a live-in aide provided that such live-in aide:

Is determined by the PHA to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,

Is not obligated for the support of the person(s), and

Would not be living in the unit except to provide care for the person(s).

A live-in aide is not considered to be an assisted family member and has no rights or benefits under the program:

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

Live-in aides are not subject to Non-Citizen Rule requirements.

Live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

Family members of a live-in attendant may also reside in the unit, providing doing so does not increase the subsidy by the cost of an additional bedroom and that the presence of the family member(s) does not overcrowd the unit.

A Live-in Aide may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly (50-61) or disabled.

Verification of the need for a live-in aide must include the hours the care will be provided.

A specific live-in aide may only reside in the unit with the approval of the PHA. The PHA shall make the live-in aide subject to the agency's normal screening criteria.

The PHA will require the live-in aide to execute a lease rider agreeing to abide by the terms and conditions of occupancy set forth in the lease agreement. If the live-in aide violates provisions of the lease rider, the PHA may take action against the live-in aide separate from action against the assisted family.

If the live-in aide or their family members participate in drug-related or criminal activity, the PHA will rescind the aide's right to occupy the unit. When the agency takes such action against the live-in aide, the aide is not entitled to the grievance hearing process of the agency.

The PHA has the right to disapprove a request for a live-in aide based on the "Other Eligibility Criteria" described in this Chapter.

Over Income Families

The PHA will publish a 30-day notice in the local newspapers if the PHA determines the need to house over-income families.

C. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216]

Families are required to provide verification of Social Security Numbers for all family members age 6 and older prior to admission, if they have been issued a number by the Social Security Administration. This requirement also applies to persons joining the family after admission to the program. Verification of Social Security number will be the Social Security Card issued by the Social Security Administration, which will be copied and retained in the applicant's file.

Failure to furnish verification of social security numbers is grounds for denial of admission or termination of tenancy.

If a member does not have a Social Security Number they must sign a certification stating that they do not have one. The certification shall:

state the individual's name,

state that the individual has not been issued a Social Security Number;

state that the individual will disclose the Social Security Number, if they obtain one at a later date;

be signed and dated.

D. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the six immigrant categories as specified by HUD.

For the Citizenship/Eligible Immigration requirement, the status of each member of the family is considered individually before the family's status is defined.

Mixed Families. A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed". Such applicant families will be given notice that their income-based assistance (TTP) will be pro-rated and that they may request a hearing if they contest this determination. If such a family chooses flat rent, the flat rent will not be pro-rated if the flat rent is greater than the Public Housing Maximum Rent. If the Public Housing Maximum Rent is greater than the flat rent, and the family chooses flat rent, the flat rent will be pro-rated.

No eligible members. Applicant families that include no eligible members will be ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

Noncitizen students defined by HUD in the noncitizen regulations are not eligible for assistance.

The PHA will establish and verify eligibility no later than the date of the family's annual reexamination following October 21, 1998.

E. OTHER ELIGIBILITY CRITERIA

All applicants will be processed in accordance with HUD's regulations (24 CFR Part 960) and sound management practices. Applicants will be required to demonstrate ability to comply with essential provisions of the lease as summarized below.

All applicants must demonstrate through an assessment of current and past behavior the ability:

to pay rent and other charges as required by the lease in a timely manner;

to care for and avoid damaging the unit and common areas;

to use facilities, appliances and equipment in a reasonable way;

to create no health or safety hazards, and to report maintenance needs in a timely manner;

not to interfere with the rights and peaceful enjoyment of others and to avoid damaging the property of others;

not to engage in criminal activity or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not to engage in drug-related criminal activity on or off the PHA premises;

not to have ever been convicted of manufacturing or producing methamphetamine, also known as "speed," on the premises of assisted housing;

not to contain a household member subject to lifetime sex offender registration requirement under a State Sex offender registration program;

to comply with necessary and reasonable rules and program requirements of HUD and the PHA; and,

to comply with local health and safety codes.

Denial of Admission for Previous Debts to This or Any Other PHA

Previous outstanding debts to this PHA or any PHA resulting from a previous tenancy in the public housing or Section 8 program must be paid in full prior to being placed on the waiting list

Either head or co-head is responsible for the entire debt incurred as a previous PHA tenant. Minor children of the head or co-head who had incurred a debt to the PHA will not be held responsible for the parent's previous debt.

