

Chapter 3

ELIGIBILITY

INTRODUCTION

The NBHA is responsible for ensuring that every individual and family admitted to the public housing program meets all program eligibility requirements. This includes any individual approved to join the family after the family has been admitted to the program. The family must provide any information needed by the NBHA to confirm eligibility and determine the level of the family's assistance.

To be eligible for the public housing program:

- The applicant family must:
 - Qualify as a family as defined by HUD and the NBHA.
 - Have income at or below HUD-specified income limits.
 - Qualify on the basis of citizenship or the eligible immigrant status of family members.
 - Provide social security number information for every family member as required.
 - Consent to the NBHA's collection and use of family information as provided for in NBHA-provided consent forms.
- The NBHA must determine that the current, or past behavior of household members does not include activities that are prohibited by HUD or the NBHA.

PART I: DEFINITIONS OF FAMILY AND HOUSEHOLD MEMBERS

3-I.A. OVERVIEW

This chapter defines both HUD's and the NBHA's criteria for admission and denial of admission to the program. The policy of this Authority is to strive for objectivity and consistency in applying these criteria to evaluate the qualifications of families who apply. The NBHA 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 NBHA pertaining to their eligibility.

3-I.B. FAMILY AND HOUSEHOLD [24 CFR 5.403 and HUD-50058 IB, p. 13]

The terms family and household have different meanings in the public housing program.

Family

To be eligible for admission, an applicant must qualify as a family. Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following:

The NBHA shall not deny any family or individual the opportunity to apply for or receive assistance under the Low Income Public Housing (LIPH) on the basis of race, color, sex, religion, creed, ethnic origin, age familial or marital status, disability or actual or perceived sexual orientation or gender identity.

Families who are otherwise eligible for HUD programs may not be excluded because one or more members of the family may be LGBT or perceived to be LGBT.

Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following:

1. A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
2. A group of persons residing together, and such group includes, but is not limited to:
 - a. A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - b. An elderly family;
 - c. A near-elderly family;
 - d. A disabled family;
 - e. A displaced family; and
 - f. The remaining member of a tenant family

The temporary absence of a child from the home due to placement in foster care is defined as a period of time that is anticipated to be less than six months (6 months) from the time the family is determined eligible for admission to the program. The child who is temporarily absent from the home due to placement in foster care shall be considered part of the family in determining the family composition and unit size. All temporary absences will be verified through the appropriate agencies.

Household:

Household is a broader term that includes additional people who, with the NBHA's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

3-I.C. FAMILY BREAK-UP AND REMAINING MEMBER OF TENANT FAMILY:

Family Break-up:

When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

If a family breaks up into two otherwise eligible families while living in public housing, only one of the new families will continue to be assisted.

If a court determines the disposition of property between members of the applicant or resident family in a divorce or separation decree, the NBHA will abide by the court's determination.

In the absence of a judicial decision or an agreement among the original family members, the NBHA will determine which family retains their placement on the waiting list, or will continue in occupancy taking into consideration the following factors: (1) the interest of any minor children, including custody arrangements, (2) the interest of any ill, elderly, or disabled family members, (3) any possible risks to family members as a result of domestic violence or criminal activity, and (4) the recommendations of social service professionals.

Separation or Divorce:

The regulation also specifies that assets are not considered disposed of for less than fair market value if they are disposed of as part of a separation or divorce settlement and the applicant or tenant receives important consideration not measurable in dollar terms.

All assets disposed of as part of a separation or divorce settlement will be considered assets for which important consideration not measurable in monetary terms has been received. In order to qualify for this exemption, a family member must be subject to a formal separation or divorce settlement agreement established through arbitration, mediation, or court order.

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the remaining member of a tenant family, which is a member of a resident family who remains in the unit when other members of the family have left the unit [PH OCC GB, P. 26]. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

If dependents are the only “remaining members of a tenant family” and there is no family member able to assume the responsibilities of the head of household, see Chapter 6, Section 6-1.B, for the policy on “Caretakers for a Child”.

3-I.D. HEAD OF HOUSEHOLD [24 CFR 5.504(b)]

Head of household means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household is responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a cohead or spouse.

The family may designate any qualified family member as the head of household who is wholly or partly responsible for paying the rent.

The head of household must have the legal capacity to enter into a lease under state and local law. A minor who is emancipated under state law may be designated as head of household.

3-I.E. SPOUSE, COHEAD, AND OTHER ADULT

A family may have a spouse or cohead, but not both [HUD-50058 IB, p. 13].

Spouse means the marriage partner of the head of household.

A Marriage partner includes the partner in a “common law” marriage as defined in state law. The term “spouse” does not apply to friends, roommates, or significant others who are not marriage partners. A minor who is emancipated under state law may be designated as a spouse.

A **Co-head** is an individual in the household who is equally responsible with the head of household for ensuring that the family fulfills all of its responsibilities under the program, but who is not a spouse. A family can have only one co-head. A co-head never qualifies as a dependent.

Minors who are emancipated under state law may be designated as a cohead.

Other adult means a family member, other than the head, spouse, or cohead, who is 18 years of age or older. Foster adults and live-in aides are not considered other adults [HUD-50058 IB, p. 14].

3-I.F. DEPENDENT [24 CFR 5.603]

A **dependent** is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, cohead, foster children/adults and live-in aides. Identifying each dependent in the family is important because each dependent qualifies the family for a deduction from annual income as described in Chapter 6.

Joint Custody of Dependents

Dependents that are subject to a joint custody arrangement, but live with one parent ~~at least~~ fifty-one percent (51%) of the time will be considered a member of the family. Fifty-one percent (51%) of the time is defined as one hundred eighty-three (183) days of the year and do not have to run consecutively.

When more than one applicant or assisted family (regardless of program) are claiming the same dependents as family members, the family with primary custody at the time of the initial examination or reexamination will be able to claim the dependents. If there is a dispute about which family should claim them, the NBHA will make the determination based on available documents such as court orders, or an IRS return showing which family has claimed the child for income tax purposes or the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

3-I.G. FULL-TIME STUDENT [24 CFR 5.603]

A **full-time student** (FTS) is a person who is attending school or vocational training on a full-time basis. The time commitment or subject load that is needed to be full-time is defined by the educational institution.

