

## **Exhibit 2-4**

### **Meet Screening Criteria**

AHFC screens in compliance with all applicable civil rights requirements described in Chapter 1 of this Admissions and Occupancy Policy. Screening is also conducted in accordance with the following:

- State of Alaska law
- Alaska Housing Finance Corporation policies

#### **HUD Regulation - 24 CFR 880.601(b)**

The owner is responsible for all management functions, including determining eligibility of applicants, selection of tenants, reexamination and verification of family income and composition, determination of family rent (total tenant payment, tenant rent and utility reimbursement), collection of rent, termination of tenancy and eviction, and performance of all repair and maintenance functions (including ordinary and extraordinary maintenance), and replacement of capital items. (See part 5 of this title.) All functions must be performed in accordance with applicable equal opportunity requirements.

#### **HUD Regulation - 24 CFR 880.603(b)**

Determination of eligibility and selection of tenants. The owner is responsible for obtaining and verifying information related to income eligibility in accordance with 24 CFR part 5, subpart F, and evidence related to citizenship and eligible immigration status in accordance with 24 CFR part 5, subpart E, to determine whether the applicant is eligible for assistance in accordance with the requirements of 24 CFR part 5, and to select families for admission to the program, which includes giving selection preferences in accordance with 24 CFR part 5, subpart D.

#### **HUD Regulation - 24 CFR 5.851(a)**

Screening applicants. You are authorized to screen applicants for the programs covered by this part. The provisions of this subpart implement statutory directives that either require or permit you to take action to deny admission to applicants under certain circumstances in accordance with established standards, as described in this subpart. The provisions of this subpart do not constrain your authority to screen out applicants who you determined are unsuitable under your standards for admission.

**HUD Regulation - Notice H 2015-10<sup>1</sup>**

A PHA or owner may not base a determination that an applicant or household engaged in criminal activity warranting denial of admission, termination of assistance, or eviction on a record of arrest(s).

**AHFC Policy**

1. AHFC will conduct screening on all applicants, new additions to the household after initial occupancy, and live-in aides prior to admission or eligibility for participation. If any adult member of the applicant family has not lived in Alaska for the previous 36 months, AHFC may check police department and court records in the localities where the applicant previously resided. An appropriate applicant release is necessary if the records check is other than a public access database.
2. The fact that an applicant or tenant was arrested for a disqualifying offense shall not be treated or regarded as proof that the applicant or tenant engaged in disqualifying criminal activity. The arrest may, however, trigger an investigation to determine whether the applicant or tenant actually engaged in disqualifying criminal activity. As part of its investigation, the PHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The PHA may also consider any statements made by witnesses or the applicant or tenant 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; and any other evidence relevant to determining whether or not the applicant or tenant engaged in a disqualifying activity.

**1. Requirement to Deny Admission**

**HUD Regulation - 24 CFR 5.852(d)**

Length of period of mandatory prohibition on admission. If a statute requires that you prohibit admission of persons for a prescribed period of time after some disqualifying behavior or event, you may apply that prohibition for a longer period of time.

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<sup>1</sup> Notice H 2015-10, Guidance for Public Housing Agencies and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions, issued November 2, 2015.

## 1.A Social Security Number and Consent Forms

### HUD Regulation - 24 CFR 5.210(a)

Purpose. This subpart B requires applicants for and participants in covered HUD programs to disclose, and submit documentation to verify, their Social Security Numbers (SSNs).

### HUD Regulation - 24 CFR 5.230(a)

Required consent by assistance applicants and participants. Each member of the family of an assistance applicant or participant who is at least 18 years of age, and each family head and spouse regardless of age, shall sign one or more consent forms. The assistance applicant shall submit the signed consent forms to the processing entity when eligibility under a covered program is being determined.

### HUD Regulation - 24 CFR 5.232(a)

Denial or termination of benefits. In accordance with the provisions governing the program involved, if the assistance applicant or participant, or any member of the assistance applicant's or participant's family, does not sign and submit the consent form as required in § 5.230, then:

- (1) The processing entity shall deny assistance to and admission of an assistance applicant;
- (2) Assistance to, and the tenancy of, a participant may be terminated.

