



**The Section 8 Housing Choice Voucher
Program:
Federal Rules and Local Policies
Affecting Individuals with Criminal
Histories**

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INTRODUCTION

Established in 1975, the Housing Choice Voucher Program – commonly referred to by its former name, “Section 8” – is the federal government’s primary form of housing assistance for low-income and homeless families with children, homeless individuals, the elderly, veterans, and people with disabilities.¹ The vouchers subsidize the difference between 30% of a household’s income and the amount needed to rent a unit. They are administered by 2,600 housing agencies across the country and help millions of people each year pay for decent, safe, affordable housing in the private rental market.²

Research demonstrates that Section 8 vouchers are particularly successful in helping homeless families find and retain housing: for instance, one study of welfare-eligible families found that voucher assistance resulted in a 74% reduction in the incidence of homelessness,³ while another found that 88% of homeless families who received a voucher remained stably housed after a year.⁴ In addition, the flexibility of vouchers allows them to be used for supportive housing, which is a highly cost-efficient combination of affordable housing and services that helps people live more stable, productive lives.⁵

Here in Los Angeles, the main sources of Section 8 vouchers are the Housing Authority of the City of Los Angeles (HACLA) and the Housing Authority of the County of Los Angeles (HACOLA). Since the early 1990s, HACLA has also administered the Section 8 Homeless Program, which to date has housed more than 5,500 formerly homeless individuals and families. Following a two-year suspension, the program was reinstated in April 2006 with 1,169 vouchers allocated to 12 nonprofit organizations and one County Department serving the homeless.⁶ HACOLA also has a homeless set-aside program that provides a limited number of Section 8 vouchers to homeless applicants who are pre-qualified by selected nonprofit agencies.⁷

Unfortunately, many homeless people face significant barriers to obtaining a voucher. In addition to scarce supply and the reluctance of some landlords to accept Section 8, numerous applicants are turned away from the program because of rules excluding persons with criminal histories and substance abuse problems. While a few of these restrictions are federally mandated, most are left to the discretion of local housing authorities.

¹ National Alliance to End Homelessness, *The Section 8 Housing Choice Voucher Program: A Tool for Ending Homelessness* (Washington, D.C.: National Alliance to End Homelessness, 2006).

² National Alliance to End Homelessness.

³ Gregory Mills, Michelle Woods, et al., *Effects of Housing Vouchers on Welfare Families: Final Report* (Washington, D.C.: U.S. Dept. of Housing and Urban Development, 2007), cited in Jill Khadduri, *Housing Vouchers are Critical for Ending Family Homelessness* (Washington, D.C.: National Alliance to End Homelessness, 2008).

⁴ Debra J. Rog, Ariana M. Gilbert-Mongelli and Ezell Lundy, *The Family Reunification Program: Final Evaluation Report* (Washington, D.C.: Vanderbilt Institute for Public Policy Studies, 1997), cited in Khadduri.

⁵ In Los Angeles County, the cost of one night in supportive housing is \$30.10, compared to \$37.50 for a night in shelter, \$63.69 for a night in jail, and \$1,474.05 for a night at a hospital. Source: The Lewin Group, prepared for the Corporation for Supportive Housing, *Costs of Serving Homeless Individuals in Nine Cities*, (Corporation for Supportive Housing, 2004). See also Corporation for Supportive Housing, *Supportive Housing*, <http://www.csh.org/index.cfm?fuseaction=Page.viewPage&pageId=118> (accessed 11 April 2008).

⁶ Shelter Partnership, Inc., *An Evaluation of the Housing Authority of the City of Los Angeles Section 8 Homeless Housing Choice Voucher Program* (Los Angeles: Shelter Partnership, Inc., 2007).

⁷ Los Angeles County Community Development Commission, *Community Development Consolidated Plan 2003-2008* (Los Angeles: Los Angeles County Community Development Commission, 2003).

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The federal regulations governing Section 8 denials and terminations are found in Title 24, part 982 of the Code of Federal Regulations. The corresponding policies of HACLA and HACOLA are found in their Section 8 Administrative Plans, which outline their policies and procedures for managing the Section 8 program.

This memorandum provides a side-by-side comparison of the federal Section 8 regulations affecting persons with criminal records and the policies of HACLA and HACOLA (some provisions have been paraphrased for ease of understanding). The objective is to identify areas where locally erected barriers to access can be reduced, thus maximizing the potential of the Section 8 program to help end homelessness in the City and County of Los Angeles.

I. GENERAL PROVISIONS

(1) Definitions [24 CFR §5.100 and §982.4]

Drug related criminal activity: 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: 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.

PHA: A public housing agency, including a public housing authority.

Family: A group of persons, as determined by the PHA, approved to reside in a unit with assistance under the program.

Household is used interchangeably with *family*.

(2) Evidentiary Standard [24 CFR §982.553(c)]

HUD authorizes PHAs to deny or terminate assistance for an activity based on a preponderance of the evidence, regardless of whether the person has been arrested or convicted for such activity.