Identifying each FTS is important because (1) each family member that is an FTS, other than the head, spouse, or cohead, qualifies the family for a dependent deduction and (2) the income of such an FTS is treated differently from the income of other family members.

3-I.H. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY

Elderly Persons

An elderly person is a person who is at least 62 years of age [24 CFR 5.100].

Near-Elderly Persons

A near-elderly person is a person who is 50-61 years of age. [24 CFR 945.105].

Elderly Family

An elderly family is one in which the head, spouse, cohead, or sole member is an elderly person [24 CFR 5.403]. Identifying elderly families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

3-I.I. PERSONS WITH DISABILITIES AND DISABLED FAMILY [24 CFR 5.403]

Persons with Disabilities

Under the public housing program, special rules apply to persons with disabilities and to any family whose head, spouse, or cohead is a person with disabilities. The technical definitions of individual with handicaps and persons with disabilities are provided in Exhibit 3-1 at the end of this chapter. These definitions are used for a number of purposes including ensuring that persons with disabilities are not discriminated against based upon disability.

Disabled Family

A **disabled family** is one in which the head, spouse, or cohead is a person with disabilities. Identifying disabled families is important because these families qualify for special deductions from income as described in Chapter 6 and may qualify for a particular type of development as noted in Chapter 4.

Even though persons with drug or alcohol dependencies are considered persons with disabilities for the purpose of non-discrimination, this does not prevent the NBHA from denying admission for reasons related to alcohol and drug abuse following policies found in Part III of this chapter, or from enforcing the lease following the policies in Chapter 13.

3-I.J. GUESTS [24 CFR 5.100]

A **guest** is defined as 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 lease must provide that the tenant has the right to exclusive use and occupancy of the leased unit by the members of the household authorized to reside in the unit in accordance with the lease, including reasonable accommodation of their guests [24 CFR 966.4(d)]. The head of household is responsible for the conduct of visitors and guests, inside the unit as well as anywhere on or near NBHA premises [24 CFR 966.4(f)].

A family may request an exception to this policy for valid reasons (e.g., care of a relative recovering from a medical procedure expected to last 15 consecutive days). An exception will not be made unless the family can identify and provide documentation of the residence to which the guest will return.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a family member because they live outside of the public housing unit more than 50 percent of the time, are not subject to the time limitations of guests as described above.

Former residents who have been evicted are not permitted as overnight guests.

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

3-I.K. FOSTER CHILDREN AND FOSTER ADULTS

Foster adults are usually persons with disabilities, unrelated to the tenant family, who are unable to live alone [24 CFR 5.609(c)(2)].

Foster children and foster adults that are living with an applicant or resident family are considered household members but not family members. The income of foster children/adults is not counted in family annual income and foster children/adults do not qualify for a dependent deduction [24 CFR 5.603 and HUD-50058 IB, pp. 13-14].

A foster child is a child that is in the legal guardianship or custody of a state, county, or private adoption or foster care agency, yet is cared for by foster parents in their own homes, under some kind of short-term or long-term foster care arrangement with the custodial agency.

Children that are temporarily absent from the home as a result of placement in foster care are discussed in Section 3-I.L.

3-I.L. ABSENT FAMILY MEMBERS

Individuals may be absent from the family, either temporarily or permanently, for a variety of reasons including educational activities, placement in foster care, employment, and illness.

Definitions of Temporarily and Permanently Absent

Generally an individual who is or is expected to be absent from the public housing unit for 180 consecutive days or less is considered temporarily absent and continues to be considered a family member. Generally an individual who is or is expected to be absent from the public housing unit for more than 180 consecutive days is considered permanently absent and no longer a family member. Exceptions to this general policy are discussed below.

Absent Students

When someone who has been considered a family member attends school away from home, the person will continue to be considered a family member unless information becomes available to the NBHA indicating that the student has established a separate household or the family declares that the student has established a separate household.

Absences Due to Placement in Foster Care [24 CFR 5.403]

Children temporarily absent from the home as a result of placement in foster care are considered members of the family.

If a child has been placed in foster care, the NBHA will verify with the appropriate agency whether and when the child is expected to be returned to the home. Unless the agency confirms that the child has been permanently removed from the home, the child will be counted as a family member.

Absent Head, Spouse, or Cohead

An employed head, spouse, or cohead absent from the unit more than 180 consecutive days due to employment will continue to be considered a family member.

Individuals Confined for Medical Reasons

An individual confined to a nursing home or hospital on a permanent basis is not considered a family member.

If there is a question about the status of a family member, the NBHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent. The family may present evidence that the family member is confined on a permanent basis and request that the person not be considered a family member.

Return of Permanently Absent Family Members

The family must request NBHA approval for the return of any adult family members that the NBHA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements.

3-I.M. LIVE-IN AIDES

Live-in aide means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who: (1) is determined to be essential to the care and well-being of the persons, (2) is not obligated for the support of the persons, and (3) would not be living in the unit except to provide the necessary supportive services [24 CFR 5.403].

The NBHA must approve a live-in aide if needed as a reasonable accommodation in accordance with 24 CFR 8, to make the program accessible to and usable by a family member with disabilities.

A live-in aide is a member of the household, not the family, and the income of the aide is not considered in income calculations [24 CFR 5.609(c)(5)]. Relatives may be approved as live-in aides if they meet all of the criteria defining a live-in aide. However, a relative who serves as a live-in aide is not considered a family member and would not be considered a remaining member of a tenant family.

A family's request for a live-in aide must be made in writing. Written verification will be required from a reliable, knowledgeable professional of the family's choosing, such as a doctor, social worker, or case worker, that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member. (For continued approval, the family must submit a new, written request-subject to PHA verification-at each annual reexamination).

In addition, the family and live-in aide will be required to submit a certification stating that the live-in aide is (1) not obligated for the support of the person(s) needing the care, and (2) would not be living in the unit except to provide the necessary supportive services.

The NBHA has the discretion to not approve a particular person as a live-in aide, and may withdraw such approval if [24 CFR 966.4(d)(3)(i)]:

The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;

The person has a history of drug-related criminal activity or violent criminal activity; or

The person currently owes rent or other amounts to the NBHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

If the live-in aide or family members participate in drug-related or criminal activity, the NBHA 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.

Within 10 business days of receiving a request for a live-in aide, including all required documentation related to the request, the NBHA will notify the family of its decision in writing.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to set income limits that determine the eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of median family income in a particular area or county, with adjustments for family size.

