



HOPE Fair Housing Center

Illinois Public Housing Authority

Fair Housing Handbook

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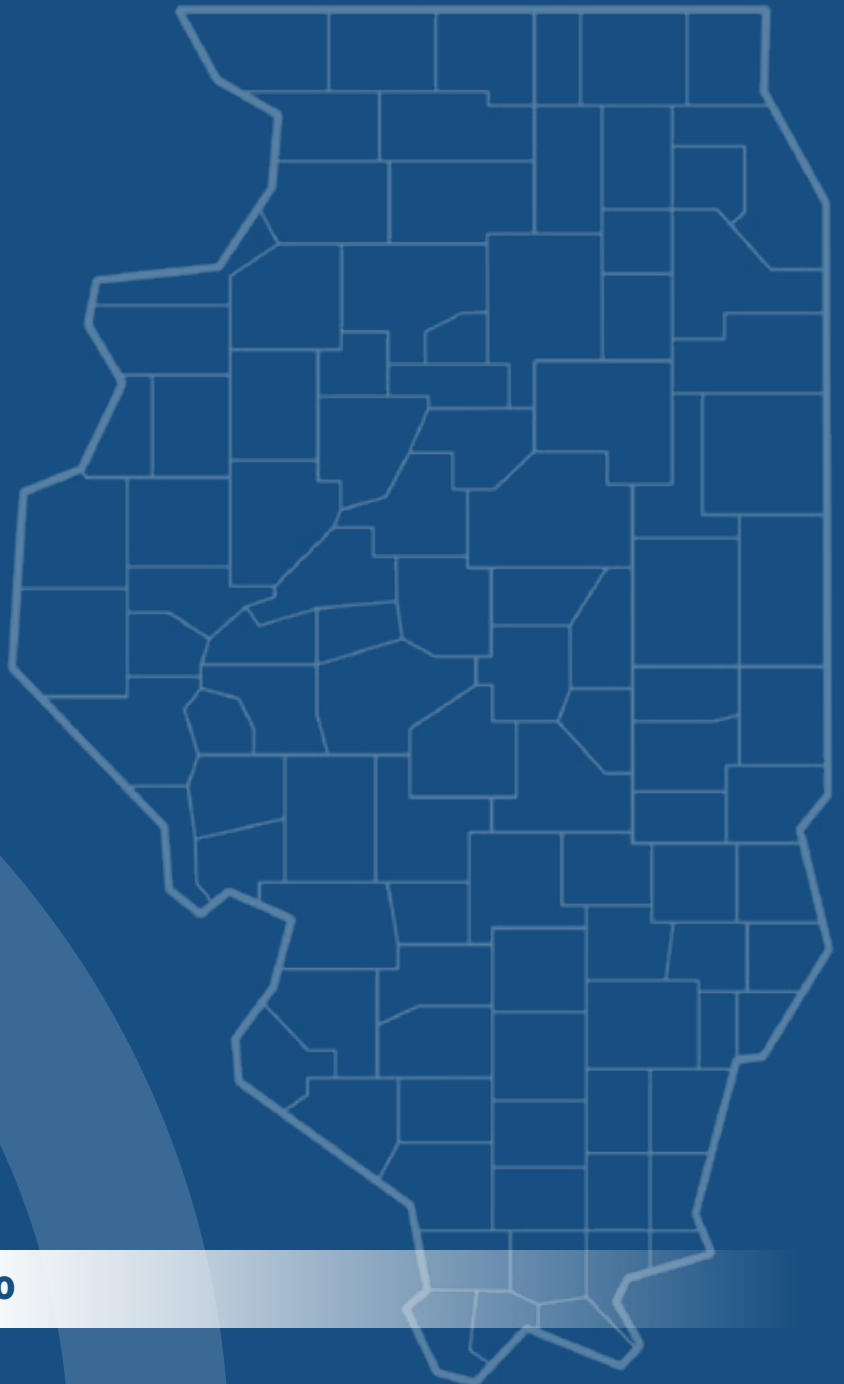
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HOPE Fair Housing Center (HOPE) works to ensure everyone has a chance to live where they choose, free from discrimination based on race, color, religion, national origin, sex, disability, familial status, source of income, or any other characteristics protected under federal, state, or local laws. HOPE accomplishes this through counseling, outreach and education, investigation, training, and advocacy. Founded in 1968 and based in Wheaton, IL, HOPE is a HUD-designated Qualified Fair Housing Organization and non-profit serving 40+ counties across the state.

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This Handbook is available in both digital and print formats. Users navigating a digital version of the Handbook may use in-line hyperlinks to access resources referenced throughout the Handbook. Users navigating a print version of the Handbook should consult the footnote references or the Resource Guide at the end of the Handbook for full citations of linked resources to independently access linked materials. Please be aware that links that were functioning during the development of this Handbook may have changed or become invalid since the Handbook's publication.

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Introduction

The State is suffering from one of the most urgent housing crises in its history.¹ There is high demand for affordable housing in Illinois, and as wages struggle to keep pace with cost-of-living increases, the need only grows each year. Over 450,000 renter households in Illinois are extremely low-income but face the tightest affordable housing market in the Midwest, as the State's affordable housing stock can only house 36% of the population who needs it.²



In both urban and rural areas, Public Housing Authorities (PHAs) can be the primary and sometimes only affordable housing provider for **extremely low-income** and **low-income families**. As of 2023, the United States Department of Housing and Urban Development (HUD) Public Housing, Housing Choice Voucher (HCV), and Project-Based Section 8 programs served nearly a quarter of a million households in Illinois, housing nearly 385,000 people.³

Compared to the State's overall population, PHA program participants are more likely to belong to marginalized groups, many of which are also **protected classes** as defined by civil rights laws like the Fair Housing Act (FHA). Of the households who

Key Terms

Extremely low-income (families): Families whose incomes do not exceed 50 percent of the median family income for the area.

Low-income (families): Families whose incomes do not exceed 80% of the median family income for the area.

Protected class: A group of people who are legally protected from discrimination based on a shared characteristic.

1 Illinois Policy Institute. (July 11, 2024). *Housing Unaffordability on the Rise: One-Third of Illinoisans Pay Over 30% of their Income on Housing*. <https://www.illinoispolicy.org/press-releases/housing-unaffordability-on-the-rise-one-third-of-illinoisans-pay-over-30-of-their-income-on-housing/>

2 Housing Action Illinois. (March 10, 2020). *Report: Affordable Housing Scarce in Illinois, Census to Affect Related Programs*. <https://housingactionil.org/blog/2020/03/10/report-affordable-housing-scarce-in-illinois-census-to-affect-related-programs/>

3 Office of Policy Development and Research (PD&R). (n.d.). *Dataset/Assisted Housing: National and Local*. HUD User. <https://www.huduser.gov/portal/datasets/assthsg.html>

participate in the three public housing programs named above, 28% are female-headed households with children, 21% of people among all members of all households have a disability, and 70% of people are non-White.⁴ By comparison, in Illinois overall, only 4.5% of households are headed by single mothers,⁵ 12% of people in the state have a disability,⁶ and less than 40% of Illinoisans are non-White.⁷ Through understanding and abiding by fair housing laws and providing safe, decent housing to underserved communities, PHAs are uniquely situated to create stability, break cycles of poverty, and meaningfully improve their tenants' quality of life.

This Handbook—a tool designed for PHA leadership and staff—provides a concise guide to the federal, Illinois state, and local fair housing requirements underlying Illinois PHAs' mission to advance access to affordable housing and create thriving communities.

4 Ibid.

5 Korhonen, V. (December 2021). *Percentage of households led by a single mother with children under age 18 living in the household in the U.S. in 2021, by state*. Statista. <https://www.statista.com/statistics/242302/percentage-of-single-mother-households-in-the-us-by-state/>

6 Erickson, W. Lee, C., & von Schrader, S. (2023). *2021 Disability Status Report: United States*. Cornell University Yang Tan Institute on Employment and Disability (YTI). https://production-disabilitystatistics-org.s3.amazonaws.com/reports/2021-PDF/2021-StatusReport_US.pdf

7 United States Census Bureau. (August 25, 2021). *ILLINOIS: 2020 Census*. <https://www.census.gov/library/stories/state-by-state/illinois-population-change-between-census-decade.html>

1. Laws, Rules, & Regulations



Federal Fair Housing Laws and Regulations

The Civil Rights Act of 1866 grants all persons born in the United States, regardless of race or color, the same right to make and enforce contracts, own property, sue in court, and enjoy the full protection of the law.⁸ “Making and enforcing contracts” includes both purchasing or renting housing, so this law lays the groundwork for the rights afforded under the Fair Housing Act.

Title VIII of the Civil Rights Act, also known as the Fair Housing Act (FHA), was signed into law in 1968. The FHA makes it unlawful to discriminate in the rental, sale, and financing of **dwellings** based on race, color, religion, sex, national origin, disability, or familial status. The law was designed to guarantee that all people in the United States have the right to access housing of their choice without facing discrimination on the basis of one of these seven protected classes.

Key Terms

Dwelling: any building, structure, or portion of a building that is used or intended to be used as a residence, as defined by the Fair Housing Act.

Under the Fair Housing Act, it is unlawful to...

- » refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person;

⁸ See 42 U.S.C § 1981.

- » discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith;
- » make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination;
- » represent that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available; or
- » For profit, persuade, or try to persuade, homeowners to sell their homes by suggesting that people of a particular protected characteristic are about to move into the neighborhood (blockbusting)...

...on the basis of race, color, religion, sex, disability, familial status, or national origin.⁹

It is also illegal for PHAs to coerce, intimidate, threaten, or interfere with any person who...

1. Is exercising or enjoying their rights under the FHA;
2. Has exercised or enjoyed their rights under the FHA; or
3. Aided or encouraged any other person in the exercise or enjoyment of their rights under the FHA.¹⁰

Finally, illegal discrimination can occur either through discriminatory intent or through discriminatory effect (also referred to as disparate impact). **Discriminatory intent** is a change in treatment due to a person's protected class status, such as a landlord saying they "will not accept any children" (protected class: familial status).

Discriminatory effect, however, occurs when a seemingly neutral policy disproportionately impacts a protected class. Discriminatory effect focuses on the consequences of the policy, not the intent.¹¹ For instance, a blanket policy that refuses to accept applicants who do not have credit scores over 700 may seem neutral, since it is applied to everyone and does not target a protected class on its face. However, this policy may have a discriminatory effect on people of color or people with disabilities who face systemic barriers that can negatively impact their credit scores. This "neutral" policy would have the discriminatory effect of denying a disproportionate number of members of protected classes from rental housing.

Affirmatively Furthering Fair Housing (AFFH) is a provision of the Fair Housing Act signed into law in 1968 and mandates that jurisdictions and PHAs funded through HUD

⁹ See 42 U.S.C. § 3604.

¹⁰ See 24 CFR § 100.400.

¹¹ Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc., 576 U.S. 519. (2015, June 25). Justia. <https://supreme.justia.com/cases/federal/us/576/519/>

Examples of Prohibited Conduct under the FHA, by Protected Class

Protected Class	For example, it may be a violation of the Fair Housing Act if a public housing authority...
Race	Evicts Black tenants with less due process than given to White tenants with similar or worse lease violations*
Color	Shows preference to Black families on the waiting list because they are lighter-skinned than other Black families also on the waiting list
Religion	Allows a shared common area to be used for some but not all spiritual gatherings and/or allowing for some religious holiday decorations but not others
Sex (<i>may include sexual harassment and discrimination on basis of sexual orientation and/or gender identity</i>)**	Fails to intervene if a woman residing in a PHA-owned building reports that a PHA employee harasses her with unwanted sexual demands
National Origin	Fails to provide translated materials regarding their waitlist policies to non-English speaking communities who make up a significant percentage of the service area
Disability	Denies a reasonable accommodation for an on-site parking space for a caregiver of a tenant with disabilities***
Familial Status (<i>includes families who have children under age 18, are pregnant, or are in the process of gaining legal custody of children</i>)	Terminates assistance for a family because they are expecting a child or in the process of adopting a child

Table 1

* *United States v. Altoona Housing Authority* (W.D. Pa.). (2013, June 24). Consent Order in the Case of *United States v. Jones* (Civil Action No. 3:12-cv-00255-KRG). <https://www.justice.gov/sites/default/files/crt/legacy/2014/11/05/altoonacd.pdf>

** *The FHA, or Title VIII of the Civil Rights Act, may protect against discrimination on the basis of gender identity or sexual orientation based on logic derived under Bostock v. Clayton County. When Title VII of the Civil Rights Act, which prohibits employment discrimination on the basis of race, color, religion, sex, or national origin, was passed, sex was defined as the biological distinction between male and female. If someone experiences discrimination because they are in a same-sex relationship or because they identify with a gender different than the one assigned to them at birth, the Court determined that this constitutes discrimination on the basis of sex because the adverse action was taken, at least in part, because of one's sex. In Bostock, the Court decided that the original definition of sex, and the way it can be interpreted to include discrimination on the basis of one's sexual orientation or gender identity, holds true regardless of how the cultural view towards the meaning and implications of sex evolve over time. Bostock v. Clayton County, Georgia 590 U.S. 644 (2020, June 15). Supreme Court of the United States. https://www.supremecourt.gov/opinions/19pdf/17-1618_hfci.pdf*

*** *Roque v. Seattle Housing Authority* (W.D. Wash.) (2020, June 12). U.S Department of Justice Civil Rights Division. <https://www.justice.gov/crt/case/tony-roque-v-seattle-housing-authority-wd-wash>

programs affirmatively undo historic patterns of segregation by taking measurable steps to integrate American society.¹²

Courts have helped interpret how AFFH applies to HUD and its funding recipients through numerous case decisions, which have determined HUD is responsible for using its programs to not only end discrimination but also specifically work to promote integration.¹³

Additionally, HUD has proposed AFFH rules to provide a framework that HUD funding recipients can follow to meaningfully fulfill their AFFH requirement. In 2015, HUD implemented the Affirmatively Furthering Fair Housing final rule, which required HUD funding recipients to develop a formal “Assessment of Fair Housing,” or initiative focused on identifying fair housing priorities, developing specific goals, and resolving the identified issues within three to five years.¹⁴ Under this rule, PHAs would be responsible for carrying out these initiatives and reporting their progress to HUD for review.¹⁵

Notably, political administrations over the last ten years have advocated for both the instatement and repeal of the rule. In 2020, the Trump Administration repealed the 2015 AFFH regulations.¹⁶ In 2023, under the Biden Administration, HUD published an updated Notice of Proposed Rulemaking on AFFH to reinstate and improve upon the previous 2015 AFFH requirements.¹⁷

This 2023 rule was rescinded in 2025, but housing advocates recommend that PHAs pursue AFFH steps detailed in the 2023 rule proposal regardless of its passage and without relying on the directives of shifting political administrations.¹⁸ Under the FHA and based on legal precedent, PHAs are responsible for AFFH, and the 2023 rule offers a thoughtful approach towards meeting this responsibility.

Like the 2015 rule, the 2023 rule proposal required PHAs to identify fair housing issues in their communities using data provided by HUD as well as local knowledge to create a comparable framework to the 2015 “Assessment of Fair Housing.”¹⁹

PHA leaders should continue to monitor the status of the rule so PHAs are aware of the reporting requirements their agencies must follow to remain compliant with HUD policies.

¹² See 88 Fed. Reg. 8516

¹³ *N.A.A.C.P., Boston Chapter v. Secretary of Housing & Urban Development*, 817 F.2d 149 (1st Cir. 1987)

¹⁴ *AFFH Fact Sheet: The Duty to Affirmatively Further Fair Housing*. (n.d.). U.S. Department of Housing and Urban Development. <https://archives.huduser.gov/portal/sites/default/files/pdf/AFFH-Fact-Sheet.pdf>

¹⁵ *Ibid.*

¹⁶ *Trump Administration Eliminates Affirmatively Furthering Fair Housing Rule, NLIHC and other Advocates Condemn Action, Rhetoric*. (2020, July 27). National Low Income Housing Coalition. <https://nlihc.org/resource/trump-administration-eliminates-affirmatively-furthering-fair-housing-rule-nlihc-and-other>

¹⁷ *AFFH Fact Sheet: The Duty to Affirmatively Further Fair Housing*. (n.d.). U.S. Department of Housing and Urban Development. <https://archives.huduser.gov/portal/sites/default/files/pdf/AFFH-Fact-Sheet.pdf>

¹⁸ See 90 Fed. Reg. 4686.

¹⁹ *Ibid.*

Other Nondiscrimination Laws For Recipients of Federal Funding

Congress enacted Title VI of the Civil Rights Act (Title VI) as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, or national origin in all HUD-assisted programs.²⁰ Title VI ensures HUD has the authority to investigate and remediate discrimination complaints filed against HUD-funded grantees.²¹ PHAs must not...

- » Deny a person housing or services;²²
- » Provide different housing or services than those provided to others;²³
- » Subject a person to segregation or separate treatment in the receipt of housing or services;²⁴
- » Use different admission or eligibility requirements for housing or services;²⁵
- » Select a housing site or location with the purpose or effect of excluding or denying benefits to persons...

...on the basis on the person's race, color, and/or national origin.²⁶

Title VI requires PHAs to submit compliance reports to the correct corresponding civil rights officer. Importantly, these compliance reports report demographic information on the tenants of HUD-funded programs.²⁷

Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits discrimination against persons with disabilities in all programs, services, and activities receiving federal assistance.²⁸ Read more about Section 504 requirements in Section 3 of this Handbook.

Title II of the Americans with Disabilities Act (ADA) requires state and local governments to provide equal access to their programs, services, and activities for people with disabilities, which includes public housing agencies.²⁹ Read more about Title II requirements in Section 3 of this Handbook.