Both HACLA and HACOLA define a preponderance of the evidence as evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act or acts occurred. [HACLA Chapter 13 Introduction; HACOLA §15.3.5]

(3) Consideration of Circumstances [24 CFR §982.552(c)(2)(i)]

In cases where HUD does not specifically require denial or termination, HUD authorizes PHAs to consider all relevant circumstances when determining whether to deny or terminate assistance. Relevant circumstances can include the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to disability, and the effects of denial or termination on non-culpable family members.

Under HUD regulations, if the family includes a person with a disability, PHA decisions regarding denial or termination are subject to reasonable accommodation requirements.

Both HACLA and HACOLA state that, where possible, they have discretion to (but are not required to) take relevant circumstances into consideration. Both also comply with reasonable accommodation requirements. [HACLA §13.8; HACOLA §15.3.1]

(4) Assistance with Conditions to Non-Culpable Family Members [24 CFR §982.552(c)(2)(ii)]

In cases of denial or termination, HUD authorizes PHAs to continue assistance to non-culpable family members. PHAs may impose, as a condition of continued assistance, a requirement that the violating family member(s) will not reside in the unit.

HACLA	HACOLA
<p><i>Assistance with conditions available in most cases:</i></p> <p>HACLA's policy is that if the family is denied or terminated because of the actions of a specific household member, the family may withdraw that person from the household. HACLA may admit other family members, but may impose a condition that the violating member(s) never reside in the unit. [§§13.9, 13.10]</p>	<p><i>Assistance with conditions available:</i></p> <p>HACOLA will consider a household eligible for rental assistance if the household member who committed the criminal act will not be a part of the assisted household. The family may be required to submit written certification that the ineligible family member(s) will not reside in and/or visit the household. [§15.3.1]</p>
<p>HACLA will <u>not</u> provide assistance if any household member was evicted from federally assisted housing for drug-related criminal activity (including person use/possession) within the past three years. In such a case, assistance will <u>only</u> be provided in case of successful rehabilitation or permanent removal from the household. [§13.10]</p>	

II. MANDATORY DENIALS

HUD requires public housing agencies (PHAs) to deny housing to families that include certain types of individuals:

- ✗ Individuals who have been evicted from federally assisted housing within the past three years because of drug related criminal activity;
- ✗ Individuals who are subject to a lifetime sex offender registration requirement in any state;
- ✗ Individuals who have been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing;
- ✗ Individuals who are currently engaging in illegal drug use; and
- ✗ Individuals who are currently abusing alcohol in a manner that interferes with the health, safety or right to peaceful enjoyment of other residents.

The PHAs have discretion to make exceptions for persons who have been rehabilitated.

(1) Previous Evictions for Drug Related Criminal Activity [24 CFR §982.553(a)(1)(i)]

HUD requires PHAs to deny admission for three years from the date of eviction if any household member was evicted from federally assisted housing for drug-related criminal activity (including personal use).

However, the PHA may admit the household if the PHA determines:

- (A) That the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the PHA; or
- (B) That the circumstances leading to eviction no longer exist (for example, the criminal household member has died or is imprisoned).

HACLA	HACOLA
<p><i>Three-year ban if evicted from public housing for drug-related criminal activity:</i></p> <p>HACLA denies admission if any member of the household was evicted from federally assisted housing for drug related criminal activity (including personal use or possession of a drug) within <u>3 years</u> prior to the initial interview. [§13.3.1]</p>	<p><i>Three-year ban if evicted from public housing for drug-related criminal activity:</i></p> <p>HACOLA denies admission if any household member was evicted from federally assisted housing because of a drug-related criminal activity for a <u>3-year</u> period beginning on the date of such eviction. [§2.8.1(1)]</p>
<p><i>Exception – successful completion of treatment or permanent removal from household:</i></p> <p>If the eviction was <u>solely for illegal personal use</u> of a drug, HACLA will consider admitting the family if the drug user has successfully completed a <u>rehabilitation</u> program, or if the circumstances leading to the eviction <u>no longer exist</u> (for example, the household member who engaged in drug use has died or is imprisoned or is permanently hospitalized). [§13.3.1]</p>	<p><i>Exception – successful completion of treatment or permanent removal from household:</i></p> <p>HACOLA will consider admitting the family if the drug user has successfully completed a <u>rehabilitation</u> program, or if the circumstances leading to the eviction <u>no longer exist</u> (i.e. the individual is imprisoned or is deceased). [§2.8.1(1)]</p>

(2) Lifetime Sex Offender Registration -- Applicants [24 CFR §982.553(a)(2)(i)]

HUD requires PHAs to prohibit admission of the family if any household member is subject to a lifetime sex offender registration requirement in any state. The PHA must perform criminal history background checks necessary to determine whether any household member is subject to a lifetime sex offender registration requirement in any state where the household members are known to have resided.

