

CHAPTER 15

DENIAL OR TERMINATION OF ASSISTANCE

[24 CFR 5.902, 5.902, 5.903, 5.905, 982.4, 982.54, 982.552, 982.553]

INTRODUCTION:

The NBHA may deny or terminate assistance for a family because of the family's action or failure to act. The NBHA will provide families with a written description of the family obligations under the program, the grounds under which the NBHA can deny or terminate assistance, and the NBHA's informal hearing procedures. This chapter describes when the NBHA is required to deny or terminate assistance, and the NBHA's policies for the denial of a new commitment of assistance and the grounds for termination of assistance under an outstanding HAP contract.

A. **GROUND FOR DENIAL/TERMINATION:**

[24 CFR 982.54, 982.552, 982.553]

If denial or termination is based upon behavior resulting from a disability, the NBHA will delay the denial or termination in order to determine if there is an accommodation that would negate the behavior resulting from the disability.

Denial of assistance for an applicant may include (but is not limited to) any or all of the following:

- Denial for placement on the NBHA waiting list.
- Denying or withdrawing a voucher.
- Refusing to enter into a HAP contract or approve a lease.
- Refusing to process or provide assistance under portability procedures.

Termination of assistance for a participant may include (but is not limited to) any or all of the following:

- Refusing to or failure to enter into a HAP contract or approve a lease.
- Terminating housing assistance payments under an outstanding HAP contract.
- Refusing to process or provide assistance under portability procedures.

Mandatory Denial and termination:

[24 CFR 982.54 (d); 982.552 (b); 982.553 (a); 982.553 (b)]

The NBHA must terminate assistance for participants if the family is under contract and 180 days have elapsed since the NBHA's last housing assistance payment was made. (See "Contract Terminations").

The NBHA must permanently deny assistance to applicants, and terminate the assistance of persons convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing.

The NBHA must deny admission to the program for applicants, and terminate assistance for program participants if the NBHA determines that any household member is currently engaging in the use of illegal drugs. See Section B of this chapter for the NBHA's established standards.

The NBHA must deny admission to the program for applicants, and terminate assistance for program participants if the NBHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or rights to peaceful enjoyment of the premises by other residents. See Section B of this chapter for the NBHA's established standard.

The NBHA must deny admission to an applicant if the NBHA determines that any member of the household is subject to a lifetime registration requirement under a State Sex Offender Registration Program. See Section B of this chapter for the NBHA's established standards regarding criminal background investigation and determining whether a member of the household is subject to a lifetime registration requirement under a State Sex Offender Registration program.

The NBHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

The NBHA must deny admission to the program for an applicant or terminate program assistance for a participant if any member of the family fails to sign and submit consent forms for obtaining information in accordance with part 5, subparts B and F.

The NBHA must deny admission or terminate assistance when required under the regulations to establish citizenship or eligible immigration status.

Grounds for Denial or Termination of Assistance: [24 CFR 982.552 (c)]

The NBHA may deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following reasons.

- If any family member violates any family obligation under the program as listed in 24 CFR 982.551, including but not limited to complying with the lease.
- If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any drug-related criminal activity.
- If any family member has violated the family obligation under 24 CFR 982.551 not to engage in any violent criminal activity.
- If any member of the family commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program.
- If family currently owes rent or other amounts to the NBHA or to another PHA in connection with Section 8 or Public Housing Assistance under the 1937 Act.

Any member of the family has been evicted from federally assisted housing in the last five years:

- The family has not reimbursed any HA for amounts paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.
- The family breaches an agreement with a HA to pay amounts owed to a HA, or amounts paid to an owner by a HA. The NBHA at its discretion may offer the family the opportunity to enter into a repayment agreement. The NBHA will prescribe the terms of the agreement. (See “Repayment Agreements” chapter).
- The family has engaged in or threatened abusive or violent behavior toward NBHA personnel.
- Threatening, abusive or violent behavior towards NBHA personnel or contractors”, includes verbal as well as physical abuse or violence. Use of expletives that are generally considered insulting, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for termination or denial. “Threatening” refers to oral or

written threats or physical gestures that communicate the intent to abuse or commit violence.

- Physical abuse or violence will always be cause for termination.
- If any member of the family engages in, or has engaged in drug or alcohol abuse that interferes with the health, safety or peaceful enjoyment of other residents. See Section B of this chapter.
- If any member of the family commits drug-related criminal activity, or violent criminal activity. (See Section B of this chapter and 982.553 of the regulations).
- If the entire family is absent from the assisted unit for more than 60 consecutive days, the unit will be considered to be vacated and the assistance will be terminated.

Refer to “Eligibility for Admission” chapter of this plan for further information.

Notice of Termination of Assistance:

In any case where the NBHA decides to terminate assistance to the family, the NBHA must give the family written notice which states:

- The reason(s) for the proposed termination.
- The family’s right, if they disagree, to request an Informal Hearing to be held before termination of assistance.
- The date by which a request for an informal hearing must be received by the NBHA.

If the NBHA proposes to terminate assistance for criminal activity as shown by a criminal record, the NBHA will provide the subject of the record and the tenant with a copy of the criminal record.

The NBHA will provide written notice of the contract termination to the owner so that it will coincide with the Termination of Assistance.

Confidentiality of Criminal Records:

The NBHA will ensure that any criminal record received is maintained confidentially, not misused or improperly disseminated, and destroyed once the purpose for which it was requested is accomplished.

All criminal reports, while needed by staff for screening for criminal behavior, will be housed in a locked file with access restricted to individuals responsible for such screening.

Misuse of the above information by any employee will be grounds for termination of employment. Penalties for misuse are contained in Personnel Policies.

If the family is determined eligible for initial or continued assistance, the NBHA's copy of the criminal report shall be shredded as soon as the information is no longer