

## **ELIGIBILITY**

Spokane Housing Authority (SHA) 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 SHA 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 SHA.
  - 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 family members as required.
  - Consent to SHA's collection and use of family information as provided for in PHA-provided consent forms.
- SHA must determine that the current or past behavior of household members does not include activities that are prohibited by HUD or SHA.

### **PART III: DENIAL OF ADMISSION**

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

In addition, HUD requires or permits SHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. SHA's authority in this area is limited by the Violence against Women Reauthorization Act of 2005 (VAWA), 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.

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

PHAs are 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 SHA 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.

SHA will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if SHA is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by SHA, or the person who committed the crime is no longer living in the household.

- SHA 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]. *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)].

PHA Policy

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

- SHA 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.

PHA Policy

In determining reasonable cause, SHA 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. A conviction will be given more weight than an arrest. SHA will also consider evidence from treatment providers or community-based organizations providing services to household members.

- 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, the family will be denied.
- Any household member is currently registered as a sex offender under a state sex offender registration program.

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

#### **Criminal Activity**

PHA Policy

If any household member is currently engaged in, or has engaged in any of the following criminal activities, within the past five 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 5 years. A conviction for such activity will be given more weight than an arrest or an eviction.

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

### **Previous Behavior**

In the event of the receipt of unfavorable information with respect to an applicant, SHA must consider the time, nature, and extent of the applicant's conduct (including the seriousness of the offense). As discussed in Section 3-III.F, SHA may also need to consider whether the cause of the unfavorable information may be that the applicant is the victim of domestic violence, dating violence, or stalking.

#### PHA Policy

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

- Has a pattern of unsuitable past performance in meeting financial obligations, including rent within the past three years

- Has a pattern of disturbance of neighbors, destruction of property, or living or housekeeping habits at prior residences within the past three years which may adversely affect the health, safety, or welfare of other tenants

- Has a pattern of eviction from housing or termination from residential programs within the past three 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 PHA personnel

*Abusive or violent behavior towards PHA 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, SHA will consider the factors discussed in Sections 3-III.E and 3-III.F. Upon consideration of such factors, SHA may, on a case-by-case basis, decide not to deny admission.

SHA 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**

##### PHA Policy

SHA will perform criminal background checks 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, SHA will request a fingerprint card and will request information from the National Crime Information Center (NCIC).

PHAs are 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 SHA proposes to deny admission based on a criminal record or on lifetime sex offender registration information, SHA 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]***

SHA 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 SHA 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.

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

SHA is responsible for the screening and selection of families to occupy public housing units. SHA 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.

##### PHA Policy

SHA 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]**

In order to determine the suitability of applicants SHA will examine applicant history for the past three years. Such background checks will include:

*Past Performance in Meeting Financial Obligations, Especially Rent*

PHA and landlord references for the past three years, gathering information about past performance meeting rental obligations such as rent payment record, late payment record, whether SHA/landlord ever began or completed lease termination for non-payment. 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 SHA 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.

*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 three 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 may be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction.

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**

#### **Consideration of Circumstances**

SHA will consider the following factors prior to 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, or

(as discussed further in section 3-III.F) a victim of domestic violence, dating violence, or stalking.

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

SHA 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**

#### PHA Policy

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.

After admission to the program, the family must present evidence of the former family member's current address upon PHA request.

### **Reasonable Accommodation**

#### PHA Policy

If the family indicates that the behavior of a family member with a disability is the reason for the proposed denial of admission, SHA will determine whether the behavior is related to the disability. If so, upon the family's request, SHA will determine whether alternative measures are appropriate as a reasonable accommodation. SHA 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-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING**

The Violence against Women Reauthorization Act of 2005 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 607(2) of VAWA adds the following provision to Section 6 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the public housing program:

Every contract for contributions shall provide that . . . the public housing agency shall not deny admission to the project to any applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking if the applicant otherwise qualifies for assistance or admission, and that nothing in this section shall be

construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

## **Notification**

SHA acknowledges that a victim of domestic violence, dating violence, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under SHA's policies. Therefore, if SHA makes a determination to deny admission to an applicant family, SHA will include in its notice of denial:

A statement of the protection against denial provided by VAWA

A description of PHA confidentiality requirements

A request that an applicant wishing to claim this protection submit to SHA documentation meeting the specifications below with her or his request for an informal hearing (see section 14-I.B)

## **Documentation**

### ***Victim Documentation***

An applicant claiming that the cause of an unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking must provide documentation (1) demonstrating the connection between the abuse and the unfavorable history and (2) naming the perpetrator of the abuse. The documentation may consist of any of the following:

A statement signed by the victim certifying that the information provided is true and correct and that it describes bona fide incident(s) of actual or threatened domestic violence, dating violence, or stalking

A police or court record documenting the domestic violence, dating violence, or stalking

Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

### ***Perpetrator Documentation***

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit

Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or

other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

#### ***Time Frame for Submitting Documentation***

The applicant must submit the required documentation with her or his request for an informal hearing (see section 14-I.B) or must request an extension in writing at that time. If the applicant so requests, SHA will grant an extension of 10 business days and will postpone scheduling the applicant's informal hearing until after it has received the documentation or the extension period has elapsed. If, after reviewing the documentation provided by the applicant, SHA determines that the family is eligible for assistance, no informal hearing will be scheduled, and SHA will proceed with admission of the applicant family.

#### **PHA Confidentiality Requirements**

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, SHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

#### **3-III.G. NOTICE OF ELIGIBILITY OR DENIAL**

If, based on a criminal record or sex offender registration information an applicant family appears to be ineligible, SHA will notify the family in writing of the denial and provide access to a copy of the record to the applicant and to the subject of the record. The family will be given 10 business days to dispute the accuracy and relevance of the information.