Violence Against Women Act (VAWA) creates broad protections for survivors (and

20 See 42 U.S.C. § 2000d.

21 Ibid.

22 See 24 CFR § 1.4(b)(1)(i).

23 See 24 CFR § 1.4(b)(1)(ii).

24 See 24 CFR § 1.4(b)(1)(iii).

25 See 24 CFR § 1.4(b)(1)(v).

26 See 24 CFR § 1.4(b)(3).

27 U.S. Department of Housing and Urban Development. (2011, June 13). *Notice PIH 2011-31*. [https://www.renocavanaugh.com/sites/default/files/hud-notices/2011-1_-_Guidance_on_non-discrimination_and_equal_opportunity_requirements_for_PHAs_\(D0508271xASBED\).pdf](https://www.renocavanaugh.com/sites/default/files/hud-notices/2011-1_-_Guidance_on_non-discrimination_and_equal_opportunity_requirements_for_PHAs_(D0508271xASBED).pdf)

28 See 29 U.S.C. § 794.

29 See 28 CFR § 35.130.

affiliated individuals) of domestic violence, dating violence, sexual assault, and stalking from discrimination when applying for or living in units under VAWA-covered federal programs, including PHA-provided subsidized housing.³⁰

Statistics: Nearly half of women in the U.S. (47.3% or 59 million women) have experienced sexual violence, physical violence, or stalking by an intimate partner at some point in their lives. In Illinois, 12% of people experiencing homelessness are fleeing domestic violence. Based on Illinois data from 2020, young people of color are at an increased risk of experiencing domestic violence.³¹

Admissions and Termination of Assistance: VAWA was reauthorized in 2022, and the housing protections described herein are permanent provisions of law. VAWA housing protections apply regardless of someone's sex, marital status, gender identity, or sexual orientation.³² One does not need to be in good standing with the PHA or housing provider nor married to or living with the person causing them harm to receive VAWA protections.³³ VAWA has many protections, and a survivor or affiliated individual may need to access multiple protections at the same time or the same protection more than once (e.g., needing to relocate).

Someone who is protected under VAWA cannot be denied admission to a PHA program, evicted, or threatened to be removed from a PHA program as a result of violence committed against them or as a result of negative consequences they suffered because of the abuse.³⁴ These consequences are often called "adverse factors" which, on their face, may not initially appear related to the violence the person has experienced.

EXAMPLE: Tenants who have suffered from economic abuse may have low credit scores because of the abuse, but VAWA prohibits a PHA from using this adverse factor against the protected party.

Moreover, survivors cannot be held to a higher standard than other tenants based on their status as a survivor. Absence from the unit due to a survivor's need for safety or to address trauma concerns should not serve as a good cause basis to evict or terminate or a determination that the survivor has abandoned the unit.

30 Carlson, D., Ng, K., et. al. (2024, January 9). *VAWA Compliance for HUD Properties* [PowerPoint slides]. The HFA Institute, National Council of State Housing Agencies. <https://www.ncsha.org/wp-content/uploads/VAWA-Compliance-for-HUD-Properties-Presentation.pdf>.

31 *Data Report: State of Domestic Violence in Illinois*. (2020). The Network: Advocating Against Domestic Violence. <https://the-network.org/wp-content/uploads/2020/07/Data-Report-State-of-Domestic-Violence-in-Illinois.pdf>

32 Carlson, D., Ng, K., et. al. (2024, January 9). *VAWA Compliance for HUD Properties* [PowerPoint slides]. The HFA Institute, National Council of State Housing Agencies. <https://www.ncsha.org/wp-content/uploads/VAWA-Compliance-for-HUD-Properties-Presentation.pdf>.

33 *Know Your Rights: Domestic and Sexual Violence and Federally Assisted Housing* [Pamphlet]. (2018). National Housing Law Project. <https://www.nhlp.org/wp-content/uploads/VAWA-Brochure.pdf>.

34 See 24 CFR § 5.2005(b).

Family Break-Up: If someone in a PHA tenant's home engages in criminal activity related to abuse/violence against them, the PHA may take action to terminate the assistance of the person causing harm. This process is called bifurcation, and it means that the PHA permits the survivor to retain housing assistance while the person who has caused harm is evicted, removed, and/or terminated from the subsidy. If the person who has caused harm is a member of the household, the PHA should allow the survivor to transfer under VAWA prior to giving notice to the person who caused harm that they are being removed from the household.

If the PHA tenant asserting their VAWA rights is not the head of household or they are not included in the subsidy, they have 30 days or until the end of the lease (whichever happens first) to establish eligibility for another Public Housing or Housing Choice Voucher-sponsored housing opportunity. Participants using Housing Choice Vouchers can move for reasons related to the abuse prior to the end of their lease by exercising their right to emergency transfer under VAWA. For participants that are in the Housing Choice Voucher Program, the participant can request moving papers and use their Voucher at another property.

Emergency Transfers: A tenant can request an emergency transfer under VAWA in two instances:

1. When they reasonably believe that there is a threat of imminent harm from violence if they stay in the unit that they live in; or
2. When a tenant is a victim of sexual assault that occurred on the property within 90 calendar days of their request to transfer

Whether or not a tenant is in good standing does not impact their ability to request an emergency transfer under VAWA. There is no limitation on the number of emergency transfers that a survivor can request, and a survivor may need more than one emergency transfer to stay safe.

PHAs must develop and implement an Emergency Transfer Plan based on HUD's model Plan to explain how the process works in their program.³⁵ This plan must be made available upon request and should be publicly available.³⁶

Plans should include the following:

- » Information on how survivors can access an emergency transfer through their specific program;
- » An explanation of the documents a PHA can ask for after a survivor has requested an emergency transfer (PHAs must accept an emergency transfer request if a tenant certifies via HUD-5382 they are in imminent

35 See 24 CFR § 5.2005(e).

36 Ibid.

danger or were sexually assaulted at the PHA property in the last 90 days);³⁷

» An explanation for both internal (transfers to another unit without applying for a new tenancy) and external (transfers where the tenant would be categorized as a new applicant) emergency transfers;³⁸

» Contact information for the PHA point-person who will support tenants requesting transfers;

» Policies the PHA has in place to prioritize individuals who have been granted emergency transfers compared to other tenants seeking transfers or access to waiting lists for reasons not related to VAWA;³⁹ and

» Policies explaining how the PHA will keep tenant information strictly confidential (as well as a description of moments the PHA might be required to disclose information).

Tenant Right to Information: PHAs are responsible for informing program participants of their VAWA rights by providing applicants and tenants the HUD-5380, or the “Notice of Occupancy Rights under the Violence Against Women Act” as well as the self-certification form, HUD-5382.⁴⁰

PHAs must provide this notice when providing or denying housing assistance and must include it with every notice of termination of assistance or eviction. PHAs must also include a VAWA lease addendum for any program participants renting with Housing Choice Vouchers so that PHA tenants can access their VAWA rights even when renting in the private market using PHA-assisted Vouchers.⁴¹

HOPE Recommends:

Due to the well-documented evidence of economic abuse among survivors and their existing low incomes as residents of subsidized housing, the PHA should cover the costs of relocation, including by offering in-kind move support.

All forms must be available in multiple languages, selected based on the PHA’s Language Access Plan (more on this in Section 3).⁴²

Verification: PHAs shall accept the participant’s request for transfer as the only information needed to process the participant’s request. PHAs can request that a survivor

37 See 24 CFR § 5.2005(e)(10)(i).

38 See 24 CFR § 5.2005(e)(5).

39 See 24 CFR § 5.2005(e)(3).

40 See 24 CFR § 5.2005(a).

41 See 24 CFR § 5.2005(a)(4).

42 See 24 CFR § 5.2005(a)(3).

provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking, which is consistent with VAWA's documentary requirements.⁴³ The survivor can choose which document to provide in support of their request. VAWA allows survivors to provide either the self-certification form (HUD-5382) or a letter from an attorney, domestic violence service provider, or health professional. Relevant court records or police reports also suffice.⁴⁴ A survivor of domestic violence, dating violence, sexual assault, or stalking does not need to submit any other information to qualify for an emergency transfer.

Retaliation: Retaliation occurs in the VAWA context when a PHA takes an adverse action against a survivor, or threatens to take that action, because the survivor tried to exercise their rights under VAWA. Fear of retaliation can make a survivor less likely to ask about their rights, seek help, or report harmful actions by PHAs because they do not want to risk a negative consequence to their housing. Under VAWA, PHAs cannot coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises any rights or protections, or any person who helps the survivor to exercise their rights or protections.

EXAMPLE: Threatening a tenant with an eviction notice if they file a VAWA complaint would be retaliation under VAWA.

VAWA Reauthorization Act of 2022 (VAWA 2022) reauthorizes, amends, and strengthens the Violence Against Women Act of 1994 as amended.⁴⁵ PHAs are still held to all requirements of prior VAWA reauthorizations. Notable updates from VAWA 2022 include:

- » An updated definition of “domestic violence” which now includes economic abuse and technological abuse. Economic abuse is behavior that is coercive, deceptive, or unreasonably controls or restrains a person’s ability to acquire, use or maintain economic resources they are entitled to.⁴⁶ Technological abuse is a behavior that is intended to harm, threaten, intimidate, control, stalk, harass, impersonate, exploit, extort, or monitor another person using any form of technology.⁴⁷
- » Under VAWA, PHAs may not penalize a survivor or covered person based on criminal activity for which they are not at fault under a law, ordinance, regulation, or policy of a governmental entity that receives

43 See 24 CFR § 5.2007.

44 *Know Your Rights: Domestic and Sexual Violence and Federally Assisted Housing* [Pamphlet]. (2018). National Housing Law Project. <https://www.nhlp.org/wp-content/uploads/VAWA-Brochure.pdf>.

45 See 88 Fed. Reg. 321.

46 Blom, D. (2023, March 3). *Housing Provisions of the Violence Against Women Act Reauthorization Act of 2022*. U.S. Department of Housing and Urban Development. https://www.hud.gov/sites/dfiles/Main/documents/VAWA_2022_Letter_PHAs.pdf.

47 Ibid.

Community Development Block Grant (CDBG) funding.⁴⁸ This new protection makes it unlawful for PHAs to threaten to or actually penalize a landlord, homeowner, tenant, resident, occupant, guest, or housing applicant who calls the police or other emergency service provider because they need help. Examples of illegal retaliation include:

- ◆ Imposing monetary or criminal penalties, fines, or fees;
- ◆ Threatening or carrying out an eviction;
- ◆ Refusing to rent or renew tenancy;
- ◆ Refusing to issue an occupancy or landlord permit;
- ◆ Withdrawing certifications or permits for operation of the property; or
- ◆ Designating the property as a nuisance or a similar negative designation...

...because someone protected by VAWA exercised their right to call the police or seek emergency services.

» A new protection which allows one to report crime and emergencies from one's home on their own behalf or on behalf of another person in need of assistance.⁴⁹

» Requirement for a compliance review process to monitor adherence to requirements prohibiting the denial of assistance on the basis of domestic violence, dating violence, sexual assault, or stalking. PHAs must report on their compliance with confidentiality provisions, notification requirements, provisions for accepting documentation, emergency transfers, and the prohibition on retaliation.⁵⁰

» HUD and the DOJ have greater enforcement authority to enforce VAWA. HUD's Office of Fair Housing and Equal Opportunity (FHEO) now enforces VAWA's housing protections using the same processes that FHEO uses to enforce the Fair Housing Act, so program participants who feel their VAWA rights have been violated can file a complaint and receive the same thorough investigation and review as though they

48 *The Violence Against Women Reauthorization Act of 2022: What Survivor Advocates Need to Know*. (2022). National Housing Law Project. <https://www.nhlp.org/wp-content/uploads/The-Violence-Against-Women-Reauthorization-Act-of-2022-What-Survivor-Advocates-Need-To-Know1-1.pdf>

49 *VAWA's New Protections for Landlords, Tenants, and Others Impacted by Crime-Free Programs and Nuisance Property Laws*. (n.d.). National Housing Law Project. <https://www.nhlp.org/wp-content/uploads/VAWA-603-fact-sheet.pdf>

50 See 34 U.S.C. 12491 (c)(4); 34 U.S.C. 12491(d)(2); 34 U.S.C. 12491(c); 34 U.S.C.12491(e); 34 U.S.C.12491(a)(1) (B).

had filed a Fair Housing complaint.⁵¹ More information about filing VAWA complaints is available online: <https://www.hud.gov/fairhousing/fileacomplaint>.

Illinois State Fair Housing Laws & Regulations

In addition to federal fair laws and regulations, Illinois has its own fair housing requirements that Illinois PHAs must adhere to.

Illinois Human Rights Act (IHRA) prohibits housing discrimination in real estate transactions based on the seven federally protected classes (race, color, sex, national origin, religion, disability, and familial status), as well as the following 12 State-protected classes:⁵²

- » Ancestry
- » Marital status
- » Pregnancy
- » Retaliation
- » Order of Protection Status
- » Arrest record
- » Age (40 and older)
- » Military status
- » Unfavorable discharge from military service
- » Reproductive health decisions
- » Source of income (more on these protections in Section 6 of this Handbook)
- » Immigration status

Illinois' Public Housing Access Bill amends the **Illinois Housing Authorities Act**, and limits a PHA's ability to refuse housing to people who have a criminal history.⁵³ PHAs considering whether to offer program services to an applicant or tenant cannot consider arrests or charges that do not result in conviction, sealed or expunged convictions, juvenile criminal history, how recently the tenant or applicant was released from prison, or convictions that have occurred more than 180 days prior to the date an applicant submitted their application.⁵⁴ Illinois PHAs can only deny applications if federal law

51 See 42 U.S.C. §§ 3601 – 3619.

52 See Illinois Human Rights Act, 775 ILCS 5.

53 See 310 ILCS 10/25.

54 Ibid.

requires the PHA to deny the applicant or if there is a direct relationship between the applicant's criminal history and a risk to other tenants' health, safety, and peaceful enjoyment of their housing.⁵⁵ Read about additional requirements in [Section 5](#) of this Handbook.

2. Addressing Language and Technological Barriers to Accessing PHA Services

Two ways PHAs can make it easier for marginalized communities to access their essential services is by providing resources for non-English speakers and accommodating populations with limited access to or fluency with technology.

Language Access Plan

To ensure nondiscrimination under Title VI, PHAs must take reasonable steps to ensure people with limited English proficiency (LEP) can meaningfully access federally-funded programs.⁵⁶ Similarly, the Fair Housing Act prohibits PHAs from using one's LEP as a pretext for discrimination or in a way that causes an unjustified discriminatory effect on the basis of a protected class, such as national origin.⁵⁷ As such, it could also be a violation of the Fair Housing Act to exclude non-English speakers from program services and materials.

To expand access, PHAs should use a four-factor analysis to determine how to incorporate translation and interpretation language access plans into their program services as well as develop a PHA-specific Language Access Plan.⁵⁸

The four-factor analysis is flexible and depends on community needs and available resources. To determine a PHA's applicant and tenant needs, a PHA should determine the four following factors:



⁵⁶ Fudge, M. L. (n.d.). *Language Access Plan 2021- 2026*. U.S. Department of Housing and Urban Development. https://www.hud.gov/sites/dfiles/FHEO/documents/HUD_Language_Access_Plan.pdf

⁵⁷ *Office of General Counsel Guidance on Fair Housing Act Protections for Persons with Limited English Proficiency*. (2016, September 15). U.S. Department of Housing and Urban Development. <https://www.hud.gov/sites/documents/lepmemo091516.pdf>

⁵⁸ See 72 Fed. Reg. 2732.

1. The number or proportion of LEP persons in the eligible service population;
2. The frequency with which LEP persons come into contact with the program;
3. The nature and importance of the program, activity, or service provided by the program; and
4. The resources available and costs to the recipient.⁵⁹

Initially, PHAs should identify which non-English languages are most commonly spoken in the area. Exploring census data and surveying local school systems and faith-based or legal aid organizations can serve as effective methods to identify non-English-speaking populations living in the community. For each language a PHA considers accommodating, it should also consider both the size of the community that speaks the language and the likelihood that individuals speaking the language might access the PHA's services.

PHAs can visit [LEP.gov](https://www.lep.gov) to consult the "Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs" document for more specific guidance on surveying a PHA's service area.⁶⁰

Once a PHA has determined which languages to accommodate, it should use the Language Access Plan to formally commit to some or all of the following solutions:

- » Establish points of contact among PHA staff who will coordinate with LEP applicants or tenants;
- » Hire bilingual staff who can meet a PHA's determined language needs;
- » Develop community partnerships to establish relationships with organizations that have the resources to volunteer translation or interpretation services;
- » Contract cost-effective but professional, accredited interpreters in-person or over the phone; and/or
- » Include policies to monitor and update the Language Access Plan by gauging the efficacy of the plan and collecting community input.⁶¹

Additionally, PHAs should make sure there are translations including but not limited

⁵⁹ Ibid.

⁶⁰ *Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs*. (2011). Federal Coordination and Compliance Section Civil Rights Division United States Department of Justice. https://www.lep.gov/sites/lep/files/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf

⁶¹ See 72 Fed. Reg. 2732.

to the following vital documents:

- » Consent and complaint forms;
- » Intake forms;
- » Written notices of rights, denial, loss, or decreases in benefits or services, and other hearings;
- » Written notices of openings in the program;
- » Notices of eviction;
- » Notices advising LEP persons of free language assistance;
- » Notices of public hearings, especially those that meet Community Planning and Development's citizen participation requirements;
- » Leases and tenant rules; and/or
- » Applications to participate in a recipient's program or activity or to receive recipient benefits or services.⁶²

Moreover, PHAs can show strong evidence of compliance with Title VI regulations if they offer written translations of essential program documents for each eligible LEP language group that constitutes 5% (if over 50 people) or 1,000 people of the eligible population to be served.⁶³ PHAs do not need to provide full translations of written materials for individuals who speak a given language if there are 50 or less eligible people in the service area who speak the language or if less than 5% of the eligible population and less than 1,000 people speak the language.⁶⁴ Rather, in this case, a PHA can simply provide a notice of the right to receive free oral interpretation of the program materials, regardless of whether written translations are available, to remain in compliance with Title VI.⁶⁵

Some of the costs associated with producing translated materials or hiring interpreters may prove to be prohibitive. As such, there are several strategies a PHA may undertake to improve LEP access even with limited financial resources:

- » Target their language accessibility measures towards the most critical program materials or services and for the most common languages of the community before accommodating non-English languages that are not as widely spoken in the area.⁶⁶
- » Coordinate with other PHAs within their State or the broader United States to pool translated documents and reduce duplicative translation work, or access HUD's collection of translated documents, found here:

62 Ibid.

63 Ibid.

64 Ibid.

65 Ibid.

66 Ibid.

https://www.hud.gov/program_offices/fair_housing_equal_opp/17lep

- » Appeal to local cultural groups, graduate linguistics students at local universities, local fair housing agencies, or both for-profit and not-for-profit organizations with resources to translate documents to develop partnerships at reduced costs or on a volunteer basis.