### AHFC Policy

See the Social Security Number Requirement exhibit for guidelines.

1. An applicant who fails to submit necessary consent forms shall be ineligible for admission.
2. A participant who fails to submit necessary consent forms will be terminated.

## 1.B Citizenship or Eligible Immigration Status

### HUD Regulation - 24 CFR 880.603(b)

Determination of eligibility and selection of tenants. The owner is responsible for obtaining and verifying information related to income eligibility in accordance with 24 CFR part 5, subpart F, and evidence related to citizenship and eligible immigration status in accordance with 24 CFR part 5, subpart E, to determine whether the applicant is eligible for assistance in accordance with the requirements of 24 CFR part 5, and to select families for admission to the program, which includes giving selection preferences in accordance with 24 CFR part 5, subpart D.

### HUD Regulation - 24 CFR 5.500(a)

Covered programs/assistance. This subpart E implements Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C.

1436a). Section 214 prohibits HUD from making financial assistance available to persons who are not in eligible status with respect to citizenship or noncitizen immigration status.

**AHFC Policy**

See the Meet Citizenship Requirements exhibit in this policy.

**1.C The Student Rule**

**HUD Regulation - 24 CFR 880.603(b)**

Determination of eligibility and selection of tenants. The owner is responsible for obtaining and verifying information related to income eligibility in accordance with 24 CFR part 5, subpart F (family income and student rule), and evidence related to citizenship and eligible immigration status in accordance with 24 CFR part 5, subpart E, to determine whether the applicant is eligible for assistance in accordance with the requirements of 24 CFR part 5, and to select families for admission to the program, which includes giving selection preferences in accordance with 24 CFR part 5, subpart D.

**AHFC Policy**

See the Student Rule exhibit for guidelines.

**1.D Drug-Related Criminal Activity Eviction**

**HUD Regulation - 24 CFR 5.854(a)**

You must prohibit admission to your federally assisted housing of an applicant for three years from the date of eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity.

**AHFC Policy**

AHFC will deny admission to any family member for 36 months from the date of eviction if any household member was evicted from any federally assisted housing for drug-related criminal activity. See Definitions for drug-related criminal activity.

**1.E Drug-Related Activities**

**HUD Regulation - 24 CFR 5.854(b)**

You must establish standards that prohibit admission of a household to federally assisted housing if:

- (a) You determine that any household member is currently engaging in illegal use of a drug; or
- (b) You determine that you have reasonable cause to believe that a household member's illegal use or a pattern of illegal use of a drug may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents.

### **Use of Marijuana in Multifamily Assisted Properties**

[Letter](#) dated December 29, 2014 from Benjamin T. Metcalf, Deputy Assistant Secretary for Multifamily Housing Programs, HT.

#### **AHFC Policy**

AHFC will deny admission to any family member for 36 months from the date of release from any period of incarceration for any drug-related criminal activity; or if no incarceration was ordered, no admission within 36 months from the date of the conviction or commission of any drug-related criminal activity. This includes:

1. if any household member is currently engaging in illegal use of a drug.
2. if the illegal use or pattern of illegal use of a drug may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
3. if the illegal use or pattern of illegal use of a drug may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor or agent).

See Definitions for drug-related activity.

#### **1.F Methamphetamine**

##### **AHFC Policy**

Any household member with a conviction for the manufacture or production of methamphetamine on the premises of any federally assisted housing is permanently barred from admission.

#### **1.G Sex Offenders**

##### **HUD Regulation - 24 CFR 5.856**

You must establish standards that prohibit admission to federally assisted housing if any member of the household is subject to a lifetime registration requirement under a State sex offender registration program. In the screening of applicants, you must perform necessary criminal history background checks in the State where the housing is located and in other States where the household members are known to have resided.