Both HACLA and HACOLA prohibit admission of the family if any household member is subject to a lifetime sex offender registration requirement in any state. [HACLA §13.5.1; HACOLA §2.8.1(4)]

(3) Production of Methamphetamine – Applicants [24 CFR §982.553(a)(1)(ii)(C)]

HUD requires PHAs to deny admission if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

HACLA	HACOLA
<p><i>Denies admission for any methamphetamine production conviction, regardless of time or location:</i></p> <p>HACLA's standard is to deny admission if any household member has ever been convicted of the manufacture or production of methamphetamine, <u>regardless of the time or location</u> of such manufacture or production. [§13.3.1.4]</p>	<p><i>Denies admission if methamphetamine production occurred on the premises of federally assisted housing:</i></p> <p>HACOLA's policy is to deny admission if any household member has ever been convicted of the manufacture or production of methamphetamine <u>on the premises of federally assisted housing</u>. [§2.8.1(2)]</p>

(4) Illegal Use of a Drug – Applicants [24 CFR §982.553(a)(1)(ii)(A)-(B)]

HUD requires PHAs to establish standards that deny admission if any household member is currently engaging in illegal drug use or has a pattern of drug use that threatens the health, safety or right to peaceful enjoyment of other residents.

“Currently engaging in” means the use was recent enough to warrant a belief that it is current/ongoing. [24 CFR §982.553 (a)(2)(ii)(C)(2)]

The PHA may permit the person to be admitted if the person demonstrates that he or she is not currently using drugs and has been rehabilitated in any one of three ways:

- (1) Participation in a supervised drug or alcohol rehabilitation program;
- (2) Completion of a supervised drug or alcohol rehabilitation program;
- (3) Successful rehabilitation in some other manner. [24 CFR §982.552(c)(2)(iii)]

HACLA	HACOLA
<p><i>Denies admission if engaged in or convicted of drug use within past year:</i></p> <p>HACLA’s policy is to deny admission if, within <u>one year</u> of the initial interview, any household member has <u>engaged in</u> illegal drug use (based on a preponderance of the evidence), or was <u>convicted</u> of illegal drug use. [§13.3.1.3]</p>	<p><i>Denies admission if more than one incident in past 12 months, regardless of conviction:</i></p> <p>HACOLA is required to deny admission if the Housing Authority has reasonable cause to believe that there is a pattern of illegal use of a drug by the applicant or any household member. [§2.8.1(3)]</p> <p>A “pattern” is shown if there is more than one “incident” (including <u>arrests, convictions, no contest pleas, fines, and city ordinance violations</u>) within the <u>past 12 months</u>. [§2.8.7]</p>
<p><i>Exception –completion of or participation in treatment:</i></p> <p>HACLA will admit such a family only if the drug user certifies in writing that he or she is not currently engaged in the illegal use of any drug, <u>and</u> provides either documentation that he or she has successfully <u>completed</u> a drug rehabilitation program, <u>or</u> documentation that he or she is currently an active <u>participant</u> in a drug rehabilitation program. [§13.3.1.3]</p>	<p><i>Exception: completion of treatment:</i></p> <p>HACOLA may approve admission if the drug user provides sufficient evidence that he or she is no longer engaging in illegal drug use <u>and</u> has successfully <u>completed</u> a supervised rehabilitation program. HACOLA will <u>not</u> accept current participation in a rehabilitation program – only successful completion is deemed sufficient. [§2.8.1(3)]</p>

(5) Alcohol Abuse – Applicants [24 CFR §982.553(a)(2)(ii)(C)(3)]

HUD requires PHAs to establish standards that deny admission if a household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

The PHA may permit the person to be admitted if the person demonstrates that he or she is not currently using drugs and has been rehabilitated in any one of three ways:

- (1) Participation in a supervised drug or alcohol rehabilitation program;
- (2) Completion of a supervised drug or alcohol rehabilitation program;
- (3) Successful rehabilitation in some other manner. [24 CFR §982.552(c)(2)(iii)]

HACLA	HACOLA
<p><i>One-year ban for engaging in or being convicted of criminal conduct involving alcohol:</i></p> <p>HACLA denies admission if within <u>one year</u> of the initial interview any member of the household has <u>engaged in criminal conduct</u> that involved the use of alcohol or has been <u>convicted</u> of any crime that involved the use of alcohol. [§13.6.1]</p>	<p><i>Denies admission if more than one incident in past 12 months, regardless of conviction:</i></p> <p>HACOLA denies admission if there is a pattern of alcohol abuse by any household member that threatens the health, safety or right to peaceful enjoyment of other residents. [§2.8.1(5)]</p> <p>A "pattern" is shown if there is more than one "incident" (including <u>arrests, convictions, no contest please, fines and city ordinance violations</u>) within the <u>previous 12 months</u>. [§2.8.7]</p>
<p><i>Exception – completion of or participation in treatment:</i></p> <p>HACLA will make an exception if the alcohol abuser provides verifiable documentation that he or she has successfully <u>completed</u> an alcohol rehabilitation program, <u>or</u> provides verifiable documentation that he or she is currently an active <u>participant</u> in an alcohol rehabilitation program. [§13.6.1]</p>	<p><i>Exception – completion of treatment:</i></p> <p>HACOLA may make an exception if the drug user provides sufficient evidence that he or she is no longer engaging in alcohol abuse and has successfully <u>completed</u> a supervised rehabilitation program. HACOLA will <u>not</u> accept current participation in a rehabilitation program – only successful completion is deemed sufficient. [§2.8.1(5)]</p>

III. PERMISSIVE DENIALS

HUD regulations permit public housing agencies to deny admission where a household member has certain kinds of criminal records, if the criminal activity occurred a “reasonable time” before the person seeks admission:

- ✍ Individuals who have engaged in any drug-related criminal activity;
- ✍ Individuals who have engaged in any violent criminal activity;
- ✍ Individuals who have engaged in any other criminal activity that would threaten the health, safety or right to peaceful enjoyment of other residents, the owner, or PHA personnel.