**F. DENIAL OF ADMISSION FOR DRUG-RELATED AND/OR OTHER
CRIMINAL ACTIVITY**

HUD issued a Final Rule for Screening and Eviction for Drug Abuse and Other Criminal Activity on May 24, 2001. Effective date of the Final Rule is June 25, 2001.

Purpose

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

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

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

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

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

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

Administration

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

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

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

HUD Definitions

"Drug-related criminal activity" is the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute or use a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

Drug-related criminal activity means *on or off the premises, not just on or near the premises*.

"Covered person" means a tenant, any member of the tenant's household, a guest, or another person under the tenant's control.

"Criminal activity" includes any criminal activity that threatens the health, safety or right to peaceful enjoyment of the resident's public housing premises by other residents or employees of the PHA.

"Drug" means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

"Guest" for purposes of this Chapter, means 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.

"Household" means the family and PHA-approved live-in aide.

"Other person under the tenant's control," for the purposes of the definition of "covered person", means that the person, although not staying as a guest (as defined above) in the unit is, or was at the time of the activity in question, on the premises (as defined in this section) because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

"Premises" means the building or complex or development in which the public housing dwelling unit is located, including common areas and grounds.

"Violent criminal activity" means 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.

Screening for Drug Abuse and Other Criminal Activity

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

If in the past the PHA initiated a lease termination, which may or may not have resulted in eviction for any reason cited under the Screening and Eviction for Drug Abuse and Other Criminal Activity Notice, for a family, as a prior resident of public housing, the PHA shall have the discretion to consider all circumstances of the case regarding the extent of participation by non-involved family members.

Initial screening will be limited to routine inquiries of the family and any other information provided to the PHA regarding this matter. The inquiries will be standardized and directed to all adult applicants.

If as a result of the standardized inquiry, or the receipt of a verifiable referral, there is indication that the family or any family member is engaged in drug-related criminal or violent criminal activity, the PHA will conduct closer inquiry to determine whether the family should be denied admission.

If the screening indicates that any family member has been arrested or convicted within the prior 5 years for drug-related or violent criminal activity, the PHA shall not place the applicant until the last offense is 5 years old.

All adult family members are required to complete a Criminal Sex Offender Background Questionnaire. Failure to complete or provide accurate information on this form will cause the family to be denied admission.

Use of Law Enforcement Records

The PHA will check criminal history for all applicants and family members who are 18 years of age or older to determine whether any member of the family has engaged in violent or drug-related criminal activity.

The PHA will check criminal history for all applicants and family members who are 18 years of age or older to determine whether any member of the family is subject to a lifetime sex offender registration requirement.

Verification of any past activity will be done prior to final eligibility and will include a check of conviction records.

The PHA has applied to the Federal Bureau of Investigation (FBI) and obtained a unique Originating Agency Identifier (ORI) number in order to maximize its efforts in obtaining applicant criminal record history.

The PHA has contracted with the Bethlehem Police Department and an FBI approved channeling agent, to process and funnel requests in order to obtain National Crime Information Center (NCIC) data for the purpose of accessing FBI criminal records.

To gain the full content of the NCIC data through the FBI approved channeling agent, the PHA will submit an applicant fingerprint card to the channeling agent. Should the applicant instead elect to withdraw their application, no further action will be necessary

The PHA will request a fingerprint card only from those applicants who indicate they have prior criminal records, and those the local law enforcement agency indicates have prior criminal history.

Standard for Violation

Persons evicted from public housing, Indian housing, Section 23, or any Section 8 program because of drug-related criminal activity are ineligible for admission to Public Housing for a five-year period beginning on the date of such eviction.

The PHA will admit the household if the PHA determines:

The person demonstrates successful completion of a rehabilitation program approved by the PHA, or

The circumstances leading to the eviction no longer exist. For example, the individual involved in drugs is no longer in the household because the person has died or is imprisoned.

No member of the applicant's family may have engaged in drug related or violent criminal activity within the past 5 years.

The PHA will deny participation in the program to applicants where the PHA determines there is reasonable cause to believe that the person is illegally using a controlled substance or engages in drug-related or other criminal activity. The same will apply if it is determined that the person abuses alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents. This includes cases where the PHA determines that there is a pattern of illegal use of controlled substances or a pattern of alcohol abuse.

The PHA will consider the use of a controlled substance or alcohol to be a *pattern* if there is more than one incident during the previous 12 months.