Types of Low-Income Families [24 CFR 5.603(b)]

Low-income family. A family whose annual income does not exceed 80 percent of the median income for the area, adjusted for family size.

Very low-income family. A family whose annual income does not exceed 50 percent of the median income for the area, adjusted for family size.

Extremely low-income family. A family whose annual income does not exceed 30 percent of the median income for the area, adjusted for family size.

HUD may establish income ceilings higher or lower than 30, 50, or 80 percent of the median income for an area if HUD finds that such variations are necessary because of unusually high or low family incomes.

Using Income Limits for Eligibility [24 CFR 960.201]

Income limits are used for eligibility only at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits.

Using Income Limits for Targeting [24 CFR 960.202(b)]

At least 40 percent of the families admitted to the NBHA's public housing program during a NBHA fiscal year from the NBHA waiting list must be extremely low-income families. This is called the "basic targeting requirement".

If admissions of extremely low-income families to the NBHA's housing choice voucher program during a NBHA fiscal year exceed the 75 percent minimum targeting requirement for that program, such excess shall be credited against the NBHA's public housing basic targeting requirement for the same fiscal year.

The fiscal year credit for housing choice voucher program admissions that exceed the minimum voucher program targeting requirement must not exceed the lower of:

- Ten percent of public housing waiting list admissions during the NBHA fiscal year
- Ten percent of waiting list admission to the NBHA’s housing choice voucher program during the NBHA fiscal year
- The number of qualifying low-income families who commence occupancy during the fiscal year of public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

For discussion of how income targeting is used in tenant selection, see Chapter 4.

3-II.B. CITIZENSHIP OR ELIGIBLE IMMIGRATION STATUS [24 CFR 5, Subpart E]

Housing assistance is available only to individuals who are U.S. citizens, U.S. nationals (herein referred to as citizens and nationals), or noncitizens that have eligible immigration status. At least one family member must be a citizen, national, or noncitizen with eligible immigration status in order for the family to qualify for any level of assistance.

All applicant families must be notified of the requirement to submit evidence of their citizenship status when they apply. Where feasible, and in accordance with the NBHA’s Limited English Proficiency Procedure as outlined in Chapter 2. The notice must be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

HUD requires each family member to declare whether the individual is a citizen, a national, or an eligible noncitizen, except those members who elect not to contend that they have eligible immigration status. Those who elect not to contend their status are considered to be ineligible noncitizens. For citizens, nationals and eligible noncitizens the declaration must be signed personally by the head, spouse, cohead, and any other family member 18 or older, and by a parent or guardian for minors. The family must identify in writing any family members who elect not to contend their immigration status (see Ineligible Noncitizens below). No declaration is required for live-in aides, foster children, or foster adults.

U.S. Citizens and Nationals

In general, citizens and nationals are required to submit only a signed declaration that claims their status. However, HUD regulations permit the NBHA to request additional documentation of their status, such as a passport.

Family members who declare citizenship or national status will not be required to provide additional documentation unless the NBHA receives information indicating that an individual’s declaration may not be accurate.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with NBHA efforts to verify their immigration status as described in Chapter 7. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under

which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

Lawful residents of the Marshall Islands, the Federated States of Micronesia, and Palau, together known as the Freely Associated States, or FAS, are eligible for housing assistance under section 141 of the Compacts of Free Association between the U.S. Government and the Governments of the FAS [Public Law 106-504].

Ineligible Noncitizens

Those noncitizens who do not wish to contend their immigration status are required to have their names listed on a noncontending family members listing, signed by the head, spouse, or cohead (regardless of citizenship status), indicating their ineligible immigration status. The NBHA is not required to verify a family member's ineligible status and is not required to report an individual's unlawful presence in the U.S. to the United States Citizenship and Immigration Services (USCIS).

Providing housing assistance to noncitizen students is prohibited [24 CFR 5.522]. This prohibition extends to the noncitizen spouse of a noncitizen student as well as to minor children who accompany or follow to join the noncitizen student. Such prohibition does not extend to the citizen spouse of a noncitizen student or to the children of the citizen spouse and noncitizen student. Such a family is eligible for prorated assistance as a mixed family.

Mixed Families

A family is eligible for admission as long as at least one member is a citizen, national, or eligible noncitizen. Families that include eligible and ineligible individuals are considered. Such families will be given notice that their assistance will be prorated and that they may request a hearing if they contest this determination. See Chapter 6 for a discussion of how rents are prorated, and Chapter 14 for a discussion of informal hearing procedures.

Ineligible Families [24 CFR 5.514(d), (e), and (f)]

The NBHA may elect to provide assistance to a family before the verification of the eligibility of the individual or one family member [24 CFR 5.512(b)]. Otherwise, no individual or family may be assisted prior to the affirmative establishment by the NBHA that the individual or at least one family member is eligible [24 CFR 5.512(a)].

The NBHA will not provide assistance to a family before the verification of at least one family member as a citizen, national, or eligible noncitizen.

When NBHA determines that an applicant family does not include any citizens, nationals, or eligible noncitizens, following the verification process, the family will be sent a written notice within 10 business days of the determination.

The notice will explain the reasons for the denial of assistance, that the family may be eligible for proration of assistance, and will advise the family of its right to request an appeal to the United States Citizenship and Immigration Services (USCIS), or to request an informal hearing with the NBHA. The informal hearing with the NBHA may be requested in lieu of the USCIS appeal, or at the conclusion of the USCIS appeal process. The notice must also inform the applicant family that assistance may not be delayed until the conclusion of the USCIS appeal process, but that it may be delayed pending the completion of the informal hearing process. 450 Main Street Hartford, CT 06103.

Informal hearing procedures are contained in Chapter 14.

Timeframe for Determination of Citizenship Status [24 CFR 5.508(g)]

For new occupants joining the resident family the NBHA must verify status at the first interim or regular reexamination following the person's occupancy, whichever comes first.

If an individual qualifies for a time extension for the submission of required documents, the NBHA must grant an extension if the individual submits the declaration required under 24 CFR 5.508(h).

Each family member is required to submit evidence of eligible status only one time during continuous occupancy.