PHAs can visit HUD's resource page for additional guidance regarding Title VI and FHA language access requirements.⁶⁷

Plain Language

PHAs should make online and print resources as accessible and intuitive to navigate as possible. One way to improve program participants' experience digesting dense PHA policies and guidelines is to use plain language in all program materials. Writing in plain language communicates messages in the shortest time possible and increases the likelihood that the public will fully comprehend the material. PHAs can implement the following plain language techniques to increase the clarity of its program materials:⁶⁸

- » Write using the second-person POV (e.g., "you can request a hearing at this phone number");
- » Use the active voice, not passive voice (e.g., "Michael opened the door" not "the door was opened");
- » Compose materials in the form of short sentences and paragraphs;
- » Use the simplest tense possible—present tense is best (e.g., "it is best to walk on the right side of the hallway" is clearer than saying "it would have been better to walk on the right side of the hallway");
- » Use common, everyday words whenever possible;
- » Use the most direct verb possible and do not use hidden verbs (e.g., avoid unnecessarily lengthy descriptions like "carry out an analysis" as opposed to simply writing "analyze");
- » Omit excess words (Say "If a payment is late," not "If a payment is very, very late").
- » Employ logical, simple structures in all headings, lists, bullets, etc., and do not use more than two or three subordinate levels within a

⁶⁷ *Limited English Proficiency* (n.d.). U.S. Department of Housing and Urban Development. <https://www.hud.gov/stat/fheo/limited-english-proficiency>

⁶⁸ *Federal plain language guidelines*. (n.d.). U.S. General Services Administration. <https://www.plainlanguage.gov/guidelines/>

heading system;

- » Use “must” to express requirements; avoids the ambiguous word “shall”; and
- » Use lists and tables to simplify complex material.

Another way to reduce high barriers of entry for program participants navigating a PHA’s online interface is to design websites which are intuitive, user-friendly, and accessible to people with disabilities. Accessible websites might incorporate the following features:

- » Simple interfaces, easy navigation, and minimal data usage to accommodate limited access to high-speed Internet;
- » Ability to download content or access information offline for later use when internet is unavailable;
- » Voice commands for interaction with platforms (especially beneficial for those with low literacy levels);
- » Large text and high contrast displays for individuals with visual impairments;
- » Accessibility plugins that offer various accessibility settings that users with visual impairments, dyslexia, or motor impairments can use;
- » Alternative text (alt text), or descriptive text that conveys the meaning of an image in digital content so people with visual disabilities can use screen readers to get the gist of images on a website;
- » Easily identifiable links; and
- » Versatile formatting that can adapt to different devices (phone, tablet, computer) and screen sizes.⁶⁹

Internet Access and Skills Limitations

Moreover, PHAs should be aware of and accommodate the fact that there are sizable portions of the population who do not have consistent access to stable internet connection nor devices needed to access online materials and services.

Families living in poverty, seniors, veterans, people with disabilities, people with limited literacy or language barriers, non-White people, and people who live in rural areas are more likely to have limited or no access to broadband internet service.⁷⁰ Overall, in

69 *11 Important Ways to Make Your Website Accessible*. (2024, May 22). Solve Web Media. <https://solve.co.uk/web-design-tips/how-to-make-a-website-accessible/>

70 *Examining Gaps in Digital Inclusion in Illinois*. (2022). American Immigration Council. https://www.americanimmigrationcouncil.org/sites/default/files/examining_gaps_in_digital_inclusion_in_illinois.pdf

2019, nearly a quarter of all Illinoisians lacked access to high-speed, broadband internet. Around 12.4% of Illinoisans also lacked access to a computer or laptop.⁷¹

As such, PHAs should consider creating resource guides to help community members find locations that offer free computer use and Internet access in the local community. For example, PHAs can direct program participants to:

- » Community-based digital hubs like libraries;
- » Community centers with public computers and internet access;
- » Providers that offer mobile hotspots for limited home internet access;
- » Programs that offer low-cost device options like tablets or basic smartphones; and
- » Programs offering digital literacy training for people who have a difficult time navigating technology.

Finally, PHAs should make physical offices available for in-person communication with applicants and tenants, either in the form of regular drop-in hours or by appointment.

3. Policies for People with Disabilities



People living with disabilities are more likely to be in medical debt, are more likely to be unemployed or work lower-paying jobs, and are more than twice as likely to live in poverty than adults without disabilities.⁷² Further, because non-White populations are more likely to live in poverty and less likely to have access to high-quality healthcare, communities of color are more likely to live with disabilities.⁷³ Considering these compounding factors, people with disabilities—especially people of color, who experience higher poverty and discrimination rates—are more likely to experience housing insecurity and rely on public housing to survive. Knowing that PHAs may house a higher proportion of people with disabilities than the private market, it is especially important that PHA leaders and staff

⁷² Lake, J., Novack, V., & Ives-Ruble, M. (2021, May 27). *Recognizing and Addressing Housing Insecurity for Disabled Renters*. Center for American Progress. <https://www.americanprogress.org/article/recognizing-addressing-housing-insecurity-disabled-renters/#:~:text=Disabled%20adults%20experience%20poverty%20at,to%20high-er%20rates%20of%20homelessness>

⁷³ Boston, K., Goodman, N., & Morris, M. (n.d.) *Financial Inequality: Disability, Race, and Poverty in America*. National Disability Institute. <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/02/disability-race-poverty-in-america.pdf>

understand and implement required (and recommended) fair housing protections for people with disabilities.

Defining Disability

Both the Fair Housing Act and Section 504 define a person with a disability as an individual who has one or more of the following:

- » A physical or mental impairment that substantially limits one or more of life's daily activities such as walking, hearing, seeing, working, or learning;⁷⁴
- » A record of having a disability;⁷⁵ or
- » The experience of being regarded as having a disability, even if the actual condition does not qualify as a disability.⁷⁶

A PHA must treat both apparent and non-apparent disabilities equally—an apparent disability is one which can be easily seen or detected by others, whereas a non-apparent disability cannot necessarily be easily seen or detected.⁷⁷

Examples of Apparent Disabilities:

- » Partially or completely missing limbs
- » Mobility impairments requiring the use of a walker, cane, or wheelchair
- » Cerebral palsy
- » Muscular dystrophy
- » Hearing impairments
- » Visual impairments
- » Down syndrome
- » Paralysis

Examples of Non-Apparent Disabilities:⁷⁸

- » Autism

74 See 42 U.S.C. §3602(h)(1).

75 See 42 U.S.C. §3602(h)(2).

76 See 42 U.S.C. §3602(h)(3).

77 Lee, E., Meltesen, L., et al. (n.d.). *Reasonable Accommodations and Modifications: A Guide for Housing Professionals*. Illinois Department of Human Rights. <https://dhr.illinois.gov/content/dam/soi/en/web/dhr/publications/documents/idhr-reasonable-accommodations-and-modifications-2-0.pdf>

78 See 28 C.F.R. §§ 35.108(d)(2)(iii); 36.105(d)(2)(iii).

- » Cancer
- » Diabetes
- » Epilepsy
- » Intellectual disabilities
- » Human Immunodeficiency Virus (HIV) infection
- » Major depressive disorder
- » Bipolar disorder
- » Post-traumatic stress disorder
- » Traumatic brain injury
- » Obsessive compulsive disorder
- » Schizophrenia

Reasonable Accommodations & Reasonable Modifications

What are Reasonable Accommodations (RAs) and Reasonable Modifications (RMs)? The Fair Housing Act, Americans with Disabilities Act, Section 504, and the Illinois Human Rights Act require PHAs to make reasonable accommodations or modifications for people with disabilities.

Reasonable accommodations are changes, exceptions, or adjustments to a program, service, or practice that allow a person with a disability to have equal enjoyment of the dwelling and services provided by the housing program.⁷⁹ Reasonable modifications, on the other hand, are structural changes to a unit or common area that allow one to access and enjoy the premises.⁸⁰

Notably, under Section 504 of the Rehabilitation Act of 1973, reasonable accommodations are defined as any change or adaptation to a program, policy, or service that allows an individual with a disability to participate fully in a program—Section 504 does not distinguish between reasonable accommodations or modifications.⁸¹ Under Section 504, PHAs must cover the cost of both structural changes needed because of a tenant’s disability as well as the cost of programmatic adjustments (EXAMPLE: hiring a

79 Joint Statement of HUD and DOJ. (May 17, 2004). *Reasonable Accommodations under the Fair Housing Act*. <https://www.hud.gov/sites/dfiles/FHEO/documents/huddojstatement.pdf>.

80 Joint Statement of HUD and DOJ. (March 5, 2008). *Reasonable Modifications under the Fair Housing Act*. https://www.hud.gov/sites/dfiles/FHEO/documents/reasonable_modifications_mar08.pdf

81 See 24 C.F.R. § 8.33.

sign language interpreter or purchasing a Braille printing machine for individuals with auditory or visual impairments). PHAs cannot request fees or deposits from tenants requesting reasonable accommodations or modifications.

The Fair Housing Act not only protects heads of households from disability discrimination, but also covers tenants who live with or are associated with individuals with disabilities, so tenants can request accommodations or modifications for other household members or visitors.

Submitting a Request: A program participant can request a reasonable accommodation or modification at any time, for any aspect of a housing-related transaction, ranging from the beginning of the application process through the end of an eviction or termination process.⁸² While a request may be oral or written, the best practice is for the program participant to clearly describe their request in writing to establish a documented timeline.⁸³ Submitting one's request in writing also makes it easier for the PHA to understand exactly what the program participant is requesting.

However, the law requires PHAs to accept reasonable accommodation or modification requests regardless of the format they are submitted in, meaning a PHA may not ignore, delay, or penalize tenants who submit requests on their own forms as opposed to using the PHA's preferred forms or request process.⁸⁴

A program participant does not need to write or submit the request themselves, and it is acceptable for a family member or other advocate acting on behalf of the individual with the disability to make the request.⁸⁵

In the request, the program participant must inform the PHA that they have a disability and identify how it prevents them from either complying with a lease term or from obtaining equal housing benefits. However, the accommodation request does not need to state the name of the disability, and the PHA may not inquire about the diagnosis, treatment, or the nature or extent of the disability beyond the description identifying how the disability affects the tenant's ability to enjoy their housing. Altogether, the request must specifically state the accommodation or modification the tenant is seeking, describe how the accommodation or modification is related to the participant's disability, and identify how it will help the participant access or remain in the housing program. There must be an identifiable connection between the requested accommodation and the person's disability.

82 Lee, E., Meltesen, L., et. al. (n.d.). *Reasonable Accommodations and Modifications: A Guide for Housing Professionals*. Illinois Department of Human Rights. <https://dhr.illinois.gov/content/dam/soi/en/web/dhr/publications/documents/idhr-reasonable-accommodations-and-modifications-2-0.pdf>

83 Waddy, J. (n.d). *Reasonable Accommodation Laws and the Public Housing Authority*. National Association of Home Builders. <https://www.nahb.org/advocacy/legal-issues/accessibility/reasonable-accommodation-laws-and-the-public-housing-authority>

84 *Reasonable Accommodation in Federally Assisted Housing*. (October 2012). National Housing Law Project. <https://www.fairhousingnc.org/wp-content/uploads/2014/10/NHLP-Reasonable-Accommodation-Outline-Curent-10-2012.pdf>

85 Joint Statement of HUD and DOJ. (May 17, 2004). *Reasonable Accommodations under the Fair Housing Act*. <https://www.hud.gov/sites/dfiles/FHEO/documents/hud DOJstatement.pdf>.

If the program participant requesting the accommodation has an apparent disability, the PHA cannot ask for additional information about the disability and can only ask verification questions to determine the need. If neither the disability nor the need for the accommodation or modification is readily apparent, the PHA may ask for verification of the disability from a trustworthy third-party source, and the PHA can also ask the participant to verify the nexus between the participant's disability and the need for the accommodation.

HOPE Recommends:

PHAs should formally acknowledge a RA/RM request within 72 hours of receipt to assure the program participant the PHA has properly stored and began reviewing the request. PHAs should also offer a timeline to inform the participant how long it will take to substantively respond to the request.

The PHA's Response: Once a tenant states that they have a disability and requests changes to accommodate it, the PHA must respond promptly and begin the reasonable accommodation or modification process.⁸⁶ A PHA failing to respond in due time may be considered an illegal de facto denial of the request.⁸⁷

Additionally, PHAs should aim to offer a detailed, productive response to the participant's request within three weeks of the date the participant submitted the request. Because reasonable accommodation or modification requests are connected to a tenant's quality of life and safety, PHAs should respect the time-sensitive nature of the requests they receive.

Moreover, PHAs may not be required to make reasonable accommodations or modifications if they would constitute an undue financial and administrative burden to the PHA, or if they would be a fundamental alteration of the PHA's program.⁸⁸ If the PHA denies a request, however, the PHA must engage in an interactive process with the program participant to discuss alternative accommodations that can satisfy the participant's needs without imposing an undue burden or fundamentally altering the PHA's program. PHAs should conduct this process in good faith and seriously focus on addressing the participant's needs.⁸⁹

Section 504 requires federally assisted housing providers to create grievance procedures to address disability discrimination complaints within the program. If their reasonable accommodation is denied, people with disabilities are entitled to this process to engage in a more formal, legally mandated version of the interactive process.⁹⁰

86 Lee, E., Meltesen, L., et. al. (n.d.). *Reasonable Accommodations and Modifications: A Guide for Housing Professionals*. Illinois Department of Human Rights. <https://dhr.illinois.gov/content/dam/soi/en/web/dhr/publications/documents/idhr-reasonable-accommodations-and-modifications-2-0.pdf>

87 Joint Statement of HUD and DOJ. (May 17, 2004). *Reasonable Accommodations under the Fair Housing Act*. <https://www.hud.gov/sites/dfiles/FHEO/documents/huddojstatement.pdf>.

88 Ibid.

89 Waddy, J. (n.d.). *Reasonable Accommodation Laws and the Public Housing Authority*. National Association of Home Builders. <https://www.nahb.org/advocacy/legal-issues/accessibility/reasonable-accommodation-laws-and-the-public-housing-authority>

90 *Reasonable Accommodation in Federally Assisted Housing*. (October 2012). National Housing Law Project. <https://www.fairhousingnc.org/wp-content/uploads/2014/10/NHLP-Reasonable-Accommodation-Outline-Cur->

RA and RM Best Practices and Recommendations: Housing advocates have several recommendations for PHAs processing and fulfilling reasonable accommodations or modifications, especially considering PHAs can receive a high volume of requests:

- » Establish a timeline the PHA adhere to when acknowledging, responding to, and fulfilling requests;
- » Describe guidelines PHAs will use to determine an acceptance or denial of a request;
- » Identify and assign designated staff to organizing, processing, and responding to requests;
- » Adopt an organized case management system to store requests and track the progress or status of requests;
- » Designate funding in each annual budget specifically to fulfill approved requests so PHAs can ensure they have the funding needed to cover reasonable requests; and
- » Accommodate people with lifelong disabilities by waiving or simplifying annual re-certification requirements which require PHA tenants with permanent accommodation needs to submit redundant or onerous re-certification paperwork. For example, PHAs may allow requestees with lifelong disabilities to reliably inform or document their disability requires permanent accommodation to waive annual re-certification requirements. Otherwise, annual accommodation recertifications for tenants with permanent disabilities may force tenants to schedule unnecessary medical appointments, resulting in potentially burdensome fees and transportation costs. Additionally, re-certifying a tenant's need for accommodation for a permanent disability can create unnecessary administrative work for both PHA case handlers and the tenant. Requests for re-certification that occur more frequently than necessary also introduce unnecessary checkpoints which increase the likelihood that tenants will lose their accommodation or subsidized housing for minor administrative violations (submitting documentation incorrectly, late, etc.).

Exceptions: Housing providers are not required to grant reasonable accommodations or modifications under the Fair Housing Act under two exceptions.

1. People with disabilities who impose a “direct threat” to the health or safety of other people or who damage others’ property are not protected unless the accommodation or modification can eliminate or reduce the

threat.⁹¹ Generally, for behavior to constitute a direct threat, it must be violent in nature.⁹² The PHA must also conduct an individualized assessment of the applicant to determine the nature, duration, and severity of the risk of injury as well as consider the likelihood that injury will actually occur.⁹³

2. People actively abusing illegal drugs are not protected under the Fair Housing Act based on disability and are not afforded the right to request reasonable accommodations or modifications related to drug abuse. However, people who have been rehabilitated and/or are recovering from substance abuse are considered people with disabilities and are afforded the rights of the Act.⁹⁴

Common Examples of Reasonable Accommodations and Reasonable Modifications

Assistance Animals: Program participants can request to have an assistance animal and bypass no-pet policies as a reasonable accommodation under the Fair Housing Act.⁹⁵ Assistance animals are not pets, and PHAs cannot require pet fees, special security deposits, or related pet costs when approving accommodations for assistance animals.

There are two kinds of assistance animals—service animals and support animals.⁹⁶ The Americans with Disabilities Act extends program participants the right to have service animals as reasonable accommodations, however the ADA does not cover support animals. The ADA defines a service animal as a dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability.⁹⁷ The work tasks performed by the service animal must be directly related to the individual's disability.⁹⁸ The PHA can inquire whether an animal is necessary because of the program participant's disability and ask about the work tasks the animal performs, but the PHA cannot ask about the nature or extent of the individual's disability.⁹⁹

91 Joint Statement of HUD and DOJ. (May 17, 2004). *Reasonable Accommodations under the Fair Housing Act*. <https://www.hud.gov/sites/dfiles/FHEO/documents/huddojstatement.pdf>.

92 Ibid.

93 Ibid.

94 Lee, E., Meltesen, L., et. al. (n.d.). *Reasonable Accommodations and Modifications: A Guide for Housing Professionals*. Illinois Department of Human Rights. <https://dhr.illinois.gov/content/dam/soi/en/web/dhr/publications/documents/idhr-reasonable-accommodations-and-modifications-2-0.pdf>

95 U.S. Department of Housing and Urban Development. (January 28, 2020). *Assessing a Person's Request to have an Animal as a Reasonable Accommodation Under the Fair Housing Act*. <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

96 Ibid.

97 Ibid.

98 Ibid.

99 *Assessing a Person's Request to have an Animal as a Reasonable Accommodation Under the Fair Housing Act*. (2020). U.S. Department of Housing and Urban Development. <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

Although the ADA defines assistance animals as dogs only, and is applicable to program services and public accommodations, the FHA is more permissive and defines assistance animals as any animal that performs tasks or provides emotional support to lessen the effect of a disability. Under the Fair Housing Act, a program participant can request to have service animals and/or support animals in their home. Moreover, the FHA also affords an individual the right to make a reasonable accommodation request for the animal at any time, and the PHA must consider the request even if the program participant has already brought the animal into the housing.¹⁰⁰ PHAs cannot limit the breed or size of a dog used as an assistance animal unless the animal poses a direct threat, nor can PHAs require the animal to have any special certification or training.¹⁰¹

PHAs should follow the same protocol they use to determine the validity of other reasonable accommodations when considering an assistance animal-related request.¹⁰² If a PHA requests documentation from a tenant to certify they have a disability and disability-related need requiring the need of an assistance animal—which is permitted if the program participant does not have an obvious or apparent disability—the tenant can submit a note from a professional (who knows about the requestor’s medical needs) that confirms a person’s disability and need for an animal.¹⁰³

As with any other reasonable accommodation, professionals attesting to a program participant’s need for an assistance animal are not required to disclose the participant’s medical diagnosis to a PHA.¹⁰⁴ Rather, a sufficient note from the professional need only include the patient’s name, the nature of the relationship between the professional and the patient, the type of animal in question, whether the patient’s disability meets the FHA-specific definition of a disability, and whether the patient needs the animal because of their disability.¹⁰⁵

Parking: If a program participant with mobility impairments is covered under a PHA program which offers parking, they may request a reasonable accommodation to the facility’s parking policies by requesting an accessible parking space or a reserved parking space near the entrance.