The regulations are silent on what constitutes a “reasonable time.”

Federal regulations also permit public housing agencies to deny admission where:

- ✍ A household member has been evicted from assisted housing within the past five years; or
- ✍ A PHA has ever terminated assistance for any household member.

(1) Drug Related Criminal Activity – Applicants [24 CFR §982.553 (a)(2)(ii)(A)(1) and (a)(2)(ii)(B)]

HUD authorizes PHAs to deny admission of persons who have engaged in drug-related criminal activity during a reasonable period of time before the person seeks admission.

HACLA	HACOLA
<p><i>Three-year ban in case of conviction:</i></p> <p>HACLA will deny admission to the family if any member of the household was <u>convicted</u> of drug related criminal activity during the <u>three years</u> prior to the date of the initial interview. [§13.3.1.2]</p>	<p><i>Three-year ban in case of conviction or incarceration:</i></p> <p>HACOLA will deny admission for drug-related criminal activity for a period of <u>three years</u> following the end of a <u>conviction or incarceration</u> (whichever is later) with no further arrest or convictions other than minor traffic violations. [§2.8.1(6)]</p>
<p><i>Exception – convictions for personal use/possession:</i></p> <p>HACLA does <u>not</u> consider a conviction for <u>personal use or possession</u> as a conviction for purposes of this policy. [§13.3.1.2]</p>	<p><i>Exception – completion of treatment:</i></p> <p>HACOLA may waive the three-year ban if the person provides sufficient evidence that they are <u>no longer engaging</u> in the illegal use of a drug <u>and</u> has successfully <u>completed</u> a supervised drug rehabilitation program. [§2.8.1(6)]</p>
<p><i>Exception – disability:</i></p> <p>HACLA will consider making exceptions from this provision for persons with disabilities. [§13.3.1.2]</p>	

(2) Violent Criminal Activity – Applicants [24 CFR §982.553(a)(2)(ii)(A)(2)]

HUD authorizes PHAs to deny admission of persons who have engaged in violent criminal activity during a reasonable period of time before the person seeks admission.

HACLA	HACOLA
<p><i>Three-year ban in case of felony conviction:</i></p> <p>HACLA standards are to deny admission to the family if any member of a household suffered a <u>felony conviction</u> for violent criminal activity (against persons or property) during the <u>three years</u> prior to the date of the initial interview or if a preponderance of the evidence indicates that the applicant has <u>engaged in</u> violent criminal activity during the three years prior to the date of the initial interview, regardless of whether or not the applicant was convicted for such conduct. [§13.4.2]</p>	<p><i>Three-year ban for any conviction:</i></p> <p>HACOLA will deny admission for violent criminal activity for a period of <u>three years</u> following the end of a <u>conviction or incarceration</u> (whichever is later) with no further arrest or convictions other than minor traffic violations. This applies to convicted perpetrators only. [§2.8.1(6)]</p>
<p><i>HACLA exception – disability:</i></p> <p>HACLA will consider making exceptions for persons with disabilities. [§13.4.2]</p>	

(3) Other Criminal Activity [§982.553(a)(2)(ii)(A)(3)]

HUD authorizes PHAs to deny admission to persons who, during a reasonable time before admission, have engaged in other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity. HUD also authorizes PHAs to deny admission to persons who, during a reasonable time before admission, have engaged in other criminal activity which may threaten the health or safety of the owner, property management staff, or any PHA employee, contractor or agent.

HACLA	HACOLA
	<p><i>Denies admission if applicant is on parole or probation:</i></p> <p>HACOLA <u>will deny</u> admission if any household member has not completed <u>parole or probation</u>, including summary probation. [§2.8.1(8)]</p>

(4) Eviction from Assisted Housing within Past Five Years [24 CFR §982.552(c)(1)(ii)] – Applicants and Participants

HUD authorizes PHAS to deny or terminate program assistance if any household member has been evicted from federally assisted housing within the last five years.

HACLA	HACOLA
<p><i>Three-year ban on admission in case of eviction for cause:</i></p> <p>HACLA denies admission to the family if any member of the family has been <u>evicted for cause</u> from any <u>HACLA</u> federally assisted housing program within the <u>3 years</u> immediately prior to the initial interview. [§13.7.9]</p>	<p><i>Five-year ban on admission in case of eviction:</i></p> <p>HACOLA may deny admission or terminate assistance if any household member has been <u>evicted</u> from a <u>federally assisted</u> housing program within the <u>five years</u> prior to admission. HACOLA’s policy does not specify whether or not the eviction must have been for cause. [§2.9]</p>

(5) Prior Termination from Assisted Housing [24 CFR §982.552(c)(1)(iii)]

HUD authorizes PHAs to deny or terminate program assistance if a PHA has ever terminated assistance under the program for any household member.