The NBHA will verify the status of applicants at the time other eligibility factors are determined.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218]

The applicant and all members of the applicant's household must provide documentation of a valid Social Security Number (SSN) or a certification stating that no SSN has been issued. If a member who is required to execute a certification is less than 18 years old, the certification must be executed by the individual's parent or guardian [24 CFR 5.216(j)]. Assistance cannot be provided to a family until all SSN documentation requirements are met. A detailed discussion of acceptable documentation is provided in Chapter 7.

If a new member is added to the family, the new member's SSN documentation must be submitted at the family's next interim or regular reexamination as provided in chapter 9. If a member of the family obtains a previously undisclosed SSN, or has been assigned a new SSN, the documentation must be submitted at the family's next regularly scheduled reexamination.

The NBHA must deny admission to an applicant family if they do not meet the SSN disclosure, documentation and verification, and certification requirements contained in 24 CFR 5.216.

3-II.D. FAMILY CONSENT TO RELEASE OF INFORMATION [24 CFR 5.230]

HUD requires each adult family member, and the head of household, spouse, or cohead, regardless of age, to sign form HUD-9886, Authorization for the Release of Information. Privacy Act Notice, and other consent forms as needed to collect information relevant to the family's eligibility and level of assistance. Chapter 7 provides detailed information concerning the consent forms and verification requirements.

The NBHA must deny admission to the program if any member of the applicant family fails to sign and submit consent forms which allow the NBHA to obtain information that the NBHA has determined is necessary in administration of the public housing program [24 CFR 960.259(a) and (b)].

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

A family that does not meet the eligibility criteria discussed in Parts I and II, must be denied admission.

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 NBHA will endeavor to screen applicants thoroughly and fairly.

In addition, HUD requires or permits the NBHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The Authority in this area is limited by the Violence Against Women Reauthorization Act of **201** (VAWA), restated which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been the victim of domestic violence, dating violence, or stalking [24 CFR 5.2005].

This part covers the following topics:

- Required denial of admission
- Other permitted reasons for denial of admission
- Screening
- Criteria for deciding to deny admission
- Prohibition against denial of admission to victims of domestic violence, dating violence, or stalking
- Notice of eligibility or denial

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

The NBHA is required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the NBHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the NBHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the NBHA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

HUD requires the NBHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last seven (7) years for drug-related criminal activity. HUD permits but does not require the NBHA to admit an otherwise-eligible family if the household member has completed a NBHA-approved drug rehabilitation program or the circumstances which led to eviction no

longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

The NBHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past seven (7) years for drug-related criminal activity, if the NBHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by the NBHA, or the person who committed the crime is no longer living in the household.

- The NBHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802] including State Legalized Medical Marijuana. Currently engaged in the illegal use of a drug means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

Currently engaged in is defined as any use of illegal drugs during the previous six months.

- The NBHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

In determining reasonable cause, the NBHA will consider all credible evidence, including but not limited to, any record of convictions, arrests, or evictions of household members related to the use of illegal drugs or the abuse of alcohol.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, and the family will be permanently denied assistance.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

If any household member is currently registered as a sex offender under a state registration requirement, regardless of whether it is a lifetime registration requirement, the family **may** ~~will~~ be denied assistance.

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

Criminal Activity [24 CFR 960.203 (b) and (c)]

Under the Public Housing Assessment System (PHAS), NBHAs that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal background.

The NBHA is responsible for screening family behavior and suitability for tenancy. In doing so, the NBHA may consider an applicant's history of criminal activity involving crimes of physical

violence to persons or property and other criminal acts which would adversely affect the health, safety or welfare of other tenants.

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past seven (7) years, the family will be denied admission.

Drug-related criminal activity, defined by HUD as 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 [24 CFR 5.100].

Violent criminal activity, defined by HUD as 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 [24 CFR 5.100].

Criminal activity that may threaten the health, safety, or welfare of other tenants [24 CFR 960.203(c)(3)].

Criminal activity that may threaten the health or safety of PHA staff, contractors, subcontractors, or agents.

Criminal sexual conduct, including but not limited to sexual assault, incest, open and gross lewdness, or child abuse.

Evidence of such criminal activity includes, but is not limited to any record of convictions, arrests, or evictions for suspected drug-related or violent criminal activity of household members within the past seven (7) years.

In making its decision to deny assistance, the NBHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the NBHA may, on a case-by-case basis, decide not to deny assistance.

Previous Behavior [960.203(c) and (d) and PH OCC GB, p. 48]

HUD authorizes the NBHA to deny admission based on relevant information pertaining to the family's previous behavior and suitability for tenancy.

In the event of the receipt of unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense).

The NBHA will deny admission to an applicant family if the NBHA determines that the family:

Has a record of unsuitable past performance in meeting financial obligations, including rent within the past seven (7) years

Has a record of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past seven (7) years which may adversely affect the health, safety, or welfare of other tenants

Has a record of eviction from housing or termination from residential programs within the past seven (7) years (considering relevant circumstances)

Owes rent or other amounts to this or any other PHA or owner in connection with any assisted housing program

Misrepresented or does not provide complete information related to eligibility, including income, award of preferences for admission, expenses, family composition or rent

Has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program

Has engaged in or threatened violent or abusive behavior toward NBHA personnel

Abusive or violent behavior towards *NBHA personnel* includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to deny admission, the NBHA will consider the factors discussed in Section 3-III.E. Upon consideration of such factors, the NBHA may, on a case-by-case basis, decide not to deny admission.

The NBHA will consider the existence of mitigating factors, such as loss of employment or other financial difficulties, before denying admission to an applicant based on the failure to meet prior financial obligations.

3-III.D. SCREENING

Screening for Eligibility

The NBHA is authorized to obtain criminal conviction records from law enforcement agencies to screen applicants for admission to the public housing program. This authority assists the NBHA in complying with HUD requirements and NBHA policies to deny assistance to applicants who are engaging in or have engaged in certain criminal activities. In order to obtain access to the records the NBHA must require every applicant family to submit a consent form signed by each adult household member [24 CFR 5.903].

The NBHA may not pass along to the applicant the costs of a criminal records check [24 CFR 960.204(d)].

The NBHA criminal background checks through local law enforcement for all adult household members.

If the results of the criminal background check indicate there may have been past criminal activity, but the results are inconclusive, the NBHA will request additional information which may include obtaining a fingerprint card and requesting information from the National Crime Information Center (NCIC).