A PHA is obligated to consider and fulfill a legitimate request even if other tenants do not receive reserved spots. In addition, if the building does offer reserved spots but no spots are available, PHAs are still responsible for providing a parking space to the tenant.¹⁰⁶ Possible solutions in these scenarios may include creating a new parking

100 See 24 C.F.R. § 100.204(a).

101 *Assessing a Person’s Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act*. (January 28, 2020). U.S. Department of Housing and Urban Development. <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

102 Ibid.

103 Ibid.

104 Ibid.

105 Ibid.

106 Lee, E., Meltesen, L., et. al. (n.d.). *Reasonable Accommodations and Modifications: A Guide for Housing Professionals*. Illinois Department of Human Rights. <https://dhr.illinois.gov/content/dam/soi/en/web/dhr/publications/doc->

space, asking other participants to exchange their parking spaces, or reserving a space for the participant making the request when the next space becomes available.¹⁰⁷

Hoarding: Program participants facing eviction or termination from PHA programming because of a psychiatric illness causing hoarding in the unit may receive additional time to clean the unit as a reasonable accommodation.¹⁰⁸

Additional Moving Time and Implementing Exception Payment Standards: Program participants with disabilities can request additional time to move or place a Housing Choice Voucher because their disability may make moving more difficult, and communities often have limited housing stock that is both affordable and accessible.

Key Terms

Fair Market Rent: Regularly published by HUD, fair market rent represents the cost to rent a moderately-priced dwelling unit in the local housing market.

As a result, PHA program participants with disabilities may need additional time to find a unit that is both accessible and within the payment standards, and PHAs can implement Exception Payment Standards up to 120% of the area's applicable **Fair Market Rent (FMR)** as a reasonable accommodation for people with disabilities—particularly disabilities which impair mobility.¹⁰⁹ If a PHA wishes to make Exception Payment Standards greater than 120% of the FMR as a reasonable accommodation, they must obtain prior approval from HUD.¹¹⁰

HOPE Recommends:

PHAs should exercise flexibility and offer multiple units that program participants with disabilities could transfer to. Many PHA tenants have resided in the same neighborhoods for many years and have long-established community ties and relationships with nearby medical providers, so PHAs should approach unit transfer accommodations collaboratively and with an understanding that tenants may have legitimate reason to turn down units in inconvenient locations. In this case, PHAs should respectfully consider the tenant's feedback and offer additional unit options before denying the transfer.

Unit Transfers: People with disabilities may request an accommodation to leave a unit early, transfer to another unit in the same building, or transfer to another building under the same management (EXAMPLE: If a building's elevator breaks, a tenant who uses a wheelchair may request to move to a first-floor unit).¹¹¹

[uments/idhr-reasonable-accommodations-and-modifications-2-0.pdf](#)

107 Ibid.

108 Lebanon County Housing Authority v. Landeck, 967 A.2d 1009 (Pa. Super. Ct. 2009) (holding trial court should have considered evidence related to tenant's reasonable accommodation request to PHA seeking stay of eviction process for poor housekeeping) <https://casetext.com/case/lebanon-cty-housing-v-landeck>

109 Lee, E., Meltesen, L., et. al. (n.d.). *Reasonable Accommodations and Modifications: A Guide for Housing Professionals*. Illinois Department of Human Rights. <https://dhr.illinois.gov/content/dam/soi/en/web/dhr/publications/documents/idhr-reasonable-accommodations-and-modifications-2-0.pdf>; See 24 CFR § 982.505(d).

110 See 24 CFR 982.503(d)(5).

111 Ibid.

Live-In Aides: People with disabilities may request an accommodation which overrides their unit's occupancy policies to house a live-in aide who can provide 24-hour care. Live-in aides can be either professionals or relatives; in any case, live-in aides are not considered occupants and are not part of the lease, so their income may not factor into the tenant's income or interfere with the tenant's eligibility.¹¹² However, any live-in aide approved by the PHA to reside in the unit must be counted in determining the family size.¹¹³ For this reason, tenants with disabilities may also request to move to a unit with an additional bedroom to accommodate the live-in aide.

Similarly, PHAs should be aware that tenants may request to add a family member who has a disability to a subsidized unit as a reasonable accommodation so that the tenant receiving the Voucher can provide care to their family member with the disability.¹¹⁴

Waiting Lists: If the methods of joining the waiting list are inaccessible to someone because of their disability, the PHA must provide a reasonable accommodation that would grant them access, whether by reinstating someone to the waiting list or by arranging an in-person meeting to assist in joining.¹¹⁵

To make joining the waiting list as accessible as possible, PHAs should ensure applications are available both online and in print. PHAs should disperse print applications in public spaces throughout the service area, including libraries, community centers, social service offices, etc. Read more about waiting list requirements in Section 4 of this Handbook.

Design and Construction

Accommodations for Survivors of Gender-Based Violence: Some survivors of gender-based violence are already living with disabilities and need reasonable accommodations, and for some survivors, these disabilities arose because of the dynamics and situations they survived. For example, a survivor of gender-based violence may require additional notice prior to PHA maintenance staff entering their unit because of PTSD they developed because of an assault.

Despite the well-documented need, there is a severe shortage of accessible housing in public housing portfolios—in 2019, for example, 300,000 HUD-assisted households with a mobility device user reported living without any accessibility features.¹¹⁶ PHAs

112 Ibid.

113 See 24 CFR 982.402.

114 Lee, E., Meltesen, L., et. al. (n.d.). *Reasonable Accommodations and Modifications: A Guide for Housing Professionals*. Illinois Department of Human Rights. <https://dhr.illinois.gov/content/dam/soi/en/web/dhr/publications/documents/idhr-reasonable-accommodations-and-modifications-2-0.pdf>

115 National Housing Law Project. (October 2012). *Reasonable Accommodation in Federally Assisted Housing*. <https://www.fairhousingnc.org/wp-content/uploads/2014/10/NHLP-Reasonable-Accommodation-Outline-Curent-10-2012.pdf>

116 HUD Rental Assistance: *Serving Households with Disabilities*. (March 29, 2023). U.S. Government Accountability

must comply with applicable federal architectural standards required under Section 504, the Americans with Disabilities Act, and the Fair Housing Act. Illinois PHAs must also comply with the Illinois Environmental Barriers Act.

Section 504 Design and Construction Requirements: Under Section 504, any new PHA facilities built or altered after May 23, 2014 must conform to the Uniform Federal Accessibility Standards (UFAS) or the 2010 ADA Standards for Accessible Design. Based on 2014 HUD regulations, PHAs can comply with Section 504 by following the ADA Accessibility Standards, however with a number of exceptions detailed in this [Federal Register Notice](#).¹¹⁷ PHAs are responsible for Section 504 design and construction requirements, also.¹¹⁸

For a new federally assisted construction housing project, Section 504 requires 5% of the dwelling units, or one unit (whichever is greater) to be accessible for persons with mobility disabilities.¹¹⁹ Also, either 2% of the dwelling units, or one unit (whichever is greater) must be accessible for persons with hearing or visual disabilities.¹²⁰

PHAs must alter existing multifamily housing facilities to reflect Section 504 standards if the PHA is already making substantial alterations to the building; however, PHAs are not required to make alterations if it would result in undue financial and administrative burden.¹²¹

Title II of the ADA Design and Construction Requirements: As of January 26, 1992, every facility constructed by or for the use of a public entity—including PHAs—must be accessible to and usable by people with disabilities. Physical construction or alterations made after March 15, 2012 must comply with the 2010 ADA Standards for Accessible Design.¹²²

Fair Housing Act Design and Construction Requirements: If a PHA's new construction project has four or more dwelling units and is built for first occupancy after March 13, 1991, it is also subject to the accessibility and adaptability requirements of the Fair Housing Act. Dwellings must be accessible and usable by people with disabilities, and should include:

- » Doors wide enough for people who use wheelchairs to pass through them;
- » Accessible routes into and through the unit;
- » Light switches, electrical outlets, thermostats, and other environmental controls located in accessible locations;

Office. <https://www.gao.gov/products/gao-23-106339#:~:text=However%2C%20more%20than%20300%2C000%20assisted,according%20to%20the%202019%20survey.>

117 See 80 Fed. Reg. 42271 (July 16, 2015).

118 See 24 CFR § 8 C – Program Accessibility.

119 See 24 CFR § 8.20, 8.22, 8.25.

120 See 24 CFR § 8.20, 8.22, 8.25.

121 See 24 CFR § 8.20, 8.23, 8.25.

122 U.S. Department of Justice Civil Rights Division. (September 15, 2010). *2010 ADA Standards for Accessible Design*. <https://www.ada.gov/law-and-regs/design-standards/2010-stds/>

- » Reinforcements in bathroom walls to allow for the installation of grab bars; and
- » Kitchens and bathrooms that are useable by those with ambulatory disabilities.¹²³

Illinois Environmental Barriers Act: This Illinois State law governs physical access for people with disabilities.¹²⁴ Through this Act, public facilities and multi-story housing units must adhere to the Illinois Accessibility Code, which parallels the ADA standards.¹²⁵

123 See 42 U.S.C. § 3604(f)(3)(C).

124 See 410 ILCS 25/1.

125 2018 Illinois Accessibility Code. (October 23, 2018). Capital Development Board. <https://dceo.illinois.gov/content/dam/soi/en/web/dceo/cdb/business/codes/illinoisaccessibilitycode/documents/2018-illinois-accessibility-code.pdf>

4. Waiting Lists & Determining Program Participant Eligibility

Tenant Selection Requirements

PHAs must establish and adopt written policies for admission of tenants. These policies shall provide for and include the following:

- » Targeting admissions to extremely low-income families;
- » Deconcentrating poverty in accordance with the PHA Plan regulations;
- » Precluding admission of applicants whose behaviors may be reasonably expected to have a detrimental effect on the residents or building environment;
- » Objective and reasonable policies for selecting eligible applicants, including requirements for applications and waiting lists;
- » Objective and reasonable policies for verification and documentation of information relevant to acceptance or rejection of an applicant, including documentation and verification of citizenship and eligible immigration status; and
- » Policies regarding participant transfer between units, developments, and programs.¹²⁶

Tenant Selection and Assignment Plans (TSAPs): TSAPs encourage consistency in the process of selecting applicants and assigning units. TSAPs must include guidance on:¹²⁷

- » Whether the PHA will operate community-wide or site-based waiting lists, or some combination of the two;
- » Site-based waiting lists policies consistent with all applicable civil

¹²⁶ See 24 CFR § 960.202(a).

¹²⁷ See 24 CFR § 5.105(a); 24 CFR part 1 (Title VI); 24 CFR part 8 (Section 504 of the Rehabilitation Act); 24 CFR part 100 (Fair Housing Act); 24 CFR part 146 (Age Discrimination Act); 28 CFR part 35 (Title II of the Americans with Disabilities Act).

rights and fair housing laws and regulations (PHAs need approval from HUD to use a site-based waiting list);¹²⁸

- » How the PHA determines which units to offer to an applicant when more than one unit of the right size and type is available for lease;
- » The length of time an applicant is given to consider a unit offer;
- » How many offers of housing an applicant may refuse without good cause before being dropped from the waiting list or dropped to the bottom of the waiting list;
- » How applicants may be removed from the waiting list;
- » The circumstances where the PHA may prioritize certain tenants' transfers over other tenants (EXAMPLE: VAWA Emergency transfers);
- » How the PHA will ensure accessible units are occupied by individuals with disabilities who need the accessibility features of the units in accordance with HUD's Section 504 requirements;¹²⁹
- » How the PHA will consider reasonable accommodations to individuals with disabilities throughout the TSAP process, including for example, when individuals may be reinstated to the waiting list after submitting a valid reasonable accommodation to be re-added;¹³⁰ and
- » How the PHA will verify that at least 40% of families admitted to the program are extremely low-income.¹³¹

Waiting Lists

Public housing is in high demand, and many families wait for decades on waiting lists before receiving a subsidized unit, if ever. PHAs must follow certain guidelines when managing their waiting lists to ensure all eligible applicants have a fair chance of receiving a unit, without regard to their status as a member of a protected class.

Opening the Waiting List: A PHA should announce well in advance when the waiting



128 See 24 CFR § 903.7(b)(2)(v).

129 See 24 CFR § 8.27.

130 See 24 CFR part 8; 28 CFR part 35.

131 See 24 CFR § 960.202(b)(1).

list will open and how long it will be open so that as many people as possible are aware of the opportunity to join the list. When opening the waiting list, PHAs must conduct affirmative outreach and marketing, should make the announcement simple, announce the opening across many platforms and among social service providers who serve low-income communities, and include clear directions on how to submit applications.¹³²

HUD also requires PHAs to ensure the waiting list is available to people with disabilities and those who speak languages other than English, as identified through the PHA's Language Access Plan (detailed in Section 2 of this Handbook).¹³³

Under Section 504, PHAs must take appropriate steps to ensure effective communication with applicants, beneficiaries, and members of the public.¹³⁴ PHAs can do this by providing appropriate auxiliary aids and services necessary to ensure effective communication, which includes ensuring that information is translated into the needed languages as well as provided in appropriate accessible formats (i.e., Braille, audio, large type, accessible online formats, assistive listening devices, or sign language interpreters). It is also important that PHAs are as communicative and transparent as possible when announcing and opening the waiting list to ensure they are not directly or indirectly excluding households on the basis of a protected class. One way they may do this is by reaching out to organizations in the service area that support people with disabilities, for instance.

Waiting List Applications: PHAs should ensure they can accept applications both online, in-person (ideally at more than one location and during early morning, evening, and weekend hours), over the phone, and via mail. PHAs should consider using application forms that computer software can recognize and automatically enter applicant information into a database to reduce the burden of manual data entry.¹³⁵

PHAs should record the following information for each waiting list applicant:

- » Applicant name;
- » Family unit size/number of bedrooms needed;
- » Date and time of application;
- » Eligibility for preference points (read more on these below);
- » Racial or ethnic designation of the head of household;
- » Whether the family requires an accessible unit or accessibility features; and
- » Whether the family qualifies as extremely low-income.¹³⁶

132 See 24 CFR § 964.30.

133 See 24 CFR § 8.6.

134 Ibid.

135 U.S. Department of Housing and Urban Development. (n.d.). *Public Housing Occupancy Guidebook: Waiting List and Tenant Selection*. https://www.hud.gov/sites/dfiles/PIH/documents/PHOG_Waiting_List_Chapter.pdf

136 See 24 CFR § 982.204.

PHAs should also collect applicant information regarding elderly families, families that include individuals with disabilities, and families with extremely low-income, because PHAs must report that data annually.¹³⁷

HUD encourages PHAs to maintain the confidentiality of applicant data and carefully document any updates an applicant makes to their application in addition to any actions a PHA may take on an applicant's file, noting the date and time of every update.¹³⁸

Moreover, PHAs should be careful not to impose unnecessary barriers at the waiting list application stage. For example, if an application prompts input of a Social Security number, someone without this identification would be barred from applying. PHAs must accept applicants without Social Security numbers who are part of mixed immigration-status households because a family consisting of two or more household members that has at least one member who has eligible U.S. citizenship or immigration status is eligible for prorated assistance.¹³⁹ As such, PHAs imposing additional barriers to a mixed status family's ability to access public housing may discriminate against individuals on the basis of national origin, which could violate the Fair Housing Act.

Immigration status is also a protected class covered by the Illinois Human Rights Act at the State level. PHAs imposing additional barriers to a mixed status family's ability to access public housing may violate the Illinois Human Rights Act, which protects against housing discrimination on the basis of one's actual or perceived citizenship or immigration status. Illinois Human Rights Act regulations recommend housing providers avoid unlawful discrimination against applicants on the basis of their immigration status by allowing applicants to provide alternatives to Social Security Numbers for background screening checks when not required under state or federal mandates.¹⁴⁰ PHAs who require applicants to share their immigration status must be prepared to explain the purpose of the questioning and how the question specifically relates to state or federal law.¹⁴¹

Placing and Removing Applicants on the Waiting List: PHAs should keep the waiting list updated, which includes removing applicants who are not responsive or who no longer require assistance. PHAs are encouraged to consider soliciting from applicants their preferred method(s) of communication, which may include mail, phone, text message, email, or contact through a representative or service provider.

Prior to removing applicants from the waiting list, PHAs should attempt to reach the applicant through all forms of contact the applicant provided. Similarly, PHAs should

137 See 24 CFR § 960.202(b) and § 903.7(a).

138 *Public Housing Occupancy Guidebook: Waiting List and Tenant Selection*. (n.d.). U.S. Department of Housing and Urban Development. https://www.hud.gov/sites/dfiles/PIH/documents/PHOG_Waiting_List_Chapter.pdf

139 See 24 CFR §5.520.

140 Illinois Department of Human Rights. (n.d.). *Immigration Status & Housing Frequently Asked Questions*. <https://dhr.illinois.gov/filing-a-charge/faq-immigrationstatus.html>

141 Ibid.

give applicants a reasonable window of time to respond as well as communicate when the PHA will remove the applicant from the waiting list if they fail to respond.

Applicants that PHAs have removed from the waiting list can be reinstated if they failed to respond because of their or a family member's disability or because they were a victim of domestic violence, dating violence, sexual assault, or stalking.

