

Exhibit 2-4 Policy Overview

Old Policy	New Policy
Chapter 2, Section 2.5 Tracking Crime	2-4.1
Chapter 9, Criminal Records	2-4.2 Criminal Records after Offer of Admission
Chapter 2, 2.4.B Denial due to Criminal Background	2-4.3 No Time Limit
--	2-4.3.D Staff will use the Dru Sjodin National Sex Offender database to check for sex offenders. All household members age 14 and older will be checked.
Twelve Months	2-4.6 cleaned up the language

Forms

VF227 VAWA Protection Agreement

Administrative Desk Manual

Sex Offender Registry Procedure

Exhibit 2-4

Criminal Screening Criteria

Applicants, new additions to the household after initial occupancy, and live-in aides must pass all screening criteria to be admitted or be eligible for program participation. AHFC shall conduct an Alaska statewide criminal record check on all adult family members. If any adult member of the applicant family has not lived in Alaska for the previous three years, staff 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.

AHFC will deny the admission of families with violent criminal activity, criminal activity which may threaten the health, safety, or peaceful enjoyment of the premises by other residents, or drug abuse activity by family members (24 CFR 960.203 and 24 CFR 960.204). For purposes of the policy below, violent criminal activity is defined as: "Any illegal criminal activity that has as one of the elements, the use of a weapon in the commission of a crime, the attempted use, or threatened use of physical force against the person of another."

2-4.1 TRACKING CRIME

AHFC will track the number of applicants that are denied due to criminal activity, drug-related criminal activity, or alcohol abuse. Central Office will use a report based on field posting. If an applicant is denied for criminal background:

1. Staff will note the reason for the denial in the Memo screen.
2. Staff will code the applicant record as "Rejected" for "Criminal" reason and withdraw the application from the waiting list.

2-4.2 CRIMINAL RECORDS AFTER OFFER OF ADMISSION

Under HUD regulations at 24 CFR 5.903(g), criminal records must be purged from a file once the applicant's or participant's time to grieve has expired or an applicant has been deemed eligible for participation and becomes a participant under an AHFC housing assistance program. Staff will treat criminal records as a confidential record and dispose of it using the same guidelines.

Staff must remove all criminal records from the file and destroy them. This includes any criminal records that may have been attached to a *Notice of Ineligibility*.

2-4.2.A Ineligible Applicants

If an applicant has been determined ineligible, the criminal records will be removed before placing the file with files waiting to be archived. See the Administrative Desk Manual, Archiving, for procedures.

2-4.2.B Ineligible Applicant Notifications

The removal process includes any criminal records attached to the *Ineligibility Notice*. Staff may retain an Informal Review decision and the original *Ineligibility Notice* (less any criminal records). File these documents on top of the interview notification letter in the file.

2-4.2.C Participant

Staff will check the file for any criminal records at the time of regular examination, when parting a file, or prior to posting a new HAP Contract. Any records present in the file will be destroyed as a confidential record.

2-4.2.D Pending Household Member

The only time a criminal record may be present in the file is if an additional household member is in the eligibility process and has not yet been added to the household.

2-4.3 NO TIME LIMIT

AHFC will deny the admission and terminate assistance of families with household members subject to any of the following conditions.

2-4.3.A Fraud or Bribery

Prior or current commission of fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

2-4.3.B Fugitive from Justice

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.)

2-4.3.C Methamphetamine

A conviction for the manufacture or production of methamphetamine on the premises of any federally assisted housing (24 CFR 960.204).

2-4.3.D Sex Offender Registration Requirement

A lifetime registration requirement under a State sex offender registration program (24 CFR 960.204). All household members age 14 and older will be checked against the Dru Sjodin National Sex Offender Public Website at www.nsopw.gov. This is a national database administered by the U.S. Department of Justice, and it includes the contents of state sex offender registries.

If persons are found to be subject to a State of Alaska registry requirement, staff may access local information at www.dps.state.ak.us/sorweb to get more detailed information.

2-4.4 SIXTY (60) MONTHS

AHFC will deny admission to any family member for 60 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 60 months from the date conviction or commission of any sexual offense as identified in AS11.41.

AHFC will deny admission to any family member within 60 months of being subject to a registration requirement on a state sex offender list.

2-4.5 THIRTY SIX (36) MONTHS

2-4.5.A Violent Criminal Activity

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 (24 CFR 960.203).

2-4.5.B Drug-Related Criminal Activity

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 (24 CFR 960.204).

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 (24 CFR 960.204).

2-4.6 TWELVE (12) MONTHS

AHFC will deny admission for 12 months from the date of occurrence if any household member engaged in any of the activities outlined below.

1. AHFC has reasonable cause to believe that a household member is currently engaging in illegal use of a drug.
2. Based upon reasonable cause, the following behaviors that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.
 - a. Illegal use or pattern of illegal use of a drug.
 - b. Abuse or pattern of abuse of alcohol.
 - c. Involvement in criminal activity.
3. Negative tenancy references (see Exhibit 2-9).