NBHA is required to perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in the state where the housing is located, as well as in any other state where a household member is known to have resided [24 CFR 960.204(a)(4)].

If the NBHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, the NBHA must notify the household of the proposed action and must provide the subject of the record and the applicant a copy of the record and an opportunity to

dispute the accuracy and relevance of the information prior to a denial of admission [24 CFR 5.903(f) and 5.905(d)].

Obtaining Information from Drug Treatment Facilities [24 CFR 960.205]

HUD authorizes the NBHA to request and obtain information from drug abuse treatment facilities concerning applicants.

Drug Abuse Treatment Facility means an entity that holds itself out as providing, and provides, diagnosis, treatment, or referral for treatment with respect to the illegal drug use, and is either an identified unit within a general care facility, or an entity other than a general medical care facility.

Currently engaging in illegal use of a drug means illegal use of a drug that occurred recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member.

Any consent form used for the purpose of obtaining information from a drug abuse treatment facility to determine whether a household member is currently engaging in illegal drug use shall expire automatically after the NBHA has made a final decision to either approve or deny the admission of such person.

Any charges incurred by the NBHA for information provided from a drug abuse treatment facility may not be passed on to the applicant or tenant

The NBHA shall submit a request for information only for certain household members, whose criminal record indicates prior arrests 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 destruction of property or violent activity against another person, or they interfered with the right of peaceful enjoyment of the premises of other residents.

If the NBHA chooses to obtain such information, it must abide by the HUD requirements for records management and confidentiality as described in 24 CFR 960.205(f).

The NBHA will obtain information from drug abuse treatment facilities to determine whether any applicant family's household members are currently engaging in illegal drug activity only when the NBHA has determined that the family will be denied admission based on a family member's drug-related criminal activity, and the family claims that the culpable family member has successfully completed a supervised drug or alcohol rehabilitation program.

The NBHA shall consider evidence: of successful rehabilitation, drug court participation, applicant's family participation in and completion of social service or other appropriate counseling service approved by the NBHA and evidence of successful and sustained modification of previous disqualifying behavior to determine eligibility.

Consideration of these circumstances does not guarantee that the applicant will qualify for admission. The NBHA will consider the above circumstances in light of the applicant's ability to substantiate through verification the claim of circumstances and his/her prospects for improved future behavior and applicant's overall performance with respect to all screening requirements.

Screening for Suitability as a Tenant [24 CFR 960.203(c)]

The NBHA is responsible for the screening and selection of families to occupy public housing units. The NBHA may consider all relevant information. Screening is important to public housing communities and program integrity, and to ensure that assisted housing is provided to those families that will adhere to lease obligations.

The NBHA will consider the family's history with respect to the following factors:

- Payment of rent and utilities
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
Criminal activity that is a threat to the health, safety, or property of others
Behavior of all household members as related to the grounds for denial as detailed in Sections 3-III. B and C
- Compliance with any other essential conditions of tenancy

Resources Used to Check Applicant Suitability [PH OCC GB, pp. 47-56]

The NBHA has a variety of resources available to determine the suitability of applicants. NBHA shall reject applicants who have recent behavior that would warrant lease termination for a public housing resident.

In order to determine the suitability of applicants the NBHA will examine applicant history for the past seven (7) years. Such background checks will include:

Past Performance in Meeting Financial Obligations, Especially Rent

PHA and landlord references for the past seven (7) years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether the PHA/landlord ever began or completed lease termination for non-payment, and whether utilities were ever disconnected in the unit. PHAs and landlords will be asked if they would rent to the applicant family again.

Utility company references covering the monthly amount of utilities, late payment, disconnection, return of a utility deposit and whether the applicant can get utilities turned on in his/her name. (Use of this inquiry will be reserved for applicants applying for units where there are tenant-paid utilities.)

If an applicant has no rental payment history the NBHA will check court records of eviction actions and other financial judgments, and credit reports. A lack of credit history will not disqualify someone from becoming a public housing resident, but a poor credit rating may.

Applicants with no rental payment history will also be asked to provide the NBHA with personal references. The references will be requested to complete a verification of the applicant's ability to pay rent if no other documentation of ability to meet financial obligations is available. The applicant will also be required to complete a checklist documenting their ability to meet financial obligations.

If previous landlords or the utility companies do not respond to requests from the NBHA, the applicant may provide other documentation that demonstrates their ability to meet financial obligations (e.g. rent receipts, cancelled checks, etc.)

Disturbances of Neighbors, Destruction of Property or Living or Housekeeping Habits at Prior Residences that May Adversely Affect Health, Safety, or Welfare of Other Tenants, or Cause Damage to the Unit or the Development

PHA and landlord references for the past seven (7) years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes;

whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past seven (7) years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

A personal reference will be requested to complete a verification of the applicant's ability to care for the unit and avoid disturbing neighbors if no other documentation is available. In these cases, the applicant will also be required to complete a checklist documenting their ability to care for the unit and to avoid disturbing neighbors.

Home visits may be used to determine the applicant's ability to care for the unit.

3-III.E. CRITERIA FOR DECIDING TO DENY ADMISSION

Evidence

The NBHA will use the concept of the preponderance of the evidence as the standard for making all admission decisions.

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

Consideration of Circumstances [24 CFR 960.203(c)(3) and (d)]

HUD authorizes the NBHA to consider all relevant circumstances when deciding whether to deny admission based on a family's past history except in the situations for which denial of admission is mandated (see Section 3-III.B).

In the event the NBHA receives unfavorable information with respect to an applicant, consideration must be given to the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). In a manner consistent with its policies, the NBHA may give consideration to factors which might indicate a reasonable probability of favorable future conduct.

The NBHA will consider the following factors when making its decision:

- The seriousness of the case, especially with respect to how it would affect other residents
- The effects that denial of admission may have on other members of the family who were not involved in the action or failure
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future

- Evidence of the applicant family’s participation in or willingness to participate in social service or other appropriate counseling service programs
- In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The NBHA will require the applicant 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.

Removal of a Family Member's Name from the Application [24 CFR 960.203(c)(3)(i)]

HUD permits the NBHA to impose as a condition of admission, a requirement that family members who participated in or were culpable for an action or failure to act which warrants denial of admission, to not reside in the unit.