HACLA	HACOLA
<p><i>Three-year ban on admission in case of prior termination by HACLA for cause:</i></p> <p>HACLA denies admission to the family if any member of the family has been terminated from any <u>HACLA</u> Section 8 assisted housing program <u>for cause</u> within the <u>3 years</u> immediately prior to the initial interview. If the family is <u>readmitted</u> to any HACLA assisted housing program after a termination for cause from any HACLA Section 8 assisted housing program and is subsequently evicted or terminated, HACLA permanently denies the family participation in any of its assisted programs. [§13.7.8]</p>	

IV. MANDATORY TERMINATIONS

HUD regulations require PHAs to terminate families that contain certain categories of individuals:

- ✘ Individuals who have been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing;
- ✘ Individuals who are currently engaged in illegal drug use or a pattern of drug use that threatens the health, safety or right to peaceful enjoyment of other residents;
- ✘ Individuals who are abusing alcohol or exhibit a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents;
- ✘ Individuals who engage in drug-related criminal activity;
- ✘ Individuals who engage in violent criminal activity;
- ✘ Individuals evicted from federally assisted housing for serious violation of the lease; and
- ✘ Families or individuals who are absent from the unit for over 180 days.

(1) Production of Methamphetamine – Participants [24 CFR §982.553(b)(1)(ii)]

HUD requires PHAs to immediately terminate assistance to a family if the PHA determines that any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.

HACLA	HACOLA
<p><i>Terminates assistance in case of manufacture/production on the premises of federally assisted housing:</i></p> <p>HUD requires HACLA to terminate assistance for the family if it determines that any member of the household has ever been convicted of drug related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing. [§13.3.4]</p>	

(2) Illegal Use of a Drug – Participants [24 CFR §982.553(b)(1)(i)]

HUD requires PHAs to **establish standards that allow for termination** of a family if a household member is currently engaged in illegal drug use or if a pattern of drug use by any household member threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

HACLA	HACOLA
<p><i>Terminates assistance in case of conviction or eviction:</i></p> <p>HACLA’s policy is to terminate assistance if any household member is <u>convicted</u> of illegal drug use, or if drug use or a pattern of use is a contributing factor to an <u>eviction</u>. [§13.3.3]</p>	<p><i>Terminates assistance in case of arrest, conviction, eviction, disturbance, or violation of lease:</i></p> <p>HACOLA may terminate a participant for drug related activity that occurs on <u>or</u> off the premises of the assisted unit. A conviction is <u>not</u> required to deny or terminate assistance.</p> <p>HACOLA’s policy is that participants may be terminated if they have been <u>arrested</u>, <u>convicted</u> or whose <u>tenancy is being terminated</u> due to drug-related criminal activity or whose activities have created a <u>disturbance</u> in the building or neighborhood.</p> <p>The family <u>will</u> be terminated if they <u>violate the lease</u> for drug-related criminal activity. [§15.3.3]</p>
<p><i>Exception – non-culpable family members:</i></p> <p>HACLA may, at its sole discretion, continue to assist non-culpable family members <u>so long as</u> the illegal drug use did not result in eviction for serious violation of the lease. [§13.3.3]</p>	<p><i>Exception – non-culpable family members:</i></p> <p>In appropriate cases, the Housing Authority may permit the family to continue receiving assistance provided that family members determined to have engaged in the prescribed activities will not reside and/or visit the unit. [§15.3.3]</p>
	<p><i>Exception – juveniles:</i></p> <p>If the violating member was a minor, HACOLA may consider individual circumstances before terminating. [§15.3.3]</p>
	<p><i>Exception – successful completion of treatment:</i></p> <p>HACOLA’s definition of “drug-related activity” does not include prior personal use or possession if the family member had an addiction and has recovered, does not currently use or possess the substance, and has demonstrated <u>successful completion of a rehabilitation program</u>. [§15.3.3]</p>

(3) Alcohol Abuse – Participants [24 CFR §982.553(b)(3)]

HUD requires PHAs to establish standards that allow for termination of a family if a household member is currently engaging in illegal drug use or has a pattern of drug use that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

HACLA	HACOLA
<p><i>Terminates assistance for eviction or pattern of abuse:</i></p> <p>HACLA’s standards are to terminate assistance for the family for any <u>eviction</u> from assisted housing in which abuse of alcohol was a contributing factor to the eviction.</p> <p>HACLA also terminates assistance if, using a preponderance of the evidence standard, evidence demonstrates that the participant or any member of the participant’s household <u>exhibits</u> an abuse or pattern of abuse of alcohol that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents <u>regardless</u> of whether the participant or household member was evicted or convicted for such activity. [§13.6.2]</p>	<p><i>Alcohol abuse is grounds for termination:</i></p> <p>HACOLA may at any time terminate program assistance to a participant if the members of the family abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Failure to abide by this obligation is grounds for termination. [§15.3]</p>
<p><i>Exception – non-culpable family members:</i></p> <p>HACLA may continue to assist non-culpable family members <u>so long as</u> the alcohol abuse use did not result in eviction for serious violation of the lease. [§13.6.2]</p>	

(4) Drug-Related Criminal Activity – Participants [24 CFR §982.553(b)(1)(iii)]

HUD requires PHAs to establish standards that allow the PHA to terminate assistance to participants if any household member engages in drug-related criminal activity.