"Engaged in or engaging in or recent history of" drug-related criminal activity means any act within the past 5 years by applicants or 5 years for participants, household members, or guests which involved drug-related criminal activity including, without limitation, drug-related criminal activity, possession and/or use of narcotic paraphernalia, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, or guests.

"Engaged in or engaging in or recent history of" criminal activity means any act within the past 5 years by applicants or 5 years for participants, household members, or guests which involved criminal activity that would threaten the health, safety or right to peaceful enjoyment of the public housing premises by other residents or employees of the PHA, which did or did not result in the arrest and/or conviction of the applicant or participant, household members, or guests.

In evaluating evidence of negative past behavior, the PHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

The PHA will waive the requirement regarding drug-related criminal activity if:

The person demonstrates successful completion of a credible rehabilitation program approved by the PHA; or

The person demonstrates consistent participation in professional rehabilitation for two of the past three years; or

The individual involved in drug-related criminal activity is no longer in the household because the person is incarcerated.

The PHA may permit eligibility for occupancy and impose conditions that the involved family member(s) does not reside in the unit. The PHA will consider evidence that the person is no longer in the household such as divorce decree/incarceration/death/copy of a new lease with the owner's telephone number and address/or other substantiating evidence.

Permanent Denial of Admission

The PHA will permanently deny admission to public housing persons convicted of manufacturing or producing methamphetamine on the premises of the assisted housing project in violation of any Federal or State law. "Premises" is defined as the building or complex in which the dwelling unit is located, including common areas and grounds. The PHA will not waive this requirement.

Prohibition on Persons Subject to Lifetime Sex Offender Registration Requirement

The PHA will deny admission to public housing to any family in which a family member is subject to a lifetime sex offender registration requirement. This provision will not be waived. The PHA shall perform necessary criminal history background checks in the State where the housing is located and in any other States where household members are known to have resided.

Other criminal activity

"Other criminal activity" means a history of criminal activity involving crimes of actual or threatened violence to persons or property, or a history of other criminal acts, conduct or behavior which would adversely affect the health, safety, or welfare of other residents.

For the purposes of this policy, this is construed to mean that a member of the current family has been arrested or convicted of any criminal or drug-related criminal activity: for applicant families, within the past 5 years; for participant families, within the past 5 years.

HUD defines violent criminal activity as any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property, and the activity is being engaged in by any family member.

Applicants and/or their household members who have been convicted of criminal sexual conduct, including but not limited to sexual assault, incest, statutory sexual seduction, open and gross lewdness, or child abuse, and are required by law to register as a sex offender will be prohibited from participation in the public housing program.

No family member may have engaged in or threatened abusive or violent behavior toward PHA personnel at any time.

No family member may have committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program: for applicant families, within the past 5 years; for participant families, within the past 5 years.

Even if a person has served time in jail and has now been released on probation, that person cannot be admitted into public housing unless a year has passed since the completion of probation.

If the only sentence was probation, a year must have elapsed, without incident, since completion of probation, in order to be considered eligible for public housing.

A person who is released from jail with no probation requirement would have to operate on the outside for one year with no further evidence of the prohibited activities in order to be considered eligible for admission.

A person who has been convicted of any crime involving bodily injury would not be considered for admission: for applicants until 5 years have passed, including probation; for participants until 5 years have passed, including probation.

Evidence

The PHA must have evidence of the violation.

"Preponderance of 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. The intent is not to prove criminal liability, but to establish that the act(s) occurred.

Preponderance of evidence is not to be determined by the number of witnesses, but by the greater weight of all evidence.

"Credible evidence" may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants, evidence gathered by PHA inspectors and/or investigators, and evidence gathered from the PHA Hotline.

The PHA may pursue fact-finding efforts as needed to obtain credible evidence.

Failure to comply

Rental assistance may be denied or tenancy terminated because of action or failure to act, by members of the household. Failure of household members to complete and sign all necessary police, sex offender, FBI, and related forms, forfeit their opportunity for rental assistance.

Information provided in any form to the PHA, that is knowing inaccurate or misleading, will be considered fraud, and will be cause for denial of rental assistance.