##### **HUD Regulation - 24 CFR 5.905(a)**

PHA obligation to obtain sex offender registration information. A PHA that administers a Section 8 or public housing program under an Annual Contributions Contract with HUD must carry out background checks necessary to determine whether a member of a household applying for admission to any federally assisted housing program is subject to a lifetime sex offender registration requirement under a State sex offender registration program. This

check must be carried out with respect to the State in which the housing is located and with respect to States where members of the applicant household are known to have resided.

**AHFC Policy**

1. All adult household members will be checked against the Dru Sjodin National Sex Offender Public Website at [www.nsopw.gov](http://www.nsopw.gov).
2. Any person subject to a lifetime registration requirement on a state sex offender registry is ineligible for admission.
3. Any person subject to a registration requirement on a state sex offender registry is ineligible for admission while on the registry.
4. AHFC will deny admission to any family member for 36 months from the date of release from any period of incarceration for sexual offense as identified in Alaska Statute 11.41; or if no incarceration was ordered, no admission will be granted within 36 months from the date of conviction or commission of any sexual offense as identified in AS 11.41.

**1.H Alcohol Abuse**

**HUD Regulation - 24 CFR 5.857**

You must establish standards that prohibit admission to federally assisted housing if you determine you have reasonable cause to believe that a household member's abuse or pattern of abuse of alcohol interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

**AHFC Policy**

AHFC will deny admission for 12 months from the date of occurrence if AHFC has reasonable cause to believe:

1. The abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
2. The abuse or pattern of abuse of alcohol may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor or agent).

## 2. Grounds to Deny Admission

The following are grounds AHFC may use to deny admission to the S8N Multifamily Housing Program.

### **HUD Regulation - 24 CFR 5.852(a)**

If the law and regulation permit you to take an action but do not require action to be taken, you may take or not take the action in accordance with your standards for admission and eviction.

### 2.A Criminal Activity

#### **HUD Regulation - 24 CFR 5.855**

(a) You may prohibit admission of a household to federally assisted housing under your standards if you determine that any household member is currently engaging in, or has engaged in during a reasonable time before the admission decision:

- (1) Drug-related criminal activity;
- (2) Violent criminal activity;
- (3) Other criminal activity that would threaten the health, safety, or right to peaceful enjoyment of the premises by other residents; or
- (4) Other criminal activity that would threaten the health or safety of the PHA or owner or any employee, contractor, subcontractor or agent of the PHA or owner who is involved in the housing operations.

(b) You may establish a period before the admission decision during which an applicant must not have engaged in the activities (reasonable time).

#### **HUD Regulation - PIH Notice 2015-10<sup>2</sup>**

A PHA or owner may not base a determination that an applicant or household engaged in criminal activity warranting denial of admission, termination of assistance, or eviction on a record of arrest(s).

#### **AHFC Policy**

1. AHFC shall conduct an Alaska statewide criminal record check on all adult family members.

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<sup>2</sup> HUD has reviewed relevant case law and determined that the fact that an individual was arrested is not evidence that he or she has engaged in criminal activity. Accordingly, the fact that there has been an arrest for a crime is not a basis for the requisite determination that the relevant individual engaged in criminal activity warranting denial of admission, termination of assistance or eviction. PIH Notice 2015-10, Guidance for Public Housing Agencies and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions, issued November 2, 2015.

2. AHFC will deny admission to any family member for 36 months from the date of release from any period of incarceration for any violent criminal activity; or if no incarceration was ordered, no admission within 36 months from the date of the conviction or commission of any violent criminal activity.
3. AHFC will deny admission for 36 months from the date of occurrence if AHFC has reasonable cause to believe involvement in criminal activity may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
4. AHFC will deny admission for 36 months from the date of occurrence if AHFC has reasonable cause to believe involvement in criminal activity may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the PHA (including a PHA employee or a PHA contractor, subcontractor or agent).
5. See AHFC policy #2 under introductory section (page 2) for AHFC methods for gathering a preponderance of evidence.