As a condition of receiving assistance, a family may agree to remove the culpable family member from the application. In such instances, the head of household must certify that the family member will not be permitted to visit or to stay as a guest in the public housing unit.

The family must present evidence of the former family member’s current address upon NBHA request.

Reasonable Accommodation If the family includes a person with disabilities, the NBHA’s decision concerning denial of admission is subject to consideration of NBHA reasonable accommodation policy in accordance with 24 CFR Part 8.

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, the NBHA will determine whether the behavior is related to the disability. If so, upon the family’s request, the NBHA will determine whether alternative measures are appropriate as a reasonable accommodation. The NBHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed denial of admission. See Chapter 2 for a discussion of reasonable accommodation.

3-111.F: PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [24 CFR Part 5, Subpart L]:

VIOLENCE AGAINST WOMEN ACT POLICY

1.0 **PURPOSE:** The purpose of this Policy is to reduce domestic violence, dating violence, sexual assault and stalking and to prevent homelessness by:

- a. protecting the safety of victims;
- b. creating long-term housing solutions for victims;
- c. building collaborations among victim service providers; and

- d. assisting NBHA to respond appropriately to the violence while maintaining a safe environment for NBHA, employees, tenants, applicants, Section 8 participants, public housing program participants and others.

The Policy will assist the NBHA in providing rights under the Violence Against Women Act to its applicants, public housing residents, Section 8 participants and other program participants.

- 2.0 **MISSION STATEMENT:** NBHA’s policy is to comply with the 2005 VAWA Pub. L. 109-162; Stat.2960 signed into law on January 5, 2006 and codified at 42 U.S.C. § 1437d (1) and 1437 (d), (o) & 1 and (u) and the Violence Against Women Reauthorization Act of 2013 (VAWA 2013) (collectively “VAWA”). NBHA shall not discriminate against an applicant, public housing resident, Section 8 program participant or other program participant on the basis of the rights or privileges provided under the VAWA.

This Policy is incorporated into NBHA’s “Statement of Policies Governing Admissions to Continuing Occupancy of Low Rent Housing” and “Section 8 Program Administrative Plan”.

- 3.0 **DEFINITIONS:** The definitions in this Section apply only to this Policy:

- 3.1: **Confidentiality:** All information provided to the NBHA about resident(s) of domestic violence, dating violence, sexual assault or stalking involving tenant or a member of the household will be held by NBHA in confidence and not shared without tenants consent, except that this information may be disclosed in an eviction proceeding or otherwise as necessary to meet the requirements of law.

- 3.2: **Dating Violence:** Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; (iii) the frequency of interaction between the persons involved in the relationship. 42 U.S.C. § 1437d (u) (3) (A).

- 3.3: **Domestic Violence:** Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, committed by a person with whom the victim shares a child in common, committed by a person who is cohabitating with or has cohabitated with the victim as a spouse, committed by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Connecticut, or committed by any other person against an adult or youth victim who is protected from

that person's acts under the domestic or family violence laws of Connecticut. 42 U.S.C. § 1437d (u) (3) (B).

3.4: **Homeless, Homeless Individual and Homeless Person:** A person who lacks a fixed, regular and adequate nighttime resident. Also includes: (a) a person who is sharing the housing of other persons due to loss of housing, economic hardship or a similar reason; (b) a person living in a motel, hotel, trailer park, or campground due to lack of alternative adequate accommodations; (c) a person living in emergency or transitional shelter; (d) a person abandoned in a hospital; (e) a person awaiting foster care placement; or (f) a person who has a primary nighttime resident that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings. VAWA of 2005 § 41403.

3.5: **Involuntary Displacement:** Occurs when a victim has vacated or will have to vacate their housing unit because of domestic violence, dating domestic violence, sexual assault or stalking against the victim.

3.6: **Affiliated Individual:** A spouse, parent, brother or sister, or child of an individual or an individual to whom that individual stands in loco parentis; or any individual, tenant, or lawful occupant living in the household of that individual. . 42 U.S.C. § 1437d (u) (3) (D) & VAWA 2013.

3.7: **Long-term Housing:** Is housing that is sustainable, accessible, affordable and safe for the foreseeable future which: (a) the person rents or owns; (b) is subsidized by a voucher or other program as long as the person meets the eligibility requirements of the program; (c) directly provided by NBHA, is not time limited and the person meets the eligibility requirements of the program.

3.8: **Perpetrator:** A person who commits an act of domestic violence, dating domestic violence, sexual assault or stalking against a victim.

3.9: **Stalking:** (a) to follow, pursue or repeatedly commit acts with the intent to kill, injure, harass or intimidate the victim; (b) to place under surveillance with the intent to kill, injure, harass or intimidate the victim; (c) in the course of, or as a result of such following, pursuit, surveillance, or repeatedly committed acts, to place the victim in reasonable fear of the death of, or serious bodily injury to the victim; or (d) to cause substantial emotional harm to the victim, a member of the immediate family of the victim or the spouse or intimate partner of the victim. 42 U.S.C. § 1437d (u)(3)(C).

3.10: **Sexual Assault:** Is any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent. 42 U.S.C. § 13925(a) & VAWA 2013.

3.10: **Victim:** Is a person who is the victim of domestic violence, dating violence, sexual assault or stalking under this Policy and who has timely and completely completed the certification as requested by NBHA.

4.0 CERTIFICATION AND CONFIDENTIALITY:

4.1: **Failure to Provide Certification under 4.2 and 4.3:** The person shall provide complete and accurate certifications to NBHA owner or property manager within 14 business days after the party requests in writing that the person completes the certifications. If the person does not provide a complete and accurate certification within the 14 business days, NBHA, the owner or property manager may take action to deny or terminate participation or tenancy under; 42 U.S.C. § 1437 1 (5) & (6); 42 U.S.C. § 1437 (d) (c) (3); 42 U.S.C. § 1437f (c) (9); 42 U.S.C. § 1437f (d)(1)(B) (ii) & (iii); 42 U.S.C. § 1437f(o)(7)(C) & (D); or 42 U.S.C. § 1437f (o)(20) or for other good cause.

4.2: **HUD Approved Certification:** For each incident that a person is claiming is abuse, the person shall certify to NBHA, owner or property manager their victim status by completing a HUD approved certification form. The person shall certify the date, time and description of the incidents, that the incidents are bona fide incidents of actual or threatened abuses and meet the requirements of VAWA and this Policy. The person shall provide the name of the perpetrator on the HUD-50066 only if the name known to the person and is safe to provide. Additional identifying information may also be provided, if known, including, but not limited to all alias names, date of birth, address, contact information such as postal, e-mail or internet address, telephone or facsimile number or other information.