If a PHA finds a household is ineligible to join the waiting list, the PHA must inform the applicant(s) in writing of the reason for ineligibility and of the family's right to request an informal review under the set grievance policy.¹⁴²

Site-Based Waiting Lists: PHAs must inform HUD that they plan to use site-based waiting lists by including a description in their Annual Plan. If a PHA plans to implement a site-based waiting list, they must follow the five requirements below:

1. Submit accurate and complete tenant characteristic data to HUD;
2. Disclose all available units to each applicant, across all developments, and include information regarding site location, occupancy, number of accessible units, amenities, transportation, and estimated waiting list time;
3. Ensure the site-based waiting list would not violate any court order, settlement agreement, or pending complaint;
4. Assure the adoption of the site-based waiting list is consistent with the AFFH requirement, including when marketing the units; and
5. Prepare a review determining whether the site-based waiting list complies with civil rights laws. A PHA should do this by reviewing changes in racial, ethnic, or disability-related tenant characteristics, testing to ensure the site-based waiting list policy is not employed in a discriminatory way, and by taking steps to remedy problems that surface during the review.¹⁴³

In general, PHAs must engage in ongoing self-evaluation to ensure that site-based waiting lists are not discriminatory by monitoring changes in racial, ethnic, or disability-related tenant composition at a site that adopted a site-based waiting list model. PHAs must include these assessments in their Annual Plans.

Preferences: A PHA may set preferences that dictate whether it will choose certain applicants from the waiting list before others. A PHA may not deny otherwise-eligible families the right to join the waiting list if they are not considered a "preferred" applicant. A PHA can limit the number of applicants who can benefit from preference advantages.

The PHA must inform all applicants about available preferences and give applicants an opportunity to show that they qualify for available preferences, and, if there are more applicants than available spots on the waiting list, PHAs should randomly select families

142 Ibid.

143 See 24 CFR § 903.7(b)(2).

to determine which similarly qualified families with a given preference advantage should join the waiting list.¹⁴⁴

If a PHA establishes preference guidelines, they need to be consistent with the PHA's Annual Plan and the Consolidated Plan, the preferences must be based on local housing needs, and they must be determined by using reliable data to inform the agency's decisions.¹⁴⁵ Any updates to preferences must be publicized, and if the changes are considered "significant amendments" or "substantial deviations," the PHA is subject to requirements for consultation and public comment.

If a PHA adopts preferences, they must establish consistent guidelines for verifying the preferences. Preference self-certification documents should be easy for applicants to understand, the PHA should not require overly burdensome verification requirements, and the PHA should offer a variety of ways one could verify that they qualify for the preference.

Types of Preferences:

» *Residency preferences* are preferences of admission for people who reside in a specified geographic area, which can be either a county, municipality, or a smaller area within these categories. PHAs using residency preferences must include a description in the Annual Plan and confirm how the preference does not have a segregating effect or disadvantage members of protected classes who reside outside of the residential area the PHA is offering preference to.¹⁴⁶ PHAs should be aware that past residency preferences used in discriminatory ways have been found to violate the Fair Housing Act on the basis of race. In at least one instance, the Court found a PHA's residency preference violated the Fair Housing Act by granting preference to tenants living or working in smaller, majority-White communities in comparison to tenants living in majority non-White areas, who were not given priority.¹⁴⁷

» *Preferences for people with disabilities* are permitted; however, the PHA may not adopt preferences for specific disabilities.¹⁴⁸ *Olmstead v. L.C.* found that, under Title II of the ADA, states cannot require people with disabilities to reside in nursing homes, state hospitals, or other institutional settings to receive care if that care could be reasonably provided in integrated community-based settings.¹⁴⁹ As such, PHAs

144 See 24 CFR § 920.206(a)(1) and (4).

145 See 24 CFR § 960.206(a)(1).

146 See 24 § 982.207(b)(1)(iii).

147 *Comer v. Cisneros*, 37 F.3d 775 (2d Cir. 1994); *Langlois v. Abington Housing Authority*, 207 F.3d 43 (1st Cir. 2000)

148 See 24 § 982.207(b)(2).

149 *Olmstead v. L.C.*, 527 U.S. 581 (1999)

should work with state and local governments to deinstitutionalize and provide housing alternatives to people living with disabilities who do not require the intensive level of care and resulting loss of independence from living in institutions.

» PHAs may also establish *preferences for individuals who are homeless*. For example, a PHA may design a residency preference that defines eligible residency based on if an applicant currently lives in a shelter, other temporary housing, or unsheltered locations.¹⁵⁰

» PHAs are encouraged to implement *preferences for the admission of families* that include *survivors of domestic violence, dating violence, sexual assault or stalking* as well as for *families who were terminated from the Housing Choice Voucher program* because of insufficient funding.¹⁵¹

Selecting Tenants from the Waiting List: PHAs selecting applicants from the waiting list should use a lottery or other randomized technique when selecting among applicants of the same priority status. Random selection helps PHAs ensure they are selecting tenants in a nondiscriminatory manner. With this being said, under Section 504, PHAs must establish procedures to offer accessible units to individuals on the waiting list who need accessible units.¹⁵² Section 504 regulations not only require PHAs to inform individuals when units suited to their needs open up but also to offer the unit to the qualified individual with a disability first.¹⁵³

If an accessible unit opens up, the PHA should first offer the unit to a tenant who needs accessibility features but resides in a non-accessible unit in the same or comparable projects.¹⁵⁴ (A PHA can also make this possible by including a lease addendum that requires families to transfer to a different unit if someone else with a disability needs the accessible features of their unit.)¹⁵⁵ Otherwise, the PHA should offer the unit to the next eligible person on the waiting list who needs an accessible unit.¹⁵⁶

Policies for People with Arrest Records and/or Criminal Convictions

Public Housing Expands Access and Reduces Recidivism: Along with the already dire affordable housing shortage and wage stagnation, individuals with arrests or convictions on their records also face discriminatory policies which exclude people

150 U.S. Department of Housing and Urban Development. (June 8, 2023). *Notice PIH 2023-13, CPD 2023-05*. <https://www.hud.gov/sites/dfiles/PIH/documents/pih2023-13.pdf>

151 See 24 CFR § 960.206(b)(4).

152 See 24 CFR. § 8.27.

153 See 24 C.F.R. § 8.27.

154 See 24 C.F.R. § 8.27.

155 See 24 CFR § 960.206(c); 24 CFR § 8.27(b),

156 See 24 C.F.R. § 8.27.

with justice-involved backgrounds from rental housing.¹⁵⁷ Also, for people who were previously incarcerated, these barriers overlap with the fact that people who served time in jail or prison are automatically deprived of the opportunity to build economic stability while incarcerated. People who have been incarcerated are also 2.5 times more likely to live with a disability than the general population.¹⁵⁸ These barriers pose an enormous challenge to people with justice-involved backgrounds seeking access to gainful employment, economic stability, and stable housing.

Concerted efforts by PHAs to house people with justice-involved backgrounds and support previously incarcerated peoples' reentry to society also enhance public safety, as stable housing is one of the most effective ways to reduce

recidivism. One study made the interesting observation that securing stable housing was an especially strong predictor of reduced recidivism among ex-offenders considered low-risk and who served low-severity offenses.¹⁵⁹

Key Terms

Recidivism: the tendency of a person to become re-involved with the criminal justice system.

Certain PHAs across the country have introduced programs designed to expand public housing access among justice-involved individuals and have found promising results. For example, the New York City Housing Authority (NYCHA) introduced the Family Reentry Pilot Program which allows people released from prison to move in with family members living in a NYCHA unit and eventually join the lease.¹⁶⁰

Federally Required Prohibitions: To adhere to HUD regulations and maintain the safety of other tenants, PHAs must prohibit individuals from accessing program services if:

- » A household member was evicted from federally assisted housing for drug-related activity in the last three years. The PHA must also prohibit admission if it determines that any household member is engaging in illegal use of a drug, threatens the health and safety of other residents because of their drug use, or has ever manufactured methamphetamine

157 DeSilver, D. (August 7, 2018). *For most U.S. workers, real wages have barely budged in decades*. Pew Research Center. <https://www.pewresearch.org/short-reads/2018/08/07/for-most-us-workers-real-wages-have-barely-budged-for-decades/>

158 *Disability: Research on the prevalence of, and challenges faced by, people with disabilities in the criminal legal system*. (March 21, 2025). Prison Policy Initiative. [https://www.prisonpolicy.org/research/disability/#:~:text=Disabilities%20Reported%20by%20Prisoners%20Bureau,%25\)%20reported%20having%20a%20disability.%E2%80%9D](https://www.prisonpolicy.org/research/disability/#:~:text=Disabilities%20Reported%20by%20Prisoners%20Bureau,%25)%20reported%20having%20a%20disability.%E2%80%9D)

159 Jacobs, L. A., & Gottlieb, A. (August 6, 2020). *The Effect of Housing Circumstances on Recidivism: Evidence from a Sample of People on Probation in San Francisco*. *Criminal Justice and Behavior*, 47(9), 1097–1115. <https://doi.org/10.1177/0093854820942285>

160 Smith, L., Bae, J., diZerega, M., Shanahan, R., Kang-Brown, J., & Subramanian, R. (September 2017). *An Evaluation of the New York City Housing Authority's Family Reentry Pilot Program: Final Report to the U.S. Department of Housing and Urban Development*. Vera Institute of Justice. <https://www.huduser.gov/portal/sites/default/files/pdf/NYCHAevaluation-Sept-2017-updated.pdf>

on the premises of federally assisted housing;¹⁶¹

- » A household member is a lifetime State-registered sex offender;¹⁶² or
- » A household member abuses alcohol in a way that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.¹⁶³

Lookback Period: Based on the Illinois Public Housing Access Bill incorporated into the Illinois Housing Authorities Act, Illinois PHAs assessing whether an applicant is eligible for subsidized housing cannot apply lookback periods that consider convictions from more than 180 days prior to the date an application is reviewed.¹⁶⁴ When determining eligibility, PHAs also cannot consider an applicant's history of arrests, detention, or criminal charges or indictments that do not result in a conviction, matters under the jurisdiction of Illinois Juvenile Court, nor convictions that have been vacated, expunged, sealed, or impounded by a court.¹⁶⁵ Finally, PHAs cannot consider the amount of time since the applicant or other household member completed a sentence in prison or jail when determining eligibility.¹⁶⁶

Permissive Prohibitions: When State or federal requirements do not apply, a PHA can exercise discretion when reviewing other applicant or tenant criminal history or activity. HUD does not require PHAs to adopt exclusive "one strike" rules that deny admission to applicants with criminal records or that require an automatic eviction with no second chance if a household member engages in criminal activity, even if it holds the household member in violation of their lease.¹⁶⁷

A PHA can—but is not required to—prohibit the following behaviors if the PHA determines that a household member is currently engaged in or has engaged in during a reasonable time before the admission:

- » Drug-related criminal activity;
- » Violent criminal activity; or
- » Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or people in the immediate vicinity.¹⁶⁸

PHAs should develop and follow specific definitions that interpret the vague language of these two federally permissible prohibitions to promote the most narrow interpretations possible and to ensure the PHA enforces their policies in a consistent,

161 See 24 CFR § 982.553(a)(1).

162 See 24 CFR § 982.553(a)(2).

163 See 24 CFR § 982.553(a)(3).

164 See Illinois Housing Authorities Act, 310 ILCS 10/25.

165 Ibid.

166 Ibid.

167 U.S. Department of Housing and Urban Development. (November 2, 2015). *Notice PIH 2015-19*. <https://www.hud.gov/sites/documents/pih2015-19.pdf>

168 See 24 CFR § 982.553(a)(2).

non-discriminatory way:

1. PHAs should predetermine what they will constitute as evidence that one is “currently engaged in” or “has engaged in” criminal activity to avoid punishing tenants on unsubstantiated accusations.
2. PHAs should identify a more specific description of activities which may “threaten the health, safety, or right to peaceful enjoyment of the premises.” For instance, when determining whether a behavior has disturbed one’s right to “peaceful enjoyment,” a PHA may want to delineate how severe or frequent a behavior might be to constitute a threat.

Housing advocates urge PHAs to use a holistic review process to determine whether a program participant’s criminal activity warrants eviction or termination of program services. A PHA may consider whether criminal activity poses a threat to other tenants, the seriousness of the offending action, the effect that eviction would have on the rest of the household, and whether the applicant or tenant has been rehabilitated.¹⁶⁹

Avoiding Discrimination on the Basis of Arrest Records: HUD maintains that PHAs cannot enforce criminal records policies against individuals solely because of an arrest record because arrests do not always result in charges or convictions. Arrests do not provide sufficient evidence that the individual engaged in criminal activity.¹⁷⁰ For example, based on a random sampling of 8,000 criminal charges filed in Illinois in 2020, only roughly 40% of those charges resulted in convictions.¹⁷¹

Arrest records are also marred with inaccuracy and racial bias. People of color are arrested, convicted, and incarcerated at disproportionate rates compared to their White counterparts conducting similar offenses.¹⁷² For this reason, blanket or overly broad policies for individuals with arrests or convictions on their records may violate the Fair Housing Act

Did you know?

In **Cook County, IL** the Just Housing Amendment reinforces federal law by requiring housing providers to provide applicants with copies of the background check screening the provider used. The housing provider must also identify, in writing, why the applicant was denied if they were denied because of that criminal background.¹ The provider must then inform the applicant how to dispute the provider’s decision. The applicant has five business days to dispute the validity of the provider’s decision.²

¹ Cook County Board of Commissioners, Ordinance No. 19-2394, Just Housing Amendment to the Human Rights Ordinance, § 42-38, Cook County Code (April 25, 2019).

² Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ U.S. Department of Housing and Urban Development. (November 2, 2015). *Notice PIH 2015-19*. <https://www.hud.gov/sites/documents/pih2015-19.pdf>

¹⁷¹ Chien, C. *America’s Paper Prisons: The Second Chance Gap*, 119 Mich. L. Rev. 519 (2020) (Appendix)

¹⁷² Nembhard, S., & Robin, L. (August 2021). *Racial and Ethnic Disparities throughout the Criminal Legal System: A Result of Racist Policies and Discretionary Practices*. Urban Institute. <https://www.urban.org/sites/default/files/publication/104687/racial-and-ethnic-disparities-throughout-the-criminal-legal-system.pdf>

because the FHA protects individuals on the basis of race and national origin, and the criminal legal system has a negative discriminatory effect on communities of color.¹⁷³

Grievance Policies for People Denied Assistance because of Criminal Backgrounds: Federal law requires that PHAs provide applicants and tenants with a copy of the background check the PHA conducted as well as a chance to dispute the accuracy and relevance of a criminal record before they are denied access to program services because of their criminal background.¹⁷⁴ Program participants are also entitled to an informal hearing to dispute a PHA's decision if the agency already formally denied services to the applicant or tenant because of their criminal background. If a PHA terminates a program participant's tenancy or assistance in court or through an administrative grievance hearing, the tenant has the right to due process.¹⁷⁵

Criminal Background Applications Reporting Requirements: Per the Illinois Housing Authorities Act, all Illinois PHAs must collect and report information to the Illinois Criminal Justice Information Authority (ICJIA) so the Authority can record and analyze variance among PHA policies for people with criminal backgrounds seeking program services.¹⁷⁶

PHAs are responsible for reporting the following information, annually:

- » The number of applications submitted for admission to federally assisted housing;
- » The number of applications submitted for admission to federally assisted housing by individuals with a criminal history record (if the PHA conducts criminal background checks);
- » The number of applications for admission to federally assisted housing that were denied on the basis of a criminal history record (if the PHA conducts criminal background checks);
- » The number of criminal records assessment hearings requested by applicants for housing who were denied federally assisted housing based on a criminal history records check; and
- » The number of denials for federally assisted housing the PHA overturned after a criminal records assessment hearing.¹⁷⁷

173 McCain, D. L., (June 10, 2022). *Implementation of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions*. U.S. Department of Housing and Urban Development. [https://www.hud.gov/sites/dfiles/FHEO/documents/Implementation of OGC Guidance on Application of FHA Standards to the Use of Criminal Records - June 10 2022.pdf](https://www.hud.gov/sites/dfiles/FHEO/documents/Implementation%20of%20OGC%20Guidance%20on%20Application%20of%20FHA%20Standards%20to%20the%20Use%20of%20Criminal%20Records%20-%20June%2010%202022.pdf)

174 See 24 C.F.R. §§ 960.204(c), 960.208(a), 982.553(d), 982.554.

175 U.S. Department of Housing and Urban Development. (November 2, 2015). *Notice PIH 2015-19*. <https://www.hud.gov/sites/documents/pih2015-19.pdf>

176 See 310 ILCS 10/8.10a; Maranville, R., & Reichert, J. (2024). *Criminal history record checks for federally assisted housing applications: 2023 report*. <https://researchhub.icjia-api.cloud/uploads/Criminal%20History%20Record%20Checks%20for%20Federally%20Assisted%20Housing%20Applications%202023%20Report%20READY%20FOR%20PUBLISHING-240327T21301873.pdf>

177 Ibid.

PHAs must also break this data down by the race, ethnicity, and sex of applicants. To comply with this requirement PHAs should follow ICJIA directions for submitting data. In 2024, ICJIA collected data using online data collection software, and there was a 5-week window for PHAs to submit their information. If possible, PHAs should incorporate ICJIA-required data into their Authority's central data collection processes to make it easier to comply.

Evictions

Federal law has narrow guidelines for when eviction history must result in a denial of public housing. PHAs cannot:

- » Assist families who were evicted because of serious lease violations.¹⁷⁸
- » Accept an applicant for three years after an eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. However, PHAs may still admit the applicant if it determines:¹⁷⁹
 - ◆ The person has successfully completed a supervised drug rehabilitation program approved by the PHA, or
 - ◆ The circumstances leading to eviction no longer exist.

Regulations allow (but do not require) denials based on a family member's eviction from federally assisted housing in the last five years. When considering eviction history, federal regulations make clear that PHAs can and should consider relevant circumstances surrounding the eviction, such as:¹⁸⁰

- » the seriousness of the case;
- » the extent of participation or culpability of individual family members;
- » mitigating circumstances related to the disability of a family member;
- » the effects of denial or termination of assistance on other family members who were not involved in the

HOPE Recommends

Due to these fair housing and consumer protection implications, PHAs should carefully consider how and when they will consider eviction history in tenancy applications—many large housing authorities do not even mention eviction history in their tenancy selection process. Blanket no-evictions policies (outside federal requirements) are not recommended. Instead, PHAs should either disregard eviction history completely or consider eviction history holistically, with a case-by-case review of each tenant's situation.

¹⁷⁸ See 24 CFR § 982.552.