Obtaining Information From Drug Abuse Treatment Centers

The PHA will:

Request for certain household members. The PHA shall submit a request to a drug abuse treatment facility only with respect to each proposed household member:

Whose criminal record indicates prior arrest or conviction for any criminal activity that may be a basis for denial of admission; or

Whose prior tenancy records indicate that the proposed household member:

Engaged in the destruction of property;

Engaged in violent activity against another person; or

Interfered with the right of peaceful enjoyment of the premises of other residents.

The PHA will maintain such information received from a drug abuse treatment facility in a manner that respects its confidentiality.

Such confidential information will be reviewed by the TSO Manager, who will make a decision as to the outcome of the review.

Such confidential information will not be misused or improperly disseminated and will be destroyed not later than 30 business days after the date on which the PHA gives final approval for admission.

If the application is denied, the information will be destroyed within 30 business days following the date on which the statute of limitations for commencement of a civil action from the applicant based upon the denial of admission has expired.

Confidentiality of Criminal Records

The PHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed by the Tenant Selection Department for screening for criminal behavior, will be housed in a locked file with access restricted to individuals responsible for such screening. Under no circumstances will the criminal record be part of the tenant's file.

Misuse of the above information by any employee will be grounds for termination of employment.

If the family is determined eligible for initial or continued assistance, the PHA's copy of the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, the criminal record information shall be shredded immediately upon completion of the review or hearing procedures and a final decision has been made.

The PHA will document in the family's file that the family was denied admission or the tenancy was terminated due to findings in the Criminal History Report

Disclosure of Criminal Records to Family

Before the PHA takes any adverse action based on a criminal conviction record, the applicant may be permitted to review the criminal record. Applicants will be provided an opportunity to dispute the record at an informal hearing. Tenants may contest such records at the grievance hearing or court hearing in the case of evictions.

Hearings

(See Chapter titled "Complaints, Grievances and Appeals")

If information is revealed that would cause the PHA to deny admission to the household and the person disputes the information, s/he shall be given an opportunity for an informal hearing according to the PHA's hearing procedures outlined in the Chapter on Complaints, Grievances and Appeals.

G. SCREENING FOR SUITABILITY [24 CFR 960.203, 960.204, 960.205]

In developing its admission policies, the aim of the PHA is to attain a tenant body composed of families with a broad range of incomes and to avoid concentrations of the most economically deprived families and families with serious social problems. Therefore, it is the policy of the PHA to deny admission to applicants whose habits and practices may reasonably be expected to have a detrimental effect on the operations of the development or neighborhood, or on the quality of life for its residents.

The PHA will conduct a detailed interview of all applicants. The interview form will contain questions designed to evaluate the qualifications of applicants to meet the essential requirements of tenancy. Answers will be subject to third party verification.

An applicant's intentional misrepresentation of any information related to eligibility, award of preference for admission, housing history, allowances, family composition or rent will result in denial of admission.

Applicants must be able to demonstrate the ability and willingness to comply with the terms of the lease, either all or with assistance that they can demonstrate that they have or will have at the time of admission. (24 CFR 8.3, Definition: Qualified Individual with Handicaps) The availability of assistance is subject to verification by the PHA.

The PHA does not permit a parent or legal guardian to co-sign the lease on the applicant's behalf if the head of household is under 18 and, under State/local law, does not have the legal capacity to enter into a legally binding contract

As a part of the final eligibility determination, the PHA will screen each applicant household to assess their suitability as renters.

The PHA will complete a rental history check on all applicants.

The PHA will complete a credit check on all applicants.

The PHA shall rely upon sources of information which may include, but are not limited to, PHA records, personal interviews with the applicant or tenant, interviews with previous landlords, employers, family social workers, parole officers, criminal and court records, clinics, physicians or the police department, and home visits.

This will be done in order to determine whether the individual attributes, prior conduct, and behavior of a particular applicant is likely to interfere with other tenants in such a manner as to diminish their enjoyment of the premises by adversely affecting their health, safety or welfare.

The PHA will complete a home visit at the current residence of all applicants, unless they reside outside of our local area. Applicants shall have at least two working days advance notice of home visits.

Factors to be considered in the screening are housekeeping habits, rent paying habits, utility payment history, prior history as a tenant, criminal records, the ability of the applicant to maintain the responsibilities of tenancy, and whether the conduct of the applicant in present or prior housing has been such that admission to the program would adversely affect the health, safety or welfare of other residents, or the physical environment, or the financial stability of the project.

Note: The applicant's combined electric and gas utility debt may not exceed \$500 at time of placement - if the debt was incurred while living in subsidized housing, it must be completely paid.