4.3: **Other Certification:** A person who is claiming victim status shall provide to NBHA, an owner or manager: (a) documentation signed by the victim and an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional from whom has sought assistance in addressing domestic violence, dating violence or stalking or the effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. § 1746) to the professional's belief that the incident(s) in question are bona fide incidents of abuse; or (b) a federal, state, tribal, territorial, local police or court record.

4.4: **Confidentiality:** NBHA, the owner and/or property manager shall keep all information provided to NBHA under this Section confidential. NBHA, owner and/or property manager shall not enter the information into a shared database or provide to any related entity except to the extent that:

- (a) the victim requests or consents to the disclosure in writing;
- (b) the disclosure is required for:
 - (i) eviction from public housing under 42 U.S.C. § 1437 I (5) & (6) (See Section 5 in this Policy)
 - (ii) termination of Section 8 assistance under 42 U.S.C. § 1437f (c)(9); 42 U.S.C. § 1437f (d) (I)(B)(ii) &(iii); 42 U.S.C. § 1437f (O)(7)(C)&(D); or 42U.S.C. § 1437f(o)(20) (See Section 5 in this Policy; or
- (c) the disclosure is required by applicable law.

4.5: Compliance Not Sufficient to Constitute Evidence of Unreasonable Act:

The NBHA, owner or manager compliance with Section 4.1, 4.2 and 4.3 shall alone not be sufficient to show evidence of an unreasonable act or omission by them.

5.0 APPROPRIATE BASIS FOR DENIAL OF ADMISSION, ASSISTANCE OR TENANCY:

- 5.1: NBHA shall not deny participation or admission to a program on the basis of a person's victim status, if the person otherwise qualifies for admission of assistance.
- 5.2 In incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be a serious or repeated violation of the lease by victim and shall not be good cause for denying to a victim admission to a program, terminating Section 8 assistance or occupancy rights, or eviction a tenant.
- 5.3 Criminal activity directly related to domestic violence, dating violence, sexual assault or stalking engaged in by a member of 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 if the tenant or an affiliated individual of the tenant is the victim of that domestic violence, dating violence, sexual assault or stalking.
- 5.4 Notwithstanding Section 5.1, 5.2 and 5.3 NBHA, an owner or manager may bifurcate a lease to evict, remove or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual . 42 U.S.C. § 1437d (1)(6)(B) & VAWA 2013

- 5.5 Nothing in Section 5.1 and 5.3 shall limit the authority of NBHA, an owner or manager, when notified, to honor court order addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members when the family breaks up.
- 5.6 Nothing in Section 5.1, 5.2 and 5.3 limits NBHA, an owner or manager's authority to evict or terminate assistance to any tenant for any violation of lease not premised on the act or acts of violence against the tenant or a member of the tenant's household. However NBHA, owner or manager may not hold a victim to a more demanding standard.
- 5.7 Nothing in Section 5.1, 5.2 and 5.3 limits NBHA, an owner or manager's authority to evict or terminate assistance, or deny admission to a program if the NBHA, owner or manager can show an actual and imminent threat to other tenants, neighbors, guests, their employees, persons providing service to the property or others if the tenant family is not evicted or terminated from assistance or denied admission.
- 5.8 Nothing in Section 5.1, 5.2 or 5.3 limits NBHA, an owner or manager's authority to deny admission, terminate assistance or evict a person who engages in criminal acts including, but not limited to, acts of physical violence or stalking against family members or others.
- 5.9 A Section 8 recipient who moves out of a assisted dwelling unit to protect their health or safety and who: (a) is a victim under this Policy; (b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the unit; and (c) has complied with all other obligations of the Section 8 program may receive a voucher and move to another Section 8 jurisdiction.
- 5.10 A public housing tenant who wants a transfer to protect their health or safety and who: (a) is victim under this Policy; (b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the units; and (3) has complied with all other obligations of the public housing income program may transfer to another NBHA unit, receive a Section 8 voucher and stay in Connecticut or move to another Section 8 jurisdiction.

6.0 **ACTIONS AGAINST A PERPETRATOR:** NBHA may evict, terminate assistance, deny admission to a program or trespass a perpetrator from its property under this Policy. The victim shall take action to control, or prevent the domestic violence, dating violence, sexual assault or stalking. The action may include, but is not limited to: (a) obtaining and enforcing a restraining or no contact order or order for protection against the perpetrator; (b) obtaining and enforcing a trespass against the perpetrator; (c) enforcing NBHA or law enforcement's trespass of the perpetrator; (d) preventing the delivery of the perpetrator's mail to the victim's unit; (e) providing identifying information listed in 4.2; and (f) other reasonable measures.

7.0 **NOTICE TO APPLICANTS, PARTICIPANTS, TENANTS AND SECTION 8 MANAGERS AND OWNERS:**

NBHA shall provide notice to applicants, participants, tenants, managers and owners of their rights and obligations under Section 4.4 Confidentiality and Section 5.0 Appropriate Basis for Denial of Admission, Assistance or Tenancy. Notice to program participants will include a copy of form HUD-50066.

8.0 **REPORTING REQUIREMENTS:** NBHA shall include in its 5-year plan a statement of goals, objectives, policies or programs that will serve the needs of victims. NBHA shall also include a description of activities, services or programs provided or offered either directly or in partnership with other service providers to victims, to help victims obtain or maintain housing or to prevent the abuse or to enhance the safety of victims.

9.0 **CONFLICT AND SCOPE:** This Policy does not enlarge NBHA's duty under any law, regulation or ordinance. If this Policy conflicts with the applicable law, regulation or ordinance, the law, regulation or ordinance shall control. If this Policy conflicts with another NBHA policy such as its Statement of Policies or Section 8 Administration Plan, this Policy will control.

10.0 **AMENDMENT:** The Executive Director may amend this policy when it is reasonably necessary to effectuate the Policy's intent, purpose or interpretation. The proposed amendment along with the rationale for the amendment shall be submitted to the Executive Director for consideration. Where reasonably necessary, the Executive Director may approve the amendment. The amendment shall be effective and incorporated on the date that the Executive Director signs the amendment.