¹⁷⁹ See 24 CFR § 982.553.

¹⁸⁰ See 24 CFR § 982.552.

action or failure; and

» additional considerations for persons with disabilities and survivors of domestic violence.

Relying on eviction history to assess tenancy has fair housing implications. Studies have found that Black and Hispanic renters, and in particular women, are disproportionately impacted by eviction filings. These findings remain true after controlling for failure to pay rent.¹⁸¹ Specifically, a HOPE Fair Housing Center investigation found Black, female households in Cook County are disproportionately impacted by eviction filings. Eviction filings do not necessarily end in court-ordered evictions, as courts can dismiss the eviction or may rule in favor of the tenant. Additionally, an eviction sealed by a court could still appear on a tenant's record because of administrative errors or delays, and eviction histories obtained through online or third-party tenant screening vendors frequently contain incorrect information. In a recent study of 2.6 million eviction court records, 22% of state eviction cases contained ambiguous or false records.¹⁸²

Credit Score

Housing advocates urge PHAs not to deny public housing applicants solely because of credit history or low credit scores, if not altogether removing credit considerations from the screening process.¹⁸³ PHAs operating tenant-based Housing Choice Voucher programs should also consider discouraging private market landlords from denying applicants with Vouchers because of low or nonexistent credit scores. HUD has taken a strong position on the topic and urges housing providers and tenant screening companies to avoid denying applicants whose credit scores have little relevance on their ability to afford rent—a key example being applicants using housing assistance that guarantees all, or a large portion of, the applicant's rent. PHA programs that have granted tenant-based assistance to a program participant has already deemed the rent affordable based on the applicant's income and provides assistance to ensure the tenant's ability to afford the rent.¹⁸⁴

Moreover, the Illinois Department of Human Rights states that a minimum credit score requirement may violate the Illinois Human Rights Act if the requirement has a discriminatory effect on applicants because of their source of income.¹⁸⁵ Housing providers who reject tenants with subsidies that cover 100% of the rent because they did

181 Consumer Financial Protection Bureau. (November 2022). *Tenant Background Checks Market*. https://files.consumerfinance.gov/f/documents/cfpb_tenant-background-checks-market_report_2022-11.pdf

182 Ibid.

183 National Consumer Law Center, National Housing Law Project, et. al. (November 3, 2021). *Removing credit reports and credit scores as a barrier to public and subsidized housing; request for meeting* [Secretary Marcia L. Fudge]. National Consumer Law Center, Washington D.C. https://www.nclc.org/wp-content/uploads/2022/08/HUD_credit_barrier_ltr.pdf

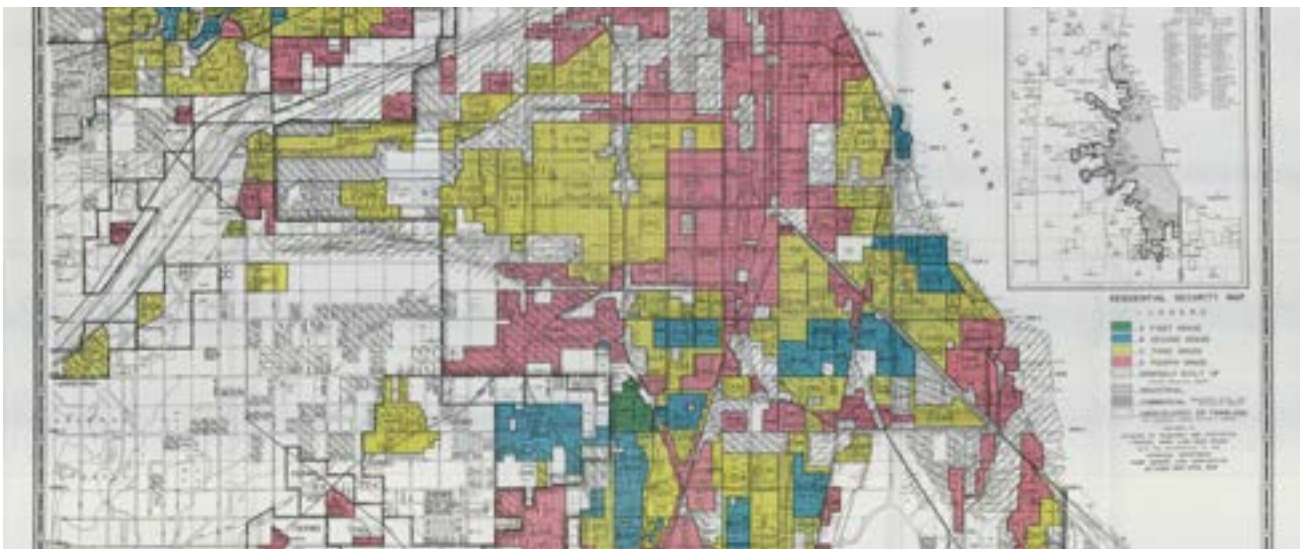
184 U.S. Department of Housing and Urban Development. (April 29, 2024). *Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing*. Office of Fair Housing and Equal Opportunity. https://aagcolumbia.org/images/downloads/fheo_guidance_on_screening_of_applicants_for_rental_housing.pdf

185 Illinois Department of Human Rights. (2025). *Source of Income Discrimination FAQ*. <https://dhr.illinois.gov/filing-a-charge/faq-sourceincome.html#credit-fees-soi>

not meet the minimum credit score requirement may be liable, for example.

PHAs should urge housing providers to assess the applicant's credit on a case-by-case basis and weigh the applicant's housing payment history and debt-to-income ratios more heavily than credit score.¹⁸⁶

5. Promoting Thriving Communities & Housing Choice



Segregation Impedes Upward Mobility

A PHA using programs to foster integrated communities and promote housing choice among low-income people of color is one of the most effective ways that public housing advances fair housing and equal opportunity on a larger, city, or even State-wide scale.

In Illinois, 12% of the population lives below the poverty line. Poverty and race are inextricably linked in the State, as people of color are significantly more likely to live in poverty compared to White residents—25% of Black residents and 14% of Hispanic residents live below the poverty line compared to 8.6% of White residents who live in poverty.¹⁸⁷ People of color also experience extreme poverty, which refers to income levels that fall below 50% of the Federal Poverty Level, at higher rates than White residents—14% of Black Illinoisans live in extreme poverty while only 5% of White Illinoisans do, for example.¹⁸⁸ Additionally, policies have formed and reinforce patterns of

187 Illinois Department of Human Services. (2024). *Annual Report 2024*. Interagency Workgroup on Poverty Elimination and Economic Insecurity. <https://www.dhs.state.il.us/OneNetLibrary/27897/documents/PovertyCommission/IWGP2024AnnualReport.pdf>

188 Ibid.

segregation which create concentrated areas of poverty throughout the State. Residential segregation between Black and White Chicagoans, for instance, is stark—80% of Black Chicagoans would need to relocate to achieve even racial distribution across the city.¹⁸⁹ Similarly, one investigation found Peoria, IL, Danville, IL, Kankakee, IL, Rockford, IL, and Springfield, IL were among the country's top third most segregated metro areas between Black and White residents.¹⁹⁰ Segregation levels are practically unchanged since 1980 in these areas despite national downward trends in racial segregation.¹⁹¹

Segregation restricts low-income families' proximity to opportunity and reduces families' overall quality of life, threatening an entire generation's access to socioeconomic mobility.

A recent study found that higher segregation reduces upward mobility for Black children from households across the income distribution as well as for White children from low-income households.¹⁹² The study estimated that segregation lowers upward mobility by 46% for the poorest Black children—which the researchers estimate is a figure high enough to account for the majority of the Black-White mobility gap, overall—and by 30% for the poorest White children.¹⁹³

Intuitively, families who use PHA-administered Housing Choice Vouchers to access private market rental units in higher-income neighborhoods often experience material improvements to their quality of life after moving to better-resourced neighborhoods. One study confirms that children who moved to low-poverty neighborhoods were more likely to attend college and earn higher salaries as adults. Families who moved to these neighborhoods also reported feeling safer, less stressed, and having better mental health.¹⁹⁴

With these statistics in mind, PHAs should work to understand the extent and severity of racial, socioeconomic, and environmental disparities in their service areas on a granular level to understand how and where resources are distributed across their communities. To do so, PHAs can analyze demographic data that reports on poverty rates, school proficiency, labor markets, transportation access, presence of environmental hazards in the area, and more by exploring the following mapping tools and resources:

189 Blackmond Larnell, T., Chandra, M., et. al. (June, 2025). *State of Black Chicago 2023*. Chicago Urban League. <https://chiul.org/wp-content/uploads/2023/06/State-of-Black-Chicago-2023-3.pdf>

190 Illinois Department of Human Services. (2024). *Annual Report 2024*. Interagency Workgroup on Poverty Elimination and Economic Insecurity. <https://www.dhs.state.il.us/OneNetLibrary/27897/documents/PovertyCommission/IWGP2024AnnualReport.pdf>

191 Blackmond Larnell, T., Chandra, M., et. al. (June, 2025). *State of Black Chicago 2023*. Chicago Urban League. <https://chiul.org/wp-content/uploads/2023/06/State-of-Black-Chicago-2023-3.pdf>

192 Chyn, E., Haggag, K., & Stuart, B. A. (October 2022). *The Effects of Racial Segregation on Intergenerational Mobility: Evidence from Historical Railroad Placement*. National Bureau of Economic Research. <https://www.nber.org/papers/w30563>

193 Ibid.

194 Engdahl, L. (October 2009). *New Homes, New Neighborhoods, New Schools: A Progress Report on the Baltimore Housing Mobility*. Poverty and Race Research Action Council and The Baltimore Regional Housing Campaign. <http://www.prrac.org/pdf/BaltimoreMobilityReport.pdf>

- » [The 2020 Census Demographic Data Map Viewer](#) features data on population, race, families and household composition, and housing.
- » [The Economic Development Administration Census Poverty Status Viewer](#) identifies high-poverty areas.
- » [The Opportunity Atlas Mobility Outcomes Map](#) identifies where and for whom place-based opportunity has been missing and how it is changing. It includes data on race, income, socioeconomic status, graduation rate, incarceration rate, and more.
- » HUD's Office of Policy Development and Research also offers the HUD-eGIS Storefront which gives users access to mapping tools to learn more about their service areas:

- ◆ [School Proficiency Index](#)¹⁹⁵
- ◆ [Racially or Ethnically Concentrated Areas of Poverty \(R/ECAPs\)](#)¹⁹⁶
- ◆ [Jobs Proximity Index 2020](#)¹⁹⁷
- ◆ [Environmental Health Hazard Index](#)¹⁹⁸
- ◆ [Low Transportation Cost Index](#)¹⁹⁹

Implementing Policies and Practices that Increase Mobility

Housing Choice Voucher programs can promote participants' mobility and range of housing choices. Unfortunately, however, PHAs can face significant challenges to running their Voucher programs with a mobility focus, as rent costs are often higher in well-resourced areas, housing providers discriminate against and exclude Voucher holders from accessing housing, and PHAs juggle a high volume of inspections and administrative work when processing Vouchers. Read on to learn about strategies to promote mobility considering these challenges.

Note: Moving to Work (MTW) is a demonstration program that lets PHAs create new

195 Office of Policy Development and Research (PD&R). (n.d.). *School Proficiency Index*. HUD Open Data Site. <https://hudgis-hud.opendata.arcgis.com/datasets/school-proficiency-index/explore?location=24.997260%2C64.759175%2C3.12>

196 Office of Policy Development and Research (PD&R). (n.d.). *Racially or Ethnically Concentrated Areas of Poverty (R/ECAPs)*. HUD Open Data Site. https://hudgis-hud.opendata.arcgis.com/datasets/56de4edea8264fe5a344da9811ef5d6e_15/explore

197 Office of Policy Development and Research (PD&R). (n.d.). *Jobs Proximity Index 2020*. HUD Open Data Site. https://hudgis-hud.opendata.arcgis.com/datasets/45b1b437835d4737b59026938eb27569_0/explore?location=43.776634%2C0.315564%2C5.00

198 Office of Policy Development and Research (PD&R). (n.d.). *Environmental Health Hazard Index*. HUD Open Data Site. https://hudgis-hud.opendata.arcgis.com/datasets/c7e2c62560bd4a999f0e0b2f4cee2494_19/explore

199 Office of Policy Development and Research (PD&R). (n.d.). *Low Transportation Cost Index*. HUD Open Data Site. https://hudgis-hud.opendata.arcgis.com/datasets/58ebe2dc6645452d9702c0adb8033460_21/explore

and individualized strategies to utilize federal funds more effectively.²⁰⁰ In general, PHAs with MTW status may have greater flexibility to implement the suggested programmatic changes outlined below.



Partner with Housing Navigators & Mobility Programs: External mobility program service providers and housing navigators can provide housing counseling, housing navigation services, budgeting assistance, and workshops to educate and assist landlords and tenants throughout the Voucher placement process. PHAs can consider developing their own in-house mobility resource programs or may also choose to collaborate with external organizations to provide these services.

For example, Housing Choice Partners (HCP) is a Chicago-area non-profit organization which aims to break the cycle of intergenerational poverty and expand low-income families' housing choice. HCP runs the Chicago Housing Authority's Mobility Counseling Program which helps families move to mobility areas—or areas of the city where less than 10% of residents fall below the poverty line. In this program, counselors assist with planning the move, finding and applying for housing, and building a support network in the new area. Participants can also attend workshops on budgeting, leases, and moving tips.²⁰¹

In addition, Mobility Works is another independent organization which provides technical assistance, PHA staff training, and advocacy on housing mobility. Mobility Works can assess HCV programs and offer a 13-step plan to materially improve mobility within the program. PHAs interested in learning more about Mobility Works' technical assistance, staff training, or other advocacy work can connect with the organization at info@housingmobility.org.

Also, PHAs can also explore the features of 35 housing mobility programs in the country by reviewing the [Poverty and Research Action Council's 2022 Housing Mobility Programs Report](#).²⁰²

²⁰⁰ U.S Department of Housing and Urban Development. (October 17, 2024). *Moving to Work (MTW) Demonstration Program*. <https://www.hud.gov/mtw>

²⁰¹ CHA Mobility Counseling Program. (n.d.). Housing Choice Partners. <https://www.housingchoicepartners.org/mobility>

²⁰² DeFord, K, et. al. (December 2022). *Housing Mobility Programs in the U.S. 2022*. Poverty and Race Research Action Council. <https://www.housingmobility.org/wp-content/uploads/2024/01/Housing-Mobility-Programs-in-the-US-2022.pdf>

Exception Payment Standards: Payment standards are the maximum monthly assistance payments that can be paid on behalf of an HCV family.²⁰³ Each year, HUD updates the Fair Market Rent (FMR) or Small Area Fair Market Rent (SAFMR) of a given area or zip code to determine annual payment standards—these figures represent the 40th percentile gross rent (rent plus utilities) for average rental units in a local housing market.

PHAs located in metropolitan areas must use SAFMRs because these small, zip-code level estimates better reflect extreme geographic fluctuations in housing costs in more urban, densely populated areas of the country (in Illinois, the mandatory SAFMR areas are Chicago-Joliet-Naperville, IL and St. Louis, MO-IL).²⁰⁴

A PHA's Administrative Plan must address the following payment standard policies for its HCV program:

- » Policy for establishing and revising payment standards, including policies on administering increases and decreases in the payment standard during the Housing Assistance Payment (HAP) contract term;
- » Policy to apply payment standard increase at the earliest of the following events—a change in gross rent or family share, the first regular or interim re-examination, or one year after the effective date; and
- » Criteria used to determine the designated areas and payment standard amounts for those areas.²⁰⁵

Also, PHAs should post payment standards on their website as soon as they are updated each year and should make it easy for program participants to find this information.

Furthermore, if PHAs find their payment standards are not high enough for program participants to afford average units in desirable communities in the PHA's service area, PHAs can:

- » Submit a request to HUD to adopt exception payment standards between 110%-120% of the area's published FMR;²⁰⁶
- » Submit a request to HUD to adopt exception payment standards over 120% of the applicable FMR;²⁰⁷
- » Establish exception payment standards for ZIP code areas up to 110% of SAFMR of a given ZIP code (PHAs do not need HUD approval to do this, they need only email SAFMRs@hud.gov to inform HUD of the

203 U.S. Department of Housing and Urban Development. (July 2019). *Payment Standards*. Housing Choice Voucher Program Guidebook. https://www.hud.gov/sites/dfiles/PIH/documents/HCV_Guidebook_Payment_Standards.pdf

204 U.S. Department of Housing and Urban Development. (November, 15 2023). *Notice PIH 2023-32*. <https://www.hud.gov/sites/dfiles/OCHCO/documents/2023-32pihn.pdf>

205 See 24 CFR 982.54, 983.10(b)(23) and (b)(19).

206 See 24 CFR § 982.503(c)(2).

207 See 24 CFR 982.503(d)(4).

change);²⁰⁸

» Adopt SAFMRs, even if the PHA is not required to;²⁰⁹

» Request a reevaluation of the applicable FMR that HUD published—the process for making this request changes each year, but PHAs who do this usually must supply HUD with more recent data as well as information on rent costs for standard units in the areas. Requestors can look to the [Principles for Conducting Area Rent Surveys](#) for guidance.²¹⁰ PHA(s) representing at least half of Voucher tenants in the FMR area must agree reevaluation is needed.²¹¹

See the [Updated and Consolidated Policy Guidance on Housing Choice Voucher \(HCV\) Program Payment Standards](#) for more information.²¹²

Finally, when tenants apply for unit using a Voucher, PHAs must ensure the housing provider is charging a reasonable rent by comparing the unit's rent to similar private market rental units in the area. PHAs must strike a careful balance when considering rent reasonableness. PHAs offering HAP payments that pay housing providers more than what their units are worth can be a waste of government funding, but, on the other hand, PHAs still need to make rent reasonableness determinations that allow program participants to live in more costly opportunity areas.