The PHA's examination of relevant information pertaining to past and current habits or practices will include, but is not limited to, an assessment of:

The applicant's past performance in meeting financial obligations, especially rent.

Eviction or a record of disturbance of neighbors sufficient to warrant a police call, destruction of property, or living or housekeeping habits at present or prior residences which may adversely affect the health, safety, or welfare of other tenants or neighbors.

Any history of criminal activity on the part of any applicant family member involving criminal acts, including drug-related criminal activity.

Any history or evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy by neighbors.

Any history of initiating threats or behaving in a manner indicating an intent to assault employees or other tenants.

Any history of alcohol or substance abuse that would threaten the health, welfare, or right to peaceful enjoyment of the premises by other residents.

The ability and willingness of an applicant to comply with the essential lease requirements will be verified and documented by the PHA. The information to be considered in the screening process shall be reasonably related to assessing the conduct of the applicant and other family members listed on the application in present and prior housing.

The history of applicant conduct and behavior must demonstrate that the applicant family can reasonably be expected not to:

Interfere with other residents in such a manner as to diminish their peaceful enjoyment of the premises by adversely affecting their health, safety, or welfare. [24CFR 960.203(c)]

Adversely affect the physical environment or financial stability of the project. [24CFR 960.203(c)]

Violate the terms and conditions of the lease. [24CFR 960.203(c)].

Require services from PHA staff that would alter the fundamental nature of the PHA's program. [24 CFR 8.3]

Rent Paying Habits

The PHA will examine any Housing Authority records from a prior tenancy, and will request written references from the applicant's current landlord and may request written references from former landlords.

Based upon these verifications, the PHA will determine if the applicant was chronically late with rent payments, was evicted at any time for nonpayment of rent, or had other legal action initiated against him/her for debts owed. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

The PHA will undertake a balancing test that will consider: (1) amount of former rent; (2) loss of employment; (3) death or divorce from primary support; (4) illness or other circumstances beyond applicant's control. Any of these circumstances could be grounds for an ineligibility determination, depending on the amount of control the applicant had over the situation.

Applicants will not be considered to have a poor credit history if they were late paying rent because they were withholding rent due to substandard housing conditions in a manner consistent with a local ordinance, and responsible efforts were made by the family to resolve the nonpayment problem.

The lack of credit history will not disqualify a family, but a poor credit history may disqualify a family.

Where past rent paying ability cannot be documented, the PHA will check with the utility company(s) to determine whether the family has been current and timely on their payments.

Screening Applicants Who Claim Mitigating Circumstances

Mitigating circumstances are facts relating to the applicant's record of unsuitable rental history or behavior, which, when verified would indicate both: (1) the reason for the unsuitable rental history and/or behavior; and (2) that the reason for the unsuitable rental history and behavior is no longer in effect or is under control, and the applicant's prospect for lease compliance is an acceptable one, justifying admission.

If unfavorable information is received about an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors that might indicate a reasonable probability of favorable future conduct. In order to be factored into the PHA's screening assessment of the applicant, mitigating circumstances must be verifiable.

If the mitigating circumstances claimed by the applicant relate to a change in disability, medical condition or course of treatment, the PHA shall have the right to refer such information to persons who are qualified and knowledgeable to evaluate the evidence and to verify the mitigating circumstance. The PHA shall also have the right to request further information reasonably needed to verify the mitigating circumstance, even if such information is of a medically confidential nature. Such inquiries will be limited to the information necessary to verify the mitigating circumstances or, in the case of a person with disabilities, to verify a reasonable accommodation.

Examples of Mitigating Circumstances:

Evidence of successful rehabilitation;

Evidence of the applicant family's participation in and completion of social service or other appropriate counseling service approved by the PHA;

Evidence of successful and sustained modification of previous disqualifying behavior.

Consideration of mitigating circumstances does not guarantee that the applicant will qualify for admission. The PHA will consider such circumstances in light of:

The applicant's ability to substantiate through verification the claim of mitigating circumstances and his/her prospects for improved future behavior; and

The applicant's overall performance with respect to all the screening requirements.

Qualified and Unqualified Applicants

Information that has been verified by the PHA will be analyzed and a determination will be made with respect to:

The eligibility of the applicant as a *family*;

The eligibility of the applicant with respect to income limits for admission;

The eligibility of the applicant with respect to citizenship or eligible immigration *status*;

Any local preference to which the family is entitled.