HACLA	HACOLA
<p><i>Terminates assistance for eviction, conviction or engagement in drug related criminal activity:</i></p> <p>HACLA's standards are to terminate assistance for the family for any <u>eviction</u> from assisted housing due to drug related criminal activity or any <u>conviction</u> of a household member for drug related criminal activity.</p> <p>HACLA also terminates assistance if, using a preponderance of the evidence standard, evidence demonstrates that any household member <u>engaged in</u> drug related criminal activity during the family's current participation in assisted housing, <u>regardless</u> of whether the person is evicted or convicted for such activity. [§13.3.2]</p>	<p><i>Terminates assistance in case of arrest, conviction, eviction, disturbance, or violation of lease:</i></p> <p>HACOLA may terminate a participant for drug related activity that occurs on <u>or</u> off the premises of the assisted unit. A conviction is <u>not</u> required to deny or terminate assistance.</p> <p>HACOLA's policy is that participants may be terminated if they have been <u>arrested</u>, <u>convicted</u> or whose <u>tenancy is being terminated</u> due to drug-related criminal activity or whose activities have created a <u>disturbance</u> in the building or neighborhood.</p> <p>The family <u>will</u> be terminated if they <u>violate the lease</u> for drug-related criminal activity. [§15.3.3]</p>
<p><i>Exception – non-culpable family members:</i></p> <p>HACLA, at its sole discretion, may provide assistance to non-culpable family members <u>so long as</u> the drug-related criminal activity did not result in eviction for serious violation of the lease. [§13.3.2]</p>	<p><i>Exception – non-culpable family members:</i></p> <p>In appropriate cases, the Housing Authority may permit the family to continue receiving assistance provided that family members determined to have engaged in the prescribed activities will not reside and/or visit the unit. [§15.3.3]</p>
	<p><i>Exception – juveniles:</i></p> <p>If the violating member was a minor, HACOLA may consider individual circumstances before terminating. [§15.3.3]</p>
	<p><i>Exception – successful completion of treatment:</i></p> <p>HACOLA's definition of "drug-related activity" does <u>not</u> include <u>prior personal use or possession</u> if the family member had an addiction and has recovered, does not currently use or possess the substance, and has demonstrated <u>successful completion of a rehabilitation program</u>. [§15.3.3]</p>

(5) Violent Criminal Activity – Participants [24 CFR §982.553(b)(2)]

HUD requires PHAs to establish standards that allow termination of assistance if any household member engages in violent criminal activity.

HACLA	HACOLA
<p><i>Terminates assistance in case of eviction or conviction:</i></p> <p>HACLA’s policy is to terminate assistance for the family if, during the family’s participation in the program, there is an <u>eviction</u> for violent criminal activity, any household member is <u>convicted</u> of violent criminal activity, or a preponderance of the evidence indicates that any household member has <u>engaged in</u> violent criminal activity. [§13.4.3]</p>	<p><i>Terminates assistance in case of arrest, conviction, eviction, disturbance, or violation of lease:</i></p> <p>HACOLA may propose termination against the family for violent criminal activity that occurs on <u>or</u> off the premises of the assisted unit. An arrest or conviction is <u>not</u> required to deny or terminate assistance.</p> <p>Participants may be terminated if they have been <u>arrested</u>, <u>convicted</u> or whose <u>tenancy is being terminated</u> due to violent criminal activity or whose activities have created a <u>disturbance</u> in the building or neighborhood.</p> <p>The family <u>will</u> be terminated if they <u>violate the lease</u> for violent criminal activity.</p> <p>Incidents or threats of abuse will not be grounds for termination for the victim of the abuse. [§15.3.4]</p>
<p><i>Exception – non-culpable family members:</i></p> <p>HACLA will consider providing assistance for non-culpable family members <u>so long as</u> the violent criminal activity did not result in eviction for serious violation of the lease. [§13.4.3]</p>	<p><i>Exception – non-culpable family members:</i></p> <p>In appropriate cases, the Housing Authority may permit the family to continue receiving assistance provided that family members determined to have engaged in the prescribed activities will not reside and/or visit the unit. [§15.3.4]</p>
	<p><i>Exception – juveniles:</i></p> <p>If the violating member was a minor, HACOLA may consider individual circumstances before terminating. [§15.3.4]</p>

(6) Serious Violation of the Lease -- Participants [24 CFR §982.552(b)(2)]

HUD requires PHAs to terminate program assistance for a family evicted from assisted housing for serious violation of the lease.