**2.B Family Behavior**

**AHFC Policy**

1. AHFC will deny admission to any household member who engages in or threatens abusive or violent behavior toward PHA personnel for 12 months from the date of occurrence.
2. AHFC will deny waiting list placement to a family if any household member threatens or engages in abusive or violent behavior toward AHFC personnel for 12 months from the date of occurrence.
3. AHFC will remove a family from the waiting list if any household member threatens or engages in abusive or violent behavior toward AHFC personnel.

**2.C Family Self-Sufficiency Contract of Participation**

The Family Self-Sufficiency Program is not available to this housing program.

**2.D Fraud or Bribery**

**AHFC Policy**

Any household member who has committed an act of fraud or bribery, or any other corrupt or criminal act in connection with any federal housing program is permanently barred from admission.

## 2.E Fugitive from Justice

### HUD Regulation - 24 CFR 5.859(b)

The lease must provide that you may terminate the tenancy during the term of the lease if a tenant is:

- (1) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- (2) Violating a condition of probation or parole imposed under Federal or State law.

### AHFC Policy

Any household member that is a fugitive felon, parole or probation violator, or person fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees (in New Jersey a high misdemeanor is equal to a felony) is not eligible for admission.

## 2.F HUD Database Systems

The checks below will be conducted using the U.S. Department of Housing and Urban Development's Enterprise Income Verification (EIV) system.

### HUD Regulation - 24 CFR 5.233(a)

Programs subject to this section and requirements.

- (1) The requirements of this section apply to entities administering assistance under the:
  - (v) Project-based Section 8 programs under 24 CFR parts 880, 881, 883, 884, 886, and 891;
- (2) Processing entities must use HUD's EIV system in its entirety:
  - (i) As a third party source to verify tenant employment and income information during mandatory reexaminations or recertifications of family composition and income, in accordance with § 5.236, and administrative guidance issued by HUD; and
  - (ii) To reduce administrative and subsidy payment errors in accordance with HUD administrative guidance.

### **2.F.1. EIV-Existing Tenant Search**

#### **AHFC Policy**

1. All household members will be checked for existing program participation. No applicant family will be admitted if a household member is active under another housing authority's assistance program (this does not include families "porting" into AHFC).
2. For assisted households with dual custody of children, children may only be claimed as dependents in one assisted household. See Chapter 3, Shared Custody.

### **2.F.2. EIV-Former Tenant Search**

#### **AHFC Policy**

All adult household members will be checked for prior program participation with other housing authorities. An applicant family may be denied assistance if the family was terminated for violation of program obligations within the last 12 months.

### **2.G Misrepresentation**

Unintentional mistakes that do not confer any advantage to the applicant will not be considered misrepresentations.

#### **AHFC Policy**

1. An applicant's intentional misrepresentation of information related to eligibility, preference for admission, housing history, allowances, family composition, or family income will result in rejection.
2. An applicant found to intentionally misrepresent information shall remain ineligible for placement on a waiting list for 12 months from the date of occurrence.

### **2.H Money Owed to PHA**

#### **AHFC Policy**

AHFC will deny admission to any household member who has a past due balance from a current or past participation in a subsidized rental assistance program.

### **2.I Negative Tenancy References**

#### **AHFC Policy**

AHFC will deny admission to a family with a preponderance of negative tenancy references (see the Suitability for Tenancy exhibit).

## 2.J Prior Assisted Housing Eviction

Eviction refers to those individuals evicted by a court from a federally assisted housing unit.

### AHFC Policy

AHFC will deny admission for 12 months from the date of occurrence to any household member who has been evicted from federally assisted housing.

## 2.K Prior Termination of Assistance

### AHFC Policy

AHFC will deny admission for 12 months from the date of occurrence to any household member who has been terminated for negative reasons from federally assisted housing.

