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CRIMINAL BACKGROUND ADMISSIONS CRITERIA AND PROCESS

BACKGROUND

Regulations governing federal rental assistance programs require that the Housing Authority establish criteria related to criminal history of program applicants. For most federal programs, the Housing Authority must deny admission to the program if any member of an applicant household:

- Is subject to a lifetime (Tier 3) sex offender registration.
- Has been evicted from federally assisted housing for drug-related criminal activity in the past three years.
- Has been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- Is currently engaged in the illegal use of a drug.

To be eligible for assistance, all adult household members must self-certify during the application process that they are not subject to any of the prohibitions described above. Further, the Housing Authority will run a background check on all adult members to determine if anyone is a lifetime registered sex offender.

Additionally, the Housing Authority may deny admission to the program if a household member has engaged in drug-related, violent, or other criminal activity in that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity, in a reasonable time before admission. The Housing Authority may determine this based on a record of certain criminal convictions obtained from a criminal background check. For more information on how this review is performed, please see the **Overview of Criminal Background Admissions Criteria and Process** section below.

Some programs, including the Veterans Affairs Supportive Housing (VASH), Emergency Housing Voucher (EHV), and Shelter Plus Care (S+C) programs have different minimum statutory standards that are more lenient. Those exceptions are noted below, towards the end of this document.

OVERVIEW OF CRIMINAL BACKGROUND ADMISSIONS CRITERIA AND PROCESS

Criminal Background Check Consent Form

When an applicant submits the Initial Application for Rental Housing Assistance, they will be required to fill out a Criminal Background Check Consent Form. All adult members of the household must sign this form. By signing this form, each household member certifies that they are not subject to one of the four mandatory prohibitions described in the previous section. If a household does not sign the Consent Form, the application cannot move forward. After signing, staff at the Housing Authority will run a criminal background check (CBC) and registered sex offender check (RSO) on all adult members.

Lookback Period

The Housing Authority will **only** consider a criminal conviction if it occurred within the past three (3) years.

Arrests and Pending Charges

Arrest records are not considered. However, if the household's CBC returns a pending charge, the application may be placed on hold until the court date depending on the severity of the charge.

Convictions that will be Considered

The Housing Authority will **only** consider a criminal offense if it constitutes a *violent felony strike* as defined in § 667.7(c) of the Penal Code of California (PC). As of the date of this notice, there are 23 specific offenses defined as a *violent felony strike*, including the following.

- Murder or voluntary manslaughter.
- Mayhem.
- Rape as defined in §§ 261(a)(2) or 261(a)(6), or former PC §§ 262(a)(1) or 262(a)(4).
- Sodomy as defined in PC §§ 286(c) or 286(d).
- Oral copulation as defined in PC §§ 287(c) or 287(d), or former PC § 288a
- Lewd or lascivious act as defined in PC §§ 288(a) or 288(b).
- Any felony punishable by death or imprisonment in the state prison for life.
- Any felony in which defendant inflicts great bodily injury on a person other than an accomplice, or any felony in which the defendant uses a firearm which use has been charged and proved and provided in PC §§ 12022.3(a), or 12022.3, or 12022.55. (See § 667.7(c) for additional details.)
- Any robbery.
- Arson, in violation of PC §§ 451(a) or 451(b).
- Sexual penetration as defined in PC §§ 289(a) or 289(j).
- Attempted murder.
- A violation of PC §§ 18745, 18750, or 18755.
- Kidnapping.
- Assault with the intent to commit a specified felony, in violation of PC § 220.
- Continuous sexual abuse of a child, in violation of PC § 288.5.
- Carjacking, as defined in PC § 215(a).
- Rape or sexual penetration, in concert, in violation of PC § 264.1.
- Extortion, as defined in PC § 518, which would constitute a felony violation of PC § 186.22.
- Threats to victims or witnesses, as defined in PC § 136.1, which would constitute a felony of PC § 186.22.
- Any burglary of the first degree, as defined in PC § 460(a), wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.
- Any violation of PC § 12022.53.
- A violation of PC § 11418(b) or 11418(c).

The Housing Authority will **not** automatically deny a household admission to federal rental assistance programs if a household member has a conviction for one or more of the offenses listed above within the lookback period. All households will be given the opportunity to provide information about mitigating circumstances and evidence of personal change over time, and to have their application and supporting materials reviewed by an Admissions Review committee during a Secondary Review process.

Secondary Review

Households whose CBC returns a history of a relevant criminal conviction within the lookback period will be sent a letter notifying them that based on information in their criminal background check report, the Housing Authority needs additional information to proceed with their application. A copy of the criminal background check will be included in the letter. The household will be given thirty (30) calendar days to respond to the letter with more information about mitigating circumstances or evidence of personal change that they would like to be considered during the Secondary Review. Examples of mitigating circumstances that the household may wish to provide with their response include, but are not limited to:

- Disability related factors
- Statements or documents from a probation or parole officer, caseworker or counselor, community organization, employers, teachers, advocates, or any other individual or group with personal or professional knowledge of the applicant.
- Certificate of enrollment in, or completion of a relevant program.
- Personal statements from the applicant household.
- Any other relevant information or documentation provided by the applicant or advocate

If the household does not respond with additional information about mitigating circumstances, their application will be denied, and they will be sent a letter notifying them of the denial. If the household's application is denied, the household will be notified of their right to appeal the decision through the informal review process. If the household wishes to have an informal review, they must request it in writing within fifteen (15) days of the notification. During the informal review, the applicant will be given the opportunity to present written or verbal objections to the decision in front of a committee composed of staff other than the person or persons that made or approved the decision.

If the household responds with information about mitigating circumstances or evidence of personal change, an Admissions Review Panel of Housing Authority staff will conduct an individualized assessment of the criminal history in the context of the information presented. The committee may consider disability related factors, recency and severity of the criminal activity, resources and services to which the applicant has access, evidence that the applicant will be a successful tenant, evidence of personal change, and any other relevant information available. The Admissions Review Panel may request more information if needed to make a determination.

Upon review, the household will be notified whether their application is denied due to a criminal background or if their application will move forward to the next stage of the eligibility determination. If the household has their application denied, the household will also be notified of their right to appeal the decision through the informal review process. If the household wishes to have an informal review, they must request it in writing within fifteen (15) days of the notification. During the informal review, the applicant will be given the opportunity to present written or verbal objections to the decision in front of a committee composed of staff other than the person or persons that made or approved the decision.

The Housing Authority reserves the right to change this policy at any time. Additionally, to the extent that any HUD requirements may conflict with this policy, HUD requirements will supersede. Housing Authority staff may make exceptions to deadlines stated above related to providing information about mitigating circumstances, requesting a secondary review, or requesting an informal hearing. Such exceptions will be granted as a reasonable accommodation for persons with a disability related need, or may be granted for other good cause.

EXCEPTIONS

VASH applicants will only be denied admission if a household member is subject to a lifetime sex offender registration requirement. Applicants will only be denied admission to the EHV program if a household member is subject to a lifetime sex offender registration requirement, or if a household member has been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing.

QUESTIONS AND COMMENTS

If you have any questions about the Housing Authority's criminal background criteria or process, please contact Kathleen Kiyabu at kathleenk@hacosantacruz.org.