HACLA and HACOLA both comply with the federal rule. Domestic violence, dating violence and/or stalking are not considered serious violations of the lease for the victim by either housing authority.

(7) Absence from Unit [24 CFR §982.312]

HUD requires PHAs to terminate assistance if a family is absent for any reason for more than 180 days.

At their discretion, PHAs are authorized to allow absences for lesser periods.

An "absence" means that no member of the family is residing in the unit.

HACLA	HACOLA
<p><i>Absence of more than 30 days requires approval, more than 90 days result in termination:</i></p> <p>A family may be absent for any reason for up to 30 days. Absences of 31-90 days are termed "extended absences" and require prior HACLA approval. Extended absences may be approved for reasons of health, rehabilitation, convalescence, <u>incarceration</u>, or the personal needs of the family.</p> <p>Any absence beyond 90 days will result in termination of assistance. [§6.17.2]</p>	<p><i>Absence of more than 30 days requires approval, more than 60 days results in termination:</i></p> <p>A family may be absent for any reason for up to 30 days. Absences of more than 30 days require notice to HACOLA. Any absence of more than 60 days results in termination. [§6.8.1]</p> <p>HACOLA reserves the right to grant extensions on a case-by-case basis. However, any individual member of the household will be considered permanently absent if he or she is away from the unit for more than 180 days. [§6.8.2]</p> <p>HACOLA will terminate assistance if the sole member of the household is incarcerated for more than 30 days, or if any individual member is <u>incarcerated</u> for more than 60 days. In the latter case, the family must seek HACOLA approval before allowing that member to re-join the household, or will risk termination of assistance. [§6.8.4]</p>
<p><i>Exception – verified medical need:</i></p> <p>If a family returns to the unit within 90 days and the unit is still available, assistance may be continued.</p> <p>No participant will be readmitted beyond the 90-day period unless the absence was due to a household member's verified medical need (<u>including treatment in an in-patient drug or alcohol rehabilitation program</u>). With adequate proof of medical need, a participant may be readmitted within one year of the date of termination without reapplying through the waiting list. [§6.17.3]</p>	<p><i>Exceptions – disability, medical need:</i></p> <p>If the absence that resulted in termination was due to a person's disability, HACOLA may reinstate the family as a reasonable accommodation if requested.</p> <p>If any family member leaves the household to enter a medical facility (e.g., a hospital, nursing home, or <u>rehabilitation center</u>) and is likely to return in less than 180 days, the family member will not be considered permanently absent. [§6.8.3]</p>

V. PERMISSIVE TERMINATIONS

(1) Lifetime Sex Offender Registration – Participants [§982.552(c)(1)(i)]

HUD authorizes PHAs to terminate assistance if any family member violates the family obligations delineated in §982.551. One of these obligations is that the members of the household may not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

HACLA	HACOLA
<p><i>Terminates assistance for sex offenses committed during program participation:</i></p> <p>HACLA terminates assistance for the family if any member of the household has committed a crime, on or after June 25, 2001, and while a participant in an assisted housing program, that makes that person subject to a lifetime sex offender registration requirement in any State. [§13.5.2]</p>	<p><i>Review on a case-by-case basis:</i></p> <p>If it is brought to the attention of HACOLA that a current program participant is on the sex offender registration list, the Housing Authority will review on a case-by-case basis. HACOLA will consult with law enforcement and legal counsel and take appropriate actions based on findings. [§15.2.5]</p>

VI. Due Process and Reasonable Accommodation

(1) Notice to Applicant [§982.554(a)]

HUD requires PHAs to give applicants prompt notice of any decision to deny assistance to the applicant. The notice must contain a brief statement of the reasons for the PHA decision, must state that the applicant can request an informal review, and must describe how to obtain an informal review.

HACLA	HACOLA
<p><i>Advises of reasons for denial and right to request informal review:</i></p> <p>Applicants are informed in writing of the reasons for the denial of a voucher and subsequent withdrawal from the wait list. Applicants are advised of their right to request an informal review and are allowed 30 days from the date of the notification to request the review. [§14.6.1]</p>	<p><i>Advises of reasons for decision, procedure for requesting review, time limit for requesting review:</i></p> <p>When HACOLA denies assistance to an applicant, the family is notified in writing. The notice contains:</p> <ul style="list-style-type: none"> ✍ The reason(s) for the decision; ✍ The procedure for requesting an informal review if the applicant does not agree with the decision; and ✍ The time limit for requesting a review. <p>The Housing Authority must provide applicants with the opportunity for an Informal Review of Decisions denying issuance of a voucher or participation in the program. [§16.4]</p>

(2) Right to Informal Review – Applicants [24 CFR §982.553(d)(1) and §982.554(c)]

If a PHA proposes to deny admission for criminal activity as shown by a criminal record, HUD requires the PHA to provide the subject of the record and the applicant with a copy of the criminal record. The PHA must give the family an opportunity to dispute the accuracy and relevance of the record, in the informal review process in accordance with §982.554.