## 3. Consideration of Circumstances

### HUD Regulation - 24 CFR 5.852(a)

If the law and regulation permit you to take an action but do not require action to be taken, you may take or not take the action in accordance with your standards for admission and eviction. Consistent with the application of your admission and eviction standards, you may consider all of the circumstances relevant to a particular admission or eviction case, such as:

- (1) The seriousness of the offending action;
- (2) The effect on the community of denial or termination or the failure of the responsible entity to take such action;
- (3) The extent of participation by the leaseholder in the offending action;
- (4) The effect of denial of admission or termination of tenancy on household members not involved in the offending action;
- (5) The demand for assisted housing by families who will adhere to lease responsibilities;
- (6) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and
- (7) The effect of the responsible entity's action on the integrity of the program.

### HUD Regulation - 24 CFR 5.852(b)

Exclusion of culpable household member. You may require an applicant (or tenant) to exclude a household member in order to be admitted to the housing program (or continue to reside in the assisted unit), where that household member has participated in or been culpable for action or failure to act that warrants denial (or termination).

**HUD Regulation - 24 CFR 5.852(c)**

Consideration of rehabilitation.

(1) In determining whether to deny admission or terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, you may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, you may require the applicant or tenant 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.

(2) If rehabilitation is not an element of the eligibility determination (see §5.854(a)(1) for the case where it must be considered), you may choose not to consider whether the person has been rehabilitated.

**HUD Regulation - 24 CFR 5.854(a)**

You must prohibit admission to your federally assisted housing of an applicant for three years from the date of eviction if any household member has been evicted from federally assisted housing for drug-related criminal activity.

However, you may admit the household if:

(1) The evicted household member who engaged in drug-related criminal activity has successfully completed an approved supervised drug rehabilitation program; or

(2) The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).

**HUD Regulation - 24 CFR 5.855(c)**

Individuals who have engaged in criminal activity. If you previously denied admission to an applicant because of a determination concerning a member of the household under this section, you may reconsider the applicant if you have sufficient evidence that the members of the household are not currently engaged in, and have not engaged in, such criminal activity during a reasonable period, determined by you, before the admission decision.

(1) You would have sufficient evidence if the household member submitted a certification that she or he is not currently engaged in and has not engaged in such criminal activity during the specified period and provided supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers and criminal records, which you verified.

(2) For purposes of this section, a household member is currently engaged in the criminal activity if the person has engaged in the behavior recently enough to justify a reasonable belief that the behavior is current.

### **AHFC Policy**

When considering circumstances, AHFC will consider the nexus between the action or failure to act and the proposed denial of assistance. AHFC will require the applicant to submit sufficient evidence that the household member is not currently engaged in and has not engaged in such activity during the past 12 months. See the Definitions for sufficient evidence and currently engaged in.

AHFC may consider the following factors:

1. The seriousness of the offending action;
2. Whether the applicant's offense bears a relationship to the safety and security of the other residents;
3. The extent of participation by the applicant in the offending action;
4. The demand for assisted housing by families who will adhere to lease responsibilities;
5. The extent to which the applicant has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action. This includes:
  - a) Length of time since the offending action
  - b) Any rehabilitation efforts that the applicant has undertaken since the time of the offending action
6. The effect of the responsible entity's action on the integrity of the program.

### **3.A Violence Against Women Act (VAWA) Protections**

#### **HUD Regulation - 24 CFR 880.504(f)**

Subpart L of 24 CFR part 5 applies to selection of tenants and occupancy requirements in cases where there is involved or claimed to be involved incidents of, or criminal activity related to, domestic violence, dating violence, or stalking.

#### **AHFC Policy**

See the Violence Against Women Act (VAWA) exhibit for guidance.

### **3.B Due Process Rights of Applicants**

Federal law<sup>3</sup> requires that PHAs provide public housing, project-based Section 8, and Section 8 HCV applicants with notification and the opportunity to dispute the accuracy and relevance of a criminal record before admission or assistance is denied on the basis of such record. Public housing and Section 8 applicants also must be afforded the right to request an informal hearing or review after an application for housing assistance is denied.

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<sup>3</sup> Notice H 2015-10, Guidance for Public Housing Agencies and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions, issued November 2, 2015.