Visit the [Housing Choice Voucher Program Guidebook chapter on rent reasonableness](#) to learn more.²¹³

Search Time Extensions: HUD requires a minimum search time of 60 days for those looking for housing, but PHAs can automatically extend this for all tenants or extend this search time on a per-family basis if an individual family cannot secure a unit with their Voucher within the given window.²¹⁴

Families attempting to place a Voucher often struggle to find a unit, especially in tight housing markets where housing providers rent out units to other home-seekers quickly. Voucher holders, especially those who represent more than one protected class, are also frequently discriminated against in the rental housing market, which can extend the

208 See 24 CFR § 982.503(b)(1)(iii).

209 See 24 CFR § 888.113(c).

210 *Principles for Conducting Area Rent Surveys*. (n.d.) U.S. Department of Housing and Urban Development. <https://www.huduser.gov/portal/datasets/fmr/PrinciplesforPHA-ConductedAreaRentSurveys.pdf>

211 U.S. Department of Housing and Urban Development. (September 30, 2024). *Notice PIH 2024-34*. https://www.hud.gov/sites/dfiles/PIH/documents/PIH_2024-34.pdf

212 Ibid.

213 U.S. Department of Housing and Urban Development. (n.d.). *Rent Reasonableness*. Housing Choice Voucher Program Guidebook. https://www.hud.gov/sites/dfiles/PIH/documents/HCV_Guidebook_Rent%20Reasonableness_updated_Sept%202020.pdf

214 U.S. Department of Housing and Urban Development. (July 2019). *Housing Search and Leasing*. Housing Choice Voucher Program Guidebook. https://www.hud.gov/sites/dfiles/PIH/documents/HCV_Guidebook_Housing_Search_and_Leasing.pdf

amount of time it takes for a family to place their Vouchers. Other obstacles like illness, family emergencies, or disabilities can also make it difficult for participants to secure housing within 60 days.

Moreover, PHAs may grant search time extensions and can determine the length of an extension and circumstances when they will grant them at their own discretion (PHAs must outline these policies in their administrative plans).²¹⁵ However, in general, housing advocates urge PHAs to grant extensions if families can show they made a reasonable effort to secure a unit. There is no limit on the number of extensions a PHA can approve.

When granting extensions, PHAs must notify the family.²¹⁶ PHAs should also establish policies to determine if they will grant more than one extension to a family, if they will grant extensions only when families demonstrate they made a reasonable effort to secure housing, and, if so, how a PHA defines “reasonable effort” or verifies a family’s search process in this case. In addition, PHAs must state the length of the search term on the Voucher itself and should also clarify to families that the Voucher’s term expiration refers to the deadline for submitting a request for tenancy approval, not the date the family expects to occupy the unit.²¹⁷

PHAs can choose to suspend the search term if the family has submitted a request for tenancy approval, meaning the PHA will stop the clock on the family’s search term until the PHA approves or denies the request. The PHA’s policy on suspending search terms—including both a description of when a PHA will grant the suspension and a description of how the PHA will determine the length of the suspension—must but out-



215 See 24 CFR § 982.303(b)(1).

216 See 24 CFR § 982.303(b)(1).

217 See 24 CFR § 982.303(a).

lined in the administrative plan.

If a family's search time to place their Voucher expires, and the PHA does not grant a search time extension, the PHA can require the family to reapply during periods the PHA is accepting applications or place the family on the waiting list with a new application date without requiring the family to reapply.²¹⁸ In any case, however, a PHA cannot determine a family is ineligible for a program because it was not able to lease up.

Finally, PHAs must extend the search time term as a reasonable accommodation to a family member with disabilities if their disability makes it difficult to find housing.²¹⁹ A person with disabilities can request an extension as a reasonable accommodation even if the voucher expires.

Housing Inspections: Amid chronic understaffing and high workload volume, many PHAs struggle to conduct initial housing inspections promptly, which often leads to delays during the inspection and lease-up process. These delays threaten the efficacy of the HCV program, as many landlords will rent out units that HCV participants have applied for while waiting for PHAs to complete their inspection of the unit. To speed up the inspection process, HUD permits PHAs to implement the following policies:

- » Allow landlords to demonstrate they have remedied deficiencies in the unit that might have failed an initial inspection by sending photographic evidence of the correction to the PHA, as opposed to requiring time-consuming, in-person reinspection.²²⁰
- » Implement the non-life threatening (NLT) provision, which allows PHAs to approve the tenancy and make payments on a unit that only has NLT deficiencies (see HUD's definitions of life-threatening versus non-life-threatening conditions in the [Notice PIH 2017-20](#)).²²¹ Landlords have 30 days to correct NLT deficiencies.²²² Note that PHAs must include this procedural change in their administrative plans, inform owners and families, and notify HUD via email at least 30 days before implementation.
- » Approve assistance before inspecting a unit if that unit passed an alternative inspection—such as HOME or Low-Income Housing Tax Credit program inspections—in the last 24 months. If PHAs use this provision, they must still carry out their own inspection within 15 days of receiving the Request for Tenancy Approval packet from the applicant. Note that

218 U.S. Department of Housing and Urban Development. (July 2019). *Housing Search and Leasing*. Housing Choice Voucher Program Guidebook. https://www.hud.gov/sites/dfiles/PIH/documents/HCV_Guidebook_Housing_Search_and_Leasing.pdf

219 See 24 CFR § 982.303(b)(2).

220 U.S. Department of Housing and Urban Development. (July 7, 2023). *Notice PIH 2023-17*. https://www.hud.gov/sites/dfiles/PIH/documents/2023-17_Notice.pdf

221 U.S. Department of Housing and Urban Development. (October 27, 2017). *Notice PIH 2017-20 (HA)*. <https://www.hud.gov/sites/dfiles/PIH/documents/PIH-2017-20.pdf>

222 Ibid.

PHAs must include this procedural change in their administrative plans, inform owners and families, and notify HUD via email at least 30 days before implementation.

» Conduct periodic unit inspections biennially.²²³ Small rural PHAs (PHAs that administer fewer than 550 public housing units and Vouchers) can conduct periodic unit inspections triennially.²²⁴ Note that all PHAs must still conduct initial inspections and must conduct interim inspections if the family or a government official reports the unit fails to comply with Uniform Physical Condition Standards and Housing Quality Standards or NSPIRE requirements.

Resources for Moving Logistics and Additional Fees: In addition to facing housing discrimination or delayed inspection schedules, low-income families face other logistical and financial barriers in the process of securing rental housing with a Voucher. For example, prohibitive transportation costs can limit a Voucher holder's ability to tour a wide range of units in their service area.²²⁵ Further, landlords often require hundreds to thousands of dollars in additional move-in or administrative fees, security deposits, and mandatory renter's insurance plans.²²⁶ Landlords may also charge separate monthly fees for utilities, which can also make a unit unaffordable for a family with an HCV. In response to these challenges, the following programs can promote mobility by helping families overcome financial barriers including but not limited to high security deposits, move-in fees, transportation costs, and utilities fees:

» Housing Opportunities Made Equal, Inc. (HOME) offers up to \$1,200 for security deposits and \$300 for moving costs through its Making Moves Program for families with Housing Choice Vouchers in Erie and Niagara Counties in New York.

» The Supporting Neighborhood Opportunity in Massachusetts program aids families in moving to opportunity neighborhoods by offering financial assistance, including up to one month's rent for security deposits and up to \$2,500 for moving or post-move expenses.

» NestQuest Houston places Housing Choice Voucher families in high-performing school districts by holding the master lease to multiple units in apartments where landlords generally deny Voucher holder applicants.²²⁷ NestQuest pays the rent and utilities directly and leases

223 U.S. Department of Housing and Urban Development. (April 7, 2016). *Notice PIH 2016-05 (HA)*. <https://www.hud.gov/sites/documents/16-05pihn.pdf>

224 85 Fed. Reg. 11318 (Feb. 27, 2020).

225 Galvez, M., & Knudsen, B. (2024). *Discrimination Against Voucher Holders and the Laws to Prevent It: Reviewing the Evidence on Source of Income Discrimination*. *Cityscape: A Journal of Policy Development and Research*, Volume 26 (Number 2). <https://www.huduser.gov/portal/periodicals/cityscape/vol26num2/ch7.pdf>

226 Center on Budget and Policy Priorities. (December 19, 2019). *What Are Housing Mobility Programs and Why Are They Needed?* <https://www.cbpp.org/research/housing/what-are-housing-mobility-programs-and-why-are-they-needed>

227 *NestQuest Houston Inc.* (n.d.). Volunteer Houston: A Program of Interfaith Ministries. https://www.volunteer-hou.org/agency/detail/?agency_id=118701

the unit out to HCV participants. They also offer a range of support services including financial literacy, home maintenance training, health and nutrition education, job prep, and mental health counseling.

» The Housing Authority of Cook County runs a Community Choice Program which helps Voucher recipients find homes in opportunity areas by offering up to \$2,000 for security deposits and \$499 for move-in or administrative fees. The program also offers workshops on financial literacy, tenants' rights, and housing search tips, and employs Mobility Counselors to connect residents with landlords, arrange transportation for unit tours, and assist with security deposits.

Landlord Incentives: Landlord incentives can address housing providers' hesitations around participating in the HCV program by offering financial support for leasing delays, unit repair costs, and other concerns.

For example, PHAs may offer landlords signing bonuses as financial rewards for joining the program or for committing more of their units to Voucher holders. PHAs may also offer vacancy funds to offset the costs of units sitting empty while awaiting inspection. Additionally, damage or mitigation funds can compensate landlords for financial losses caused by program-related delays or excessive unit damage.

For example:

» The Chicago Housing Authority offers landlords a one-time lump sum incentive payment equal to the contract rent for first-time property owners renting units in mobility areas to CHA Voucher holders.²²⁸

» The Housing Authority of Champaign County provides vacancy payments for landlords who re-lease their units to Voucher holders within 60 days from the departure of the previous Voucher holder receiving up to a full month's rent.²²⁹

» The Oakland Housing Authority offers landlords that have failed a second inspection and are entering HAP abatement a payment up to \$2,500 to address capital improvement issues related to the inspection failure.²³⁰

HUD has also developed the [HCV Landlord Strategies Guidebook](#) to share strategies PHAs can implement to improve landlord participation in the HCV program.²³¹

228 Chicago Housing Authority. (2025). *Incentive Payments to Property Owners*. Office of the Inspector General. <https://www.thecha.org/become-cha-property-owner/benefits-renting-hcv-participants/incentive-payments-property-owners>

229 HACC. (2025). *Landlord Incentives*. Housing Authority of Champaign County. <https://www.hacc.net/landlord-incentives>

230 Wells, P, et. al. (June 28, 2021). *Fiscal Year 2022 MTW Annual Plan*. Oakland Housing Authority. <https://www.hud.gov/sites/dfiles/PIH/documents/OaklandFY22Plan.pdf>

231 U.S. Department of Housing and Urban Development. (April 2022). *HCV Landlord Strategies Guidebook for*

Homeownership versus Renting: Housing Choice Voucher homeownership programs can build stability and intergenerational wealth among underserved communities excluded from homeownership through history and into the present day. In fact, the racial homeownership gap is larger than it was 100 years ago—in Chicago, IL, 74% of White families own their homes compared to only 39% of Black families.²³²

Based on research from the Chicago Area Fair Housing Alliance, the majority of Voucher holders aspire to homeownership and expanding access to PHA-managed homeownership programs could lead to over 230,000 new opportunities for homeownership nationwide, with Chicago alone seeing about 6,300 new homeowners.²³³



PHA homeownership programs can offer a more sustainable path to homeownership, and while these programs may have initial setup costs, expanding homeownership programs can reduce administrative work for PHAs over time, as homeowners are less likely to move than renters are. Additionally, homeownership is often more cost-effective for program participants, especially in areas where rising rental costs make homeownership a comparable or equally viable investment. These programs are also more affordable for PHAs, with costs significantly lower per unit compared to standard rental assistance programs.²³⁴

Housing advocates recommend PHAs working to establish or improve their homeownership programs consider the following:

- » Develop partnerships to connect program participants with affordable housing options. PHAs may partner with local community land trusts, for example. PHAs can also increase strategic non-profit partnerships to refer program participants to housing counselors or to locate affordable home options;
- » Educate lenders on the PHA's homeownership program and offer information on how lenders incorporate Voucher payments as income.

PHAs. HUD Exchange. <https://www.hudexchange.info/resource/6314/hcv-landlord-strategies-guidebook-for-phas/>

232 Neighborhood Housing Services of Chicago. (2023). *Who We Are*. NHS. <https://nhschicago.org/who-we-are/>

233 Chicago Area Fair Housing Alliance and Woodstock Institute. (June 2024). *Roots to Grow: Strategies to Promote Subsidized Homeownership*. CAFHA. https://www.cafha.net/_files/ugd/e6d287_f0c330ce1c2a437aa9f9552fecf7555b.pdf

234 Ibid.

Also, encourage lenders to consider applying less restrictive credit requirements for program participants, instead recommending use of alternative measures of creditworthiness; and

» Review programmatic requirements to ensure the program is running as efficiently as HUD permits, with as little restrictions as possible. PHA leaders should also consult with homeownership program participants to determine how the PHA can improve the program based on common issues.²³⁵

PHAs interested in starting or improving their homeownership programs can access HUD's [HCV Homeownership Guidebook](#).²³⁶

²³⁵ Baker, G., Chavarria, M., et. al. (2021, June). *Public Housing Authority Homeownership Program*. Chicago Area Fair Housing Alliance. https://www.cafha.net/_files/ugd/e6d287_85d9e894add54e7cb83738f7d5b2c7da.pdf

²³⁶ U.S Department of Housing and Urban Development. (August 2022). *HCV Homeownership Guidebook*. HUD Exchange. <https://www.hudexchange.info/resource/6734/hcv-homeownership-guidebook/>

6. Fair Housing Enforcement

A web of accountability between PHAs, tenants, and federal, State, and local justice systems assists PHAs' efforts to protect their tenants. Read on for more information about how PHAs can join in the effort to enforce fair housing laws.

Source of Income Discrimination Protections

Source of income discrimination is rampant in Illinois. One Chicago investigation which simulated nearly 100 interactions between Voucher holders and housing providers found nearly half of all interactions showed some form of discriminatory behavior based on source of income.²³⁷

As of January 1, 2023, source of income is a protected class in Illinois. This means that landlords must treat any legal, verifiable source of income or housing assistance payment used to pay for rent in the same way as employment-based income. Housing Choice Voucher payments are a legal, verifiable source of income that fall under this protection. Under the State law, housing providers cannot:

- » Advertise for a preference for a certain type of income, such as “No Housing Choice Vouchers” or “No Section 8”;
- » Reject an applicant with a Voucher due to an incorrectly applied minimum income standard;
- » Refuse to accept rent subsidies or complete related paperwork; or
- » Charge different fees and rent or security deposit amounts for renters with housing subsidies.

Housing Discrimination Persists, but PHAs Can Act: Despite the law, housing discrimination continues. PHAs should be prepared to inform program participants of their rights and enforcement options. PHAs should:

- » **Inform tenants of their rights** (particularly source of income-related rights). Include information on source of income discrimination and list

²³⁷ Nussbaum-Barberena, L., & Walter, J., et. al. (2019). *Final Report, Fair Housing Testing Project for the Chicago Commission on Human Rights*. Policy Research Collaborative, Roosevelt University. <https://www.chicago.gov/content/dam/city/depts/cchr/AdjSupportingInfo/fair-housing-testing-project/2019FairHousingTestingRepotFinal.pdf>

local fair housing agencies in each moving packet so clients are prepared to recognize and respond to discrimination. Example resources:

- ◆ [Illinois Coalition for Fair Housing](#) fact sheets and self-advocacy tools;²³⁸
- ◆ [HOPE toolkits](#);²³⁹ and the
- ◆ Illinois Department of Human Rights' [FAQ page](#).²⁴⁰

» **Prepare Clients.** Your client may experience source of income discrimination or other discrimination in the housing search. If your client feels that they have experienced illegal housing discrimination, they can:

- ◆ Preserve evidence. Document meetings, phone calls, and requests made with all involved parties. Save all email, mail correspondence, receipts, copies of applications, and other documents.
- ◆ Self-advocate. HOPE has self-advocacy letters available on its [website](#) that clients or PHA case managers can fill out to dispute discriminatory denials with the housing provider directly. This includes source of income related application denials.
- ◆ Reach out to a fair housing organization. They may be able to advocate, investigate, or help to file a complaint.
- ◆ File a complaint. Clients can file a fair housing lawsuit in state court within two years of the last act of discrimination or file a complaint within one year from the last act of discrimination with IDHR or HUD:

The Illinois Department of Human Rights (IDHR)

<https://dhr.illinois.gov/filing-a-charge/housing.html>

(312) 814-6200 / (866) 740-3953 (TTY)

US Department of Housing and Urban Development (HUD)

<https://www.hud.gov/fairhousing/fileacomplaint>

(312) 669-9777

(Note: source of income complaints must be filed at IDHR, and there are additional acceptable venues for those living in Chicago, Cook County,

238 Illinois Coalition for Fair Housing. (2023). *Source of Income Protections: Fair Housing Illinois*. Housing Choice Partners. <https://www.housingchoicepartners.org/soi-campaign>

239 HOPE Fair Housing Center. (2024). *Self-Advocacy Guides & Toolkits*. <https://hopefair.org/toolkits/>

240 IDHR. (2025). *Source of Income Discrimination FAQ*. Illinois Department of Human Rights. <https://dhr.illinois.gov/filing-a-charge/faq-sourceincome.html>

and other jurisdictions. Consult your local fair housing organization to learn more about your filing options.)

» **Develop close relationships with fair housing and civil rights organizations.** Fair housing organizations and PHAs share the same goal of ensuring people are safe and housed in the communities of their choice. Fair housing and civil rights organizations can leverage their resources to support PHAs by hosting local fair housing trainings to major housing providers in the area, offering technical assistance to support planning and program design, and engaging in investigation or advocacy on behalf of individual PHA tenants' discrimination cases. Contact HUD to find your local Fair Housing Agency or visit the Illinois Department of Human Rights' list of [Illinois fair housing enforcement organizations](#).

Harassment

Reports of harassment in housing are on the rise. Based on the National Fair Housing Alliance's 2024 Fair Housing Trends Report, harassment-related complaints increased 66% nationwide in 2023.²⁴¹ PHAs have responsibility in select cases to intervene in matters involving tenant-on-tenant harassment.

If a tenant is alleging harassment against another tenant based on a protected class, this would constitute a fair housing violation. To rise to the level of discriminatory harassment, based on current case law, there typically must be a pattern of behavior, although some notable, severe instances (e.g., firebombing) would constitute harassment on the first offense. See *Table 2* for instances where a housing provider may be liable for their response to tenant-on-tenant harassment.

Tenant-on-tenant harassment is a complex, situation-dependent subject. For more information, PHAs should consult their legal teams.

Sexual Harassment: Sexual harassment in housing is a form of sex discrimination prohibited by the Fair Housing Act. PHAs should demonstrate they do not tolerate sexual harassment by taking complaints seriously and holding perpetrators of sexual harassment accountable.

