

# **BARRIERS TO FEDERALLY-FUNDED HOUSING DUE TO CRIMINAL ACTIVITY**

√√√Housing authorities and owners of federally-funded housing usually screen applicants for “suitability”.

√√What does “suitability” mean? Based on past or present behaviors of family members, does it seem likely that the applicant family will obey the rules if they live in federal housing?

√√√Housing authorities and owners have a lot of discretion about what factors they use to screen applicants. This means that screening factors vary from housing authority to housing authority, so check with each housing authority where you are thinking about applying.

√√Housing authorities must state their screening factors clearly in their Annual Plans, which are public documents.

√√The public has a right to have input into these Annual Plans and people should participate in the process of writing the Annual Plans.

√√√Even though housing authorities and federally-funded owners have a lot of discretion about what screening factors to use, they still must comply with the fair housing and civil rights laws, including reasonable accommodation laws.

√√√Most determinations are based on the circumstances of an individual’s case, but there are categories of criminal behavior that Congress has said will permanently exclude an applicant from federal housing anywhere in the country. (Quality Housing and Work Responsibility Act of 1998)

### Mandatory Exclusions from Federally-Funded Housing

	Public Housing	Section 8 Voucher	Section 8 Mod Rehab	HUD-Assisted or Subsidized Housing	Notes
Conviction for production of methamphetamine on property of <i>any</i> public hsg, voucher or federally-assisted hsg	✓	✓	✓		Lifetime ban
Subject to <i>lifetime</i> registration requirement under any state sex offender program	✓	✓	✓	✓	Lifetime ban  Applies to state where hsg is located <i>and</i> to all other states where household has lived
<i>Current</i> use of illegal drugs <i>or</i> pattern of use that may interfere with the health, safety or right to peaceful enjoyment of tenants	✓	✓	✓	✓	Does not exclude legal users of methadone  Does exclude users of marijuana for medical reasons
Evicted from	✓	✓	✓	✓	3-year ban

<p>public hsg, voucher or federally-assisted hsg for drug-related criminal activity</p>					<p>Housing authorities can make this ban longer</p> <p>Exceptions: if the applicant completed supervised drug rehab or the person with the criminal activity is no longer a member of the household</p>
<p>Other criminal activity: drug-related, violence or a threat to health, safety or peaceful enjoyment by tenants or staff</p>	<p>✓</p>	<p>✓</p>	<p>✓</p>	<p>✓</p>	<p>HUD recommends that housing authorities and owners ban applicants with such histories, and most do so.</p> <p>Must consider mitigating factors</p>

√√√ Housing authorities should not deny an applicant based on criminal activity that would not effect the tenancy.

√√They should only consider the criminal record of those individuals who will be members of the household in federally-funded housing.

√√√Since 1996, Congress has authorized housing authorities to get the criminal records of adult applicants (18 years or older) from the National Crime Information Center, police departments and other law enforcement agencies.

√√Housing authorities must have the applicant's written consent.

√√They must tell the applicant of the reason for any denial based on a criminal record.

√√The applicant has the right to dispute any denial based on a criminal record.