### **AHFC Policy**

If AHFC determines that an applicant's criminal record may make them ineligible for admission, AHFC will send a written notification to the applicant giving them ten (10) calendar days to dispute the record.

1. Failure to respond within the given time period will result in an AHFC Ineligibility Notice.
2. Failure to respond will not waive the applicant's right to request an informal review under the AHFC Ineligibility Notice procedures.

### **3.C Tenant-Based Rental Assistance Participants**

Families receiving Tenant-Based Rental Assistance (TBRA) may want to apply for an AHFC waiting list. Successful completion of a TBRA tenancy or successful TBRA participation for a period of 12 months may be used when considering mitigating circumstances to previous criminal history.

1. AHFC will use prudent, professional judgment when evaluating a TBRA family's eligibility for an AHFC waiting list.
2. If a family completes 12 months of TBRA assistance in good standing, AHFC will consider that as sufficient evidence to allow the family onto an AHFC waiting list.
3. If a family completes the TBRA program in good standing, AHFC will consider that as sufficient evidence to allow the family onto an AHFC waiting list.
4. If a TBRA family's tenancy had issues, AHFC may collect a landlord reference from the most recent landlord to help evaluate a family's suitability for an AHFC assistance program.
5. When a TBRA family reaches the top of an AHFC waiting list, AHFC may consider any activities that occur while the client is on the waiting list before deciding to admit that family.

## **4. Criminal Records After Offer of Admission**

### **HUD Regulation - 24 CFR 5.901**

(a) General criminal records searches. This subpart applies to criminal conviction background checks by PHAs that administer the Section 8 and public housing programs when they obtain criminal conviction records, under the authority of section 6(q) of the 1937 Act (42 U.S.C. 1437d(q)), from a law enforcement agency to prevent admission of criminals to public housing and Section 8 housing and to assist in lease enforcement and eviction.

(b) Sex offender registration records searches. This subpart applies to PHAs that administer the Section 8 and public housing programs when they obtain sex

offender registration information from State and local agencies, under the authority of 42 U.S.C. 13663, to prevent admission of dangerous sex offenders to federally assisted housing.

(c) Excluded records searches. The provisions of this subpart do not apply to criminal conviction information or sex offender information searches by a PHA or others of information from law enforcement agencies or other sources other than as provided under this subpart.

#### **HUD Regulation - 24 CFR 5.902**

Law enforcement agency. The National Crime Information Center (NCIC), police departments and other law enforcement agencies that hold criminal conviction records.

#### **HUD Regulation - 24 CFR 5.903(g)**

The PHA must establish and implement a system of records management that ensures that any criminal record received by the PHA from a law enforcement agency is:

- (1) Maintained confidentially;
- (2) Not misused or improperly disseminated; and
- (3) Destroyed, once the purpose(s) for which the record was requested has been accomplished, including expiration of the period for filing a challenge to the PHA action without institution of a challenge or final disposition of any such litigation.

#### **AHFC Policy**

1. AHFC will retain criminal records in a family's file that are attached to an AHFC notification to the family.
2. In accordance with the Due Process Rights section of this policy, an individual will receive an AHFC written notification of a disqualifying offense or record of offenses.
3. If an offense or record of offenses does not rise to the level where it would disqualify a family member, those records will not be retained in the file.

## **5. Definitions**

These terms are defined at 24 CFR 5.100 and 24 CFR 5.853.

1. Alcohol abuse. The Diagnostic and Statistical Manual of Mental Disorders IV describes alcohol abusers as those who continue to drink despite recurrent social, interpersonal, and legal problems as a result of their alcohol use. Harmful use implies a person's drinking causes either physical or mental damage.