The PHA is not required to provide informal review for discretionary administrative actions by the PHA, nor for general policy issues and class grievances.

HACLA	HACOLA
<p><i>Provides copy of criminal record and opportunity for informal review:</i></p> <p>If denying someone admission based on a criminal record, HACLA provides the subject of the record and the applicant with a copy of the criminal record information, and also provides the family or individual an opportunity to dispute the accuracy and relevancy of the record in an informal review. [§§5.21.1, 14.6]</p>	<p><i>Provides copy of criminal record upon request and provides opportunity for informal review:</i></p> <p>If an applicant or family member is denied admission, the person will be provided with a copy of the criminal record upon request and an opportunity to dispute the record at an informal review. [§2.8.6, 15.3.7]</p>

(3) Notice Requirements – Participants [§982.555(c)]

When a participant family is entitled to an informal hearing, HUD requires the PHA to notify the family that they may ask for an explanation of the basis of the PHA determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.

The PHA must give the family prompt written notice that the family may request a hearing. The notice must:

- (i) Contain a brief statement of the reasons for the decision,
- (ii) State that if the family does not agree with the decision, the family may request an informal hearing on the decision, and
- (iii) State the deadline for the family to request an informal hearing.

Both HACLA and HACOLA have policies complying with these requirements. HACLA provides families with notice at least 30 days prior to the effective date of the intended termination. [HACLA §14.7.1; HACOLA §16.5.2]

(4) Right to Informal Hearing – Participants [§982.553(d)(2)]

If a PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA is required notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record in accordance with §982.555.

A hearing is not required for any discretionary administrative determinations by the PHA, or for general policy issues or class grievances.

HACLA	HACOLA
<p><i>Provides opportunity for informal hearing:</i></p> <p>If a family or individual is terminated for criminal activity, HACLA provides the opportunity for an informal hearing. [§§14.6, 14.7]</p>	<p><i>Provides copy of criminal record and opportunity for informal hearing:</i></p> <p>If a participant is terminated based on criminal activity, the person will be provided with a copy of the criminal record upon request and an opportunity to dispute the record at an informal hearing. [§§2.8.6, 15.3.7, 16.5.1]</p>

(5) Reasonable Accommodation [§982.552(c)(2)(iv)]

Under HUD regulations, if the family includes a person with disabilities, the PHA decision concerning denial or termination is subject to consideration of reasonable accommodation in accordance with part 8 of Title 24 of the Code of Federal Regulations.

HACLA	HACOLA
<p><i>Family may request consideration of mitigating circumstances if there is a disability:</i></p> <p>An applicant, resident/participant family with a member with disabilities who would normally be rejected, terminated from a HACLA program or evicted from HACLA-owned housing due to the family's action or inaction <u>may request</u> consideration of mitigating circumstances related to a disability.</p> <p><u>The family, not HACLA, has the burden of</u> 1) documenting mitigating circumstances; 2) making any requests for reasonable accommodation and, 3) as appropriate, for submitting a plan to HACLA that would enable the family to effectively meet the essential eligibility requirements of the program.</p> <p>The disability must be <u>verified</u> by a medical or mental health provider. Social workers and caseworkers qualify.</p> <p>In determining whether to grant the request, HACLA will:</p> <p>1) Consider whether the action or inaction of the family was due to a family member's disability;</p> <p>2) Consider whether 1) a change in circumstances related to the person with disabilities and/or 2) a reasonable accommodation would make future compliance likely.</p> <p>3) If program compliance is deemed likely, HACLA will accept the explanation and reinstate the applicant to the waiting list or the participant to good standing, with the understanding that recurrence of the action or inaction by the family must result in denial, termination or eviction.</p> <p>A number of denial and termination provisions also have specific reasonable accommodation exceptions.</p> <p>[§13.8; Manual of Policies and Procedures Exhibit 125:1C, Nondiscrimination on the Basis of Disability and Reasonable Accommodation Procedures]</p>	<p><i>HACOLA may make reasonable accommodations:</i></p> <p>If termination is based upon behavior resulting from a disability, HACOLA will delay the termination in order to determine if there is a reasonable accommodation that would cure the grounds for termination.</p> <p>HACOLA approves reasonable accommodation requests on a <u>case-by-case</u> basis, upon determination that:</p> <ul style="list-style-type: none"> ✍ The requested accommodation is reasonable (i.e., it does not result in a fundamental alteration in the nature of the program or an undue financial and administrative burden), and ✍ There is an identifiable relationship between the requested accommodation and the individual's disability. <p>[§1.8.1]</p> <p>In order to verify the necessity for a reasonable accommodation, HACOLA requires the disabled person (or another person on their behalf) to submit a reasonable accommodation request form, or other written documentation, filled out by a qualified professional with direct experience with the individual's disability.</p> <p>Qualified professionals may include, but are not limited to:</p> <ul style="list-style-type: none"> ✍ A medical doctor ✍ A psychiatrist ✍ A social worker ✍ Other unlicensed care providers. <p>[§7.10.10]</p>