PHAs should implement anti-harassment policies and prepare staff on the proper protocol if they receive complaints from tenants or PHA employees.²⁴² All PHA employees should receive training on the PHA's anti-harassment policies and should be made aware of the possibility of disciplinary action, termination, and legal action if employees sexually harass PHA tenants.²⁴³

²⁴¹ National Fair Housing Alliance. (July 10, 2024). *2024 Fair Housing Trends Report*. NFHA. <https://nationalfair-housing.org/resource/2024-fair-housing-trends-report/>

²⁴² *Preventing and Addressing Sexual and Other Discriminatory Harassment in Housing*. (n.d.). U.S. Department of Housing and Urban Development. <https://www.hud.gov/sites/dfiles/FHEO/images/BestPractices-508.pdf>

²⁴³ Ibid.

Examples Where Housing Providers May be Liable for Tenant-on-Tenant Harassment

Circumstance	Example
Tenant reports harassment and the housing provider acts or fails to act in a manner motivated by discrimination	A tenant with a disability living in public housing reports harassment from another tenant who regularly calls them slurs related to their mental disability. The PHA property manager says they will not assist because “they are tired of mentally ill people complaining.” Another client without a disability makes a similar complaint and the PHA investigates.
Tenant reports harassment and the housing provider fails to provide standard services to stop harassment.	A tenant alleges they have continuously received threatening notes from a neighbor related to their religion. The tenant reports this to the PHA property manager and the manager ignores the report, going against standard procedure.
Tenant reports harassment and the housing provider demonstrates deliberate indifference to harassment	A tenant reports that a PHA staff member has called them a racial slur. The PHA does not take any action against the staff member, despite having substantial control over the context of the harassment as the employer.
Tenant is terminated from program assistance after allegation of harassment; behavior is related to reasonable accommodation	A PHA terminates a tenant with a disability from program assistance after another tenant alleges that they are having loud outbursts. The tenant with the disability submits a reasonable accommodation letter explaining that their outbursts were related to an untreated disability that they can now manage. The PHA does not consider the reasonable accommodation and moves forward with termination.

Table 2

Also, PHAs should designate specific complaint point-people, use an organized system to store and track complaints and alleged perpetrators, and direct staff to conduct intakes in a thorough, consistent manner.²⁴⁴ The PHA should inform program participants who have submitted complaints that the PHA has received their complaint, keep the participant updated on the expected investigation timeline and next steps, and for the safety of the participant and the community, complete an investigation promptly.

In addition, tenants should receive information regarding their rights against housing provider-perpetrated sexual harassment, directions on how to report harassment to the PHA, and information regarding the various law enforcement mechanisms available to them in the event they fear for their immediate safety.²⁴⁵ PHAs working with housing providers via the Voucher program should inform owners that private housing providers and their staff are also subject to the PHA’s anti-harassment policies.

²⁴⁴ Ibid.

²⁴⁵ Ibid.

Grievance Process

Empower your program participants by having a fair, accessible, and well-enforced grievance process. Grievance processes ensure program participants have access to due process and help prevent PHAs from inadvertently violating their own procedures or adversely affecting a tenant's rights, duties, welfare, or status.²⁴⁶ Federal law requires PHAs to include or refer to grievance procedures in any PHA-administered leases, and PHAs must also provide a copy of the grievance procedure to each tenant in the form of a separate document.²⁴⁷ If a PHA plans to change its grievance procedure, it must give a 30-day notice of proposed changes and tenants and residents must be given the opportunity to present written comments, which PHAs must consider before officially changing the procedure.²⁴⁸ Notably, if a PHA is terminating a tenant's lease through judicial eviction procedures, the PHA is not required to carry out the internal PHA grievance process.

Participants can present grievances orally or in writing.²⁴⁹ Once receiving a grievance, PHAs must schedule a meeting with the grieving party in an attempt to reach an informal resolution. After this meeting, PHAs must prepare a summary of the discussion including the date of the meeting, name of participant, the nature of and argument made for resolving the complaint, and the procedure the participant can follow to schedule a grievance hearing if the informal settlement discussion was not successful.²⁵⁰

If the grievance proceeds to a formal hearing, the hearing must be held before a hearing officer, who must be impartial and cannot be the person or subordinate of the person who made or approved of a decision central to the issue being discussed at the hearing.²⁵¹ Once the grieving party and the PHA determine a time for the hearing, the PHA must provide written notice of the time, place, and grievance procedures to all parties.²⁵²

The participant has a right to a fair hearing, so they must be given the opportunity to examine and copy documents the PHA is presenting, have a right to be represented, and have the right to a private hearing.²⁵³ The participant also has the right to present evidence and arguments to support their complaint, can refute PHA evidence, and can confront and cross-examine all PHA witnesses.²⁵⁴ The hearing officer must then prepare a written decision based solely on the facts presented at the hearing, send copies of the decision to the participant, and update the PHA log on all hearing officer decisions.²⁵⁵ A decision which denies relief that the grieving party has requested does not constitute a waiver of the participant's rights to a trial or judicial review.

246 See 24 CFR § 966.50, 966.53(a).

247 See 24 CFR § 966.52(b) and (d).

248 See 24 CFR § 966.52(c).

249 See 24 CFR § 966.54.

250 See 24 CFR § 966.54.

251 See 24 CFR § 966.56(a).

252 See 24 CFR § 966.56(a).

253 See 24 CFR § 966.56(b)(1); 9 24 CFR § 966.56(b)(2); 24 CFR § 966.56(b)(3).

254 See 24 CFR § 966.56(b)(4).

255 See 24 CFR § 966.57(a).

PHAs must take reasonable steps to ensure LEP individuals can access the grievance process (more on how to meet Language Access requirements in Section 2). PHAs must also provide reasonable accommodations for people with disabilities throughout the grievance process.²⁵⁶ The person with the disability can request a specific type of auxiliary aid or service as their preferred method of communication, and PHAs must provide these accommodations at their own expense.²⁵⁷ PHA leaders can read more about grievance procedure requirements on the [Admissions and Continued Occupancy Policy Development Guide's Chapter on Tenant Grievance Procedures](#).²⁵⁸

Finally, despite fair grievance policy, a common barrier to clients accessing grievance services is a lack of knowledge. PHAs should make their grievance policies accessible, searchable, and easy to understand.

Freedom of Information Act

PHAs are covered by the Freedom of Information Act (FOIA) and must meet FOIA requirements, including having a designated FOIA officer and receiving and responding to covered information requests within five business days under State law.²⁵⁹ PHAs who fail to comply with FOIA requirements can be investigated by the Attorney General's office, face State penalties, and/or face legal repercussions.

There are, however, select categories of information exempt from FOIA outlined in 5 ILCS 140/7.²⁶⁰ To protect private information under these exemptions, PHAs should avoid providing "identifying information" about their program participants such as their full names, contract information, addresses, and other sensitive personally identifiable information.

Complying with FOIA requirements is not only required as a matter of law but is also a responsible business practice to implement, as advocates filing FOIA requests can help PHAs place clients or use information from FOIA requests to build investigations on behalf of PHA participants trying to enforce their fair housing rights. PHAs should have designated FOIA officers or staff responsible for responding to FOIA requests and should clearly and systematically organize internal information that advocates commonly request to optimize the FOIA request process.

²⁵⁶ See 24 CFR Part 8; See also 28 CFR part 35.

²⁵⁷ See 24 CFR § 8.6; See also 28 CFR part 35, Subpart E.; 24 CFR § 966.56(f); See also 24 CFR Part 8; See also 28 CFR part 35.

²⁵⁸ *Chapter 7: Tenant Grievance Procedures*. (2022). Admissions and Continued Occupancy Policy (ACOP) Development Guide. <https://files.hudexchange.info/resources/documents/ACOP-Guide-Chapter-7-Tenant-Grievance-Procedures.pdf>

²⁵⁹ See Freedom of Information Act, [5 ILCS 140](#).

²⁶⁰ See Freedom of Information Act, [5 ILCS 140/7](#)

Organizational Standing

As a housing provider, illegal housing discrimination against PHA program participants can interfere with the Authority's ability to serve their community. It is often more efficient to resolve disputes with local housing providers, municipalities, etc. informally when possible; however, if (1) informal resolutions of fair housing violations are not successful, and (2) a PHA's essential business activities are threatened by a person or entity's illegal housing discrimination, a PHA can seek relief by filing a lawsuit or filing an administrative complaint under fair housing laws.

PHAs may be able to protect their clients and redress harm done to the Authority as an organization, or any of their subsidiary non-profit programs, through the legal theory of **organizational standing**. "Standing" is the legal right for a particular person or entity to bring a claim in court. Organizations can have standing to challenge actions that cause them a direct injury by filing as an organizational plaintiff, or a plaintiff initiating legal action against another party, because the organization itself has been harmed by the defendant's actions or policies.

Based on precedent established under *Havens Realty Corp. v. Coleman* and *Food and Drug Administration v. Alliance for Hippocratic Medicine*, organizations providing housing counseling and referral services may have a compelling argument to allege individuals or entities engaging in illegal housing discrimination impair the organization's core business activities of providing affordable housing to low-income residents.²⁶¹ It is expensive and time-consuming for these organizations to secure housing for clients facing unchallenged discriminatory practices in the housing market. Similarly, individuals or entities who illegally discriminate against PHA program participants based on their source of income, race, color, national origin, or disability, for instance, impede a PHA's ability to fulfill their mission of supporting thriving communities. These are examples of injuries a PHA may experience because of housing providers who discriminate against their program participants:

1. Housing Navigation and Counseling Services: When a PHA program participant faces illegal housing discrimination and cannot use their Voucher, it creates an additional burden for PHAs. Caseworkers must spend time and money finding compliant housing providers, processing additional applications, ordering new inspections, connecting program participants to legal services, or negotiating with a housing provider to accept PHA assistance.

2. Voucher Mobility: Housing providers with units in well-resourced areas who discriminate against residents using PHA-administered Vouchers, for example, impair the PHA's ability to offer low-income residents a wide range of housing options in opportunity areas.

3. Acquisition & Development: If a PHA plans to develop land but

²⁶¹ *Havens Realty Corp. v. Coleman*, 455 U.S. 363 (1982); *Food and Drug Administration v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (2024)

faces obstruction from a municipality who refuses to approve PHA plans because of restrictive zoning ordinances and/or discriminatory objections in the neighborhood to residential and/or multifamily or affordable housing, and this decision substantially impairs a PHA's ability to fulfill its mission, the PHA may have standing as an organizational plaintiff.

Notably, HUD has granted standing to PHAs that have filed as organizational plaintiffs in the past:

In January 2025, HUD issued a charge which found the Providence Homeowners Association Inc. of Providence Village, a town outside of Dallas, TX, violated the Fair Housing Act based on race and national origin.²⁶² Investigators determined that the Association's rule prohibiting owners from renting to HCV tenants had a discriminatory effect on renters based on race and color.

In response to the Association's rule, Providence Village landlords told tenants paying rent with Vouchers that they had thirty days to vacate their units. This displaced nineteen households using Vouchers, threatened and intimidated remaining tenants, injured landlords who accepted Vouchers, and denied residents of Providence Village the important benefits of living in racially integrated communities.

Two PHAs administering Vouchers for these tenants—the McKinney Housing Authority and Denton Housing Authority—joined the complaint as organizational plaintiffs, also, asserting that the Association's rule forced PHA staff to undertake the time-consuming and expensive process of completing many moves within a short time frame to find housing for the displaced tenants.

PHAs that feel illegal housing discrimination is injuring their organizations should reach out to a local fair housing organization or connect with qualified counsel well-versed in fair housing law for more information about this enforcement approach.

²⁶² Worden, J. M., Weiss, A. R., et. al. (January 14, 2025). *Charge of Discrimination* Department of Housing and Urban Development. <https://www.relmanlaw.com/assets/html/documents/Redacted%20Charge%20Final.pdf>.

Resource Guide

Section 1: Laws, Rules, and Regulations

Fair Housing Act

- » See 42 U.S.C. 3601 et seq.

Title VI

- » See 42 U.S.C. 2000d.

Americans with Disabilities Act

- » See 42 U.S.C. 12101.

Section 504

- » U.S. Department of Education. (September 26, 1973). Section 504. <https://www.ed.gov/laws-and-policy/individuals-disabilities/section-504>
- » U.S. Department of Labor. (September 26, 1973). Section 504, Rehabilitation Act of 1973. Office of the Assistant Secretary for Administration & Management. <https://www.dol.gov/agencies/oasam/centers-offices/civil-rights-center/statutes/section-504-rehabilitation-act-of-1973>

Violence Against Women Act

- » U.S. Department of Housing and Urban Development. (September 13, 1994). Violence Against Women Act (VAWA). <https://www.hud.gov/vawa#close>

The Violence Against Women Act Reauthorization Act of 2022: Overview of Applicability to HUD Programs

- » See 24 CFR Part 5.

VAWA Reauthorization Act of 2022

- » See 88 Fed. Reg. 321.

Guidance on Non-Discrimination and Equal Opportunity Requirements for PHAs.

- » U.S. Department of Housing and Urban Development. (June 13, 2011). Notice PIH 2011-31. [https://www.renocavanaugh.com/sites/default/files/hud-notice/2011-1_-_Guidance_on_non-discrimination_and_equal_opportunity_requirements_for_PHAs_\(D0508271xA5BED\).pdf](https://www.renocavanaugh.com/sites/default/files/hud-notice/2011-1_-_Guidance_on_non-discrimination_and_equal_opportunity_requirements_for_PHAs_(D0508271xA5BED).pdf)

Data Report: State of Domestic Violence in Illinois

- » The Network: Advocating Against Domestic Violence. (June 2020). Data Report: State of Domestic Violence in Illinois. <https://the-network.org/wp-content/uploads/2020/07/Data-Report-State-of-Domestic-Violence-in-Illinois.pdf>

Know Your Rights: Domestic and Sexual Violence and Federally Assisted Housing

- » National Housing Law Project. (September 2018). Know Your Rights: Domestic and Sexual Violence and Federally Assisted Housing [Pamphlet]. <https://www.nhlp.org/wp-content/uploads/VAWA-Brochure.pdf>.

Housing Provisions of the Violence Against Women Act Reauthorization Act of 2022

- » Blom, D. (March 3, 2023). Housing Provisions of the Violence Against Women Act Reauthorization Act of 2022. U.S. Department of Housing and Urban Development. https://www.hud.gov/sites/dfiles/Main/documents/VAWA_2022_Letter_PHAs.pdf.

Illinois Human Rights Act

- » See Illinois Human Rights Act, 775 ILCS 5

Illinois Housing Authorities Act

- » See Illinois Housing Authorities Act, 310 ILCS 10/1

Section 2: Addressing Language and Technological Barriers to Accessing PHA Services

Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English

Proficient Persons

- » See 72 Fed. Reg. 2732.

Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs

- » United States Department of Justice. (May 2011). Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs. Federal Coordination and Compliance Section Civil Rights Division. https://www.lep.gov/sites/lep/files/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf

Section 3: Policies for People with Disabilities

Reasonable Accommodations and Modifications: A Guide for Housing Professionals

- » Lee, E., Meltesen, L., et al. (n.d.). Reasonable Accommodations and Modifications: A Guide for Housing Professionals. Illinois Department of Human Rights. <https://dhr.illinois.gov/content/dam/soi/en/web/dhr/publications/documents/idhr-reasonable-accommodations-and-modifications-2-0.pdf>

Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs

- » Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs. (May 2011). United States Department of Justice. https://www.lep.gov/sites/lep/files/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf

Reasonable Accommodations Under the Fair Housing Act

- » Joint Statement of HUD and DOJ. (May 17, 2004). Reasonable Accommodations under the Fair Housing Act. <https://www.hud.gov/sites/dfiles/FHEO/documents/hud DOJstatement.pdf>.

Reasonable Modifications Under the Fair Housing Act

- » Joint Statement of HUD and DOJ. (March 5, 2008). Reasonable Modifications under the Fair Housing Act. https://www.hud.gov/sites/dfiles/FHEO/documents/reasonable_modifications_mar08.pdf

Assessing a Person's Request to have an Animal as a Reasonable Accommodation Under the Fair Housing Act

- » Assessing a Person's Request to have an Animal as a Reasonable Accommodation Under the Fair Housing Act. (2020) U.S. Department

of Housing and Urban Development. <https://www.hud.gov/sites/dfiles/PA/documents/HUDAsstAnimalNC1-28-2020.pdf>

Reasonable Accommodation in Federally Assisted Housing

» National Housing Law Project. (October 2012). Reasonable Accommodation in Federally Assisted Housing. <https://www.fairhousingnc.org/wp-content/uploads/2014/10/NHLP-Reasonable-Accommodation-Outline-Current-10-2012.pdf>

Standards for Accessible Design

» U.S. Department of Justice Civil Rights Division. (September 15, 2010). 2010 ADA Standards for Accessible Design. <https://www.ada.gov/law-and-regs/design-standards/2010-stds/>

Section 4: Waiting Lists & Determining Program Participant Eligibility

Housing Choice Voucher Program Guidebook: Waiting List and Tenant Selection

» U.S. Department of Housing and Urban Development. (n.d.). Public Housing Occupancy Guidebook: Waiting List and Tenant Selection. https://www.hud.gov/sites/dfiles/PIH/documents/PHOG_Waiting_List_Chapter.pdf

Guidance on Housing Individuals and Families Experiencing Homelessness Through the Public Housing and Housing Choice Voucher Programs

» U.S. Department of Housing and Urban Development. (June 8, 2023). Notice PIH 2023-13, CPD 2023-05. <https://www.hud.gov/sites/dfiles/PIH/documents/pih2023-13.pdf>

Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Records in Housing Decisions

» U.S. Department of Housing and Urban Development. (November 2, 2015). Notice PIH 2015-19. <https://www.hud.gov/sites/documents/pih2015-19.pdf>

Implementation of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions

» McCain, D. L. (June 10, 2022). Implementation Of the Office of General Counsel's Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing

and Real Estate-related Transactions. U.S. Department of Housing and Urban Development. [https://www.hud.gov/sites/dfiles/FHEO/documents/Implementation of OGC Guidance on Application of FHA Standards to the Use of Criminal Records - June 10 2022.pdf](https://www.hud.gov/sites/dfiles/FHEO/documents/Implementation_of_OGC_Guidance_on_Application_of_FHA_Standards_to_the_Use_of_Criminal_Records_-_June_10_2022.pdf)

Guidance on Application of the Fair Housing Act to the Screening of Applicants for Rental Housing

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