Assistance to a family may not be delayed, denied or terminated on the basis of the family's ineligible immigration status unless and until the family completes all the verification and appeals processes to which they are entitled under both INS and PHA procedures, except for a pending PHA hearing.

Applicants who are determined to be unqualified for admission will be promptly notified with a Notice of Denial of Admission stating the reason for the denial. The PHA shall provide applicants an opportunity for an informal hearing (see Chapter titled "Complaints, Grievances, and Appeals.")

The PHA will make every effort to accurately estimate an approximate date of occupancy. However, the date given by the PHA does not mean that applicants should expect to be housed by that date. The availability of a suitable unit to offer a family is contingent upon factors not directly controlled by the PHA, such as turnover rates, and market demands as they affect bedroom sizes and project location.

Documenting Findings

An authorized representative of the PHA shall document any pertinent information received relative to the following:

Criminal Activity - includes the activities listed in the definition of criminal activity in this Chapter.

Pattern of Violent Behavior - includes evidence of repeated acts of violence on the part of an individual, or a pattern of conduct constituting a danger to peaceful occupancy of neighbors.

Pattern of Drug Use - includes a determination by the PHA that the applicant has exhibited a pattern of illegal use of a controlled substance which might interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

Drug-Related Criminal Activity - includes a determination by the PHA that the applicant has been involved in the illegal manufacture, sale, distribution, use or possession of a controlled substance.

Pattern of Alcohol Abuse - includes a determination by the PHA that the applicant's pattern of alcohol abuse might interfere with the health, safety or right to peaceful enjoyment of the premises by other residents.

Initiating Threats - or behaving in a manner indicating an intent to assault employees or other tenants.

Abandonment of a Public Housing Unit - without advising PHA officials so that staff may secure the unit and protect its property from vandalism.

Non-Payment of Rightful Obligations - including rent and/or utilities and other charges owed to any PHA.

Intentionally Falsifying an Application for Leasing - including uttering or otherwise providing false information about family income and size, using an alias on the application for housing, or making any other material false statement or omission intended to mislead.

Record of Serious Disturbances of Neighbors, Destruction of Property or Other Disruptive or Dangerous Behavior - consists of patterns of behavior which endanger the life, safety, or welfare of other persons by physical violence, gross negligence or irresponsibility; which damage the equipment or premises in which the applicant resides, or which are seriously disturbing to neighbors or disrupt sound family and community life, indicating the applicant's inability to adapt to living in a multi-family setting. Includes judicial termination of tenancy in previous housing on the grounds of nuisance or objectionable conduct, or frequent loud parties, which have resulted in serious disturbances of neighbors.

Grossly Unsanitary or Hazardous Housekeeping - includes the creation of a fire hazard through acts such as hoarding rags, papers, or other materials; severe damages to premises and equipment, if it is established that the family is responsible for the condition; seriously affecting neighbors by causing infestation, foul odors, depositing garbage in halls; or serious neglect of the premises. This category does not include families whose housekeeping is found to be superficially unclean or due to lack of orderliness, where such conditions do not create a problem for neighbors.

Destruction of Property - from previous rentals.

In the event of the receipt of unfavorable information with respect to an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct and to factors which might indicate a reasonable probability of favorable future conduct or financial prospects.

The PHA may waive the policies prohibiting admission in these circumstances if the person demonstrates to the PHA's satisfaction that the person is no longer engaging in illegal use of a controlled substance or abuse of alcohol and has successfully completed a supervised drug or alcohol rehabilitation program.

Whether Applicant or Tenant is Capable of Maintaining the Responsibilities of Tenancy - The person's present living arrangements and a statement obtained from their physician, social worker, or other health professional will be among factors considered in making this determination. The availability of a live-in attendant will be considered in making this determination.

Prohibited Criteria for Denial of Admission

Applicants will NOT be rejected because they:

Have no income;

Are not employed;

Do not participate in a job training program;

Will not apply for various welfare or benefit programs;

Have children;

Have children born out of wedlock;

Are on welfare;

Are students.

H. HEARINGS

If information is revealed that would cause the PHA to deny admission to the household and the person disputes the information, s/he shall be given an opportunity for an informal hearing according to the PHA's hearing procedures outlined in the Chapter on Complaints, Grievances and Appeals.