2. Covered person, for purposes of 24 CFR 5, subpart I, and parts 966 and 982, means a tenant, any member of the tenant's household, a guest or another person under the tenant's control.
3. Currently engaging (or engaged) in<sup>4</sup> means that the individual has engaged in the behavior recently enough to justify a reasonable belief that the individual's behavior is current. For AHFC purposes, this means the activity has occurred within the last six (6) months.
4. Date of Occurrence means the date the activity occurred. If the date is unclear, it is the date that the activity was reported in a criminal record, the date the activity was identified in a public record, or the date offered by others not involved in the activity.
5. Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).
6. Drug abuse means the habitual taking of addictive or illegal drugs.
7. Drug-related criminal activity means 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. This includes: drug trafficking, drug distribution, drug manufacture, or growth or possession of illegal drugs.
8. Guest, only for purposes of 24 CFR part 5, subparts A and I, and parts 882, 960, 966, and 982, 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. The requirements of parts 966 and 982 apply to a guest as so defined.
9. Household, for purposes of 24 CFR part 5, subpart I, and parts, 960, 966, 882, and 982, means the family and PHA-approved live-in aide.

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<sup>4</sup> HUD has reviewed relevant case law and determined that the fact that an individual was arrested is not evidence that he or she has engaged in criminal activity. Accordingly, the fact that there has been an arrest for a crime is not a basis for the requisite determination that the relevant individual engaged in criminal activity warranting denial of admission, termination of assistance or eviction. PIH Notice 2015-19, Guidance for Public Housing Agencies and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions, issued November 2, 2015.

10. Other person under the tenant's control, for the purposes of the definition of covered person and for parts 5, 882, 966, and 982 means that the person, although not staying as a guest (as defined in this section) in the unit, is, or was at the time of the activity in question, on the premises (as premises is 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. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.
11. Pattern of abuse is defined as a pattern of drinking or drug-taking that results in three or more of the following situations within a 12-month period:
  - Failure to fulfill major work, school, or home responsibilities
  - Having recurring alcohol- or drug-related legal problems, such as being arrested for driving under the influence of alcohol or for physically hurting someone while drunk
12. Premises, for purposes of 24 CFR part 5, subpart I, and parts 960 and 966, means the building or complex or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.
13. Reasonable time or period, for purposes of consideration of mitigating circumstances, AHFC will consider behavior or treatment within the last 12 months.
14. Sufficient Evidence means the household member provides a certification or supporting information from such sources as a probation officer or other supervising/counseling professional, a landlord, social service agency, or public records. AHFC may verify any sufficient evidence documentation submitted by the family.
15. 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.

## Sources

1. [Medical Marijuana Use in Public Housing and Housing Choice Voucher Programs](#), February 10, 2011, from Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.
2. [Letter, June 17, 2011](#), from Shaun Donovan, Secretary U.S. Department of Housing and Urban Development, and Sandra B. Henriquez, Assistant Secretary for Public and Indian Housing.

3. [Use of Marijuana in Multifamily Assisted Properties](#), December 29, 2014, from Benjamin T. Metcalf, Deputy Assistant Secretary for Multifamily Housing Program, HT.
4. [Notice H 2015-10](#), Issued November 2, 2015, Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions, from Lourdes Castro Ramirez, Principal Deputy Assistant Secretary for Public and Indian Housing, and Edward Golding, Principal Deputy Assistant Secretary for Housing.
5. [Notice PIH 2015-19](#), Issued November 2, 2015, Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions, from Lourdes Castro Ramirez, Principal Deputy Assistant Secretary for Public and Indian Housing, and Edward Golding, Principal Deputy Assistant Secretary for Housing.
6. [FAQs for Notice PIH 2015-19 and H 2015-10](#), FAQs: Excluding the Use of Arrest Records in Housing Decisions.
7. [Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions](#), April 4, 2016, from Helen R. Kanovsky, General Counsel.
8. [Presidential Memo of April 29, 2016](#), Promoting Rehabilitation and Reintegration of Formerly Incarcerated Individuals, Barack Obama.
9. [Executive Order 13826](#) of March 7, 2018. Federal Interagency Council on Crime Prevention and Improving Reentry, Donald Trump.

## **Numbered Memo**

18-34 Exhibit 2-4 Meet Screening Criteria