The date of occurrence shall mark the start of the 12 month duration. If denial occurs for items 1 or 2, AHFC may consider whether the household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program. See Reconsideration of Application below.

2-4.7 RECONSIDERATION OF APPLICATION

AHFC may consider circumstances or mitigating evidence for previous criminal, violent criminal, or drug-related activity when determining the eligibility of a family. AHFC may also consider circumstances relating to behavior that threatened the health, safety, or right to peaceful enjoyment of the premises by other residents. Those circumstances must have a direct bearing on the action or inaction of the family. Examples of such circumstances include:

1. The seriousness of the case – in particular, whether it was a deliberate action or inaction on the part of the family.
2. The culpability of individual family members and the effects on those who were not involved in the action or failure. Nonpayment of rent, other monies due, or deliberate violations of an HCV family obligation is clearly not the responsibility of children; however, the effect on the children is not necessarily a mitigating circumstance. AHFC could impose a condition that the person culpable for the action or inaction not reside in the unit while permitting others to receive assistance.
3. An individual involved in the criminal activity is no longer in the household because the person is incarcerated, or the family can produce evidence that the person is no longer in the residence. Examples include a divorce decree, death, or a copy of a lease indicating the person resides elsewhere and including the owner's telephone number and address.

4. An individual engaged in the negative behavior has successfully completed a supervised program for the behavior or has not engaged in the behavior within the last 12 months.
5. The disability of a family member which may result in a reasonable accommodation to ensure compliance with the HCV Administrative Plan, Chapter 1, Section 1.5 Reasonable Accommodation and 24 CFR 8, Nondiscrimination Based on Handicap.

In considering circumstances, AHFC will consider the nexus between the action or failure to act and the proposed denial of assistance. If mitigating circumstances exist and are compelling enough to allow admittance, staff will counsel the applicant family about the decision and how to avoid a similar circumstance in the future. Staff will document the file with the decision, reasons for the decision, and the date and time of the counseling session with the applicant.

2-4.7.A Criminal Activity

If AHFC previously denied admission to an applicant because a household member engaged in criminal activity, AHFC may reconsider the applicant if AHFC has sufficient evidence that the members of the household are not currently engaged in and have not engaged in such criminal activity for 12 or more months since conviction or release from incarceration.

AHFC will have “sufficient evidence” if the household member submits a certification that she or he is not currently engaged in and has not engaged in such activity during the past 12 months. The household member must provide supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers, or criminal records. AHFC must verify any and all documentation used as sufficient evidence.

2-4.7.B Drug-Related Criminal Activity

AHFC will consider whether the household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program. AHFC will require the applicant to submit evidence of the household member’s current participation in or successful completion of the program.

AHFC will also have “sufficient evidence” if the household member provides supporting information from such sources as a probation officer, a landlord, neighbors, social service agency workers, or criminal records. AHFC must verify any and all documentation used as sufficient evidence.

2-4.7.C Violence Against Women Act (VAWA) Protections

Prior to denying an application for violation of any of the screening criteria above, AHFC must consider whether the applicant is protected under VAWA. Protections include:

- An applicant's status as a victim of domestic violence, dating violence, stalking, or sexual assault is not a basis for denial of rental assistance or admission.
- An incident or incidents of actual or threatened domestic violence, dating violence, stalking, or sexual assault will not be construed as serious or repeated violations of the lease or other "good cause" for terminating the assistance, tenancy, or occupancy rights of a victim of abuse.
- Criminal activity directly related to domestic violence, dating violence, stalking, or sexual assault, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights of the victim of the criminal acts.

A victim that commits unrelated criminal activity is not protected by VAWA. Ultimately, AHFC may not subject victims to more demanding standards than other applicants.

If staff considers mitigating circumstances related to an application and decides that VAWA protections apply, staff will complete form VF227 *VAWA Protection Agreement* prior to admission.

2-4.7.D HOME Tenant-Based Rental Assistance Participants

Families receiving HOME 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 one (1) year may be used when considering mitigating circumstances to previous criminal history.

- Staff will use prudent, professional judgment when evaluating a TBRA family's eligibility for an AHFC waiting list.
- If a family completes one year of TBRA assistance in good standing, staff will consider that as sufficient evidence to allow the family onto an AHFC waiting list.
- If a family completes the TBRA program in good standing, staff will consider that as sufficient evidence to allow the family onto an AHFC waiting list.
- If a TBRA family's tenancy had issues, staff may collect a landlord reference from the most recent landlord to help evaluate a family's suitability for an AHFC assistance program.

- TBRA families will be ranked and worked in the appropriate order according to the policy for that waiting list. Staff will remember that TBRA assistance is considered transitional assistance.
- When a TBRA family reaches the top of an AHFC waiting list, staff may consider any activities that occur while the client is on the waiting list before deciding to admit that family. This is the same as any other applicant family.