HOUSING AUTHORITY OF THE CITY OF NEW BRITAIN

**CERTIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE ,
SEXUAL ASSAULT OR STALKING**

Certification must be made as provided in Section A and either Section B, or Section C below:

1. Date delivered to resident: _____.
 2. Must complete and return form by _____ (14 business days after resident's receipt).
 3. If cannot complete form by this date, contact _____ at _____.
-

A. RESIDENT/APPLICANT MUST COMPLETE:

Attach completed and sign HUD Form 50066 – copy attached

B. CERTIFICATION IS MADE BY PROVIDING POLICE REPORT OR COURT RECORD:

1. Name of the victim of domestic violence, dating violence, sexual assault or stalking: _____
2. Victim's address: _____
3. Head of Household on lease, if not the victim: _____
4. Perpetrator's name, if known, and if safe to provide: _____
5. If perpetrator's name is not known, explain why: _____
6. Perpetrator's relation to victim: _____
7. Date and description of the qualifying incidents: _____

8. Certification of the violence:

Attached is a copy of a police report, temporary, or permanent restraining order, or other police or court record relating to the violence.

I hereby certify that the description of an incident, or incidents of domestic violence, dating violence, sexual assault or stalking set forth in the attached police report, or court record is true and correct.

Signature of resident: _____ Dated: _____

C. **IF CERTIFICATION IS BY AN EMPLOYEE, AGENT, OR VOLUNTER OF A VICTIM SERVICE PROVIDER, ATTORNEY, OR MEDICAL PROFESSIONAL FROM WHOM THE VICTIM HAS SOUGHT HELP IN ADDRESSING DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT OR STALKING OR ITS EFFECTS:**

The SERVICE PROVIDER, OR PROFESSIONAL must complete this section:

1. Name of the victim of domestic violence, dating violence, sexual assault or stalking: _____

2. Victim's address: _____

3. Head of Household on lease, if not the victim: _____

4. Perpetrator's name, if known: _____

5. If perpetrator's name is not known, explain why: _____

6. Perpetrator's relation to victim: _____

7. Dates and description of the qualifying incidents: _____

(attach additional seat if necessary)

8. Certification of the violence.

A professional who helped the victim address the violence must complete the following section:

1. **Name of person completing this section:** _____
2. **What category best describes you?** **Attorney** **Medical Professional**
 Victim Service Provider
3. **Title** _____ **Phone #:** _____
4. **Agency / Business Name:** _____
5. **Address:** _____

I hereby certify under penalty of perjury that the foregoing is true and correct and I believe that the incident(s) described above are bona fide incidents of abuse.

Signature: _____ **Date Signed:** _____

Attested to as true and correct:

Signature of victim: _____ **Date Signed:** _____

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

The NBHA will notify an applicant family of its final determination of eligibility in accordance with the policies in Section 4-III.E.

If a NBHA uses a criminal record or sex offender registration information obtained under 24 CFR 5, Subpart J, as the basis of a denial, a copy of the record must precede the notice to deny, with an opportunity for the applicant to dispute the accuracy and relevance of the information before the NBHA can move to deny the application. In addition, a copy of the record must be provided to the subject of the record [24 CFR 5.903(f) and 5.905(d)].

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, the NBHA will notify the family in writing of the proposed denial and provide a copy of the record to the applicant and to the subject of the record. The family will be given 10business days to dispute the accuracy and relevance of the information. If the family does not contact the NBHA to dispute the information within that 10-day period, the NBHA will proceed with issuing the notice of denial of admission. A family that does not exercise their right to dispute the accuracy of the information prior to issuance of the official denial letter will still be given the opportunity to do so as part of the informal hearing process. Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-III.F.

EXHIBIT 3-1: DETAILED DEFINITIONS RELATED TO DISABILITIES

Person with Disabilities [24 CFR 5.403]

The term **person with disabilities** means a person who has any of the following types of conditions.

- Has a disability, as defined in 42 U.S.C. Section 423(d)(1)(A), which reads:

Inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months

In the case of an individual who has attained the age of 55 and is blind (within the meaning of “blindness” as defined in section 416(i)(1) of this title), inability by reason of such blindness to engage in substantial gainful activity, requiring skills or ability comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.
- Has a developmental disability as defined in the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C.15002(8)], which defines developmental disability in functional terms as follows:
 - A. **IN GENERAL**: The term developmental disability means a severe, chronic disability of an individual that:
 - i. Is attributable to a mental or physical impairment or combination of mental and physical impairments
 - ii. Is manifested before the person attains age twenty-two
 - iii. Is likely to continue indefinitely
 - iv. results in substantial functional limitations in three or more of the following areas of major life activity: (a) self-care, (b) receptive and responsive language, (c) learning, (d) mobility, (e) self-direction, (f) capacity for independent living, and (g) economic self-sufficiency
 - v. reflects the person’s need for a combination and sequence of special, interdisciplinary, or generic services, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.”
 - B. **INFANTS AND YOUNG CHILDREN**: An individual from birth to age 9, inclusive, who has a substantial developmental delay or specific congenital, or acquired condition, may be considered to have a developmental disability without meeting three (3), or more of the criteria described in clause (i) through (v) of subparagraph (A) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

- Has a physical, mental, or emotional impairment that is expected to be of long-continued and indefinite duration; substantially impedes his or her ability to live independently, and is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

People with the acquired immunodeficiency syndrome (AIDS) or any conditions arising from the etiologic agent for AIDS are not excluded from this definition.

A person whose disability is based solely on any drug or alcohol dependence does not qualify as a person with disabilities for the purposes of this program.

For purposes of reasonable accommodation and program accessibility for persons with disabilities, the term person with disabilities refers to an individual with handicaps.

Individual with Handicaps [24 CFR 8.3]

Individual with handicaps means any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment. The term does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents the individual from participating in the program or activity in question, or whose participation, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others. As used in this definition, the phrase:

(1) Physical or mental impairment includes:

- (a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine
- (b) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term physical or mental impairment includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(2) Major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

(3) Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) Is regarded as having an impairment means:

- (a) Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by a recipient as constituting such a limitation
- (b) Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment

(c) Has none of the impairments defined in paragraph (a) of this section but is treated by a recipient as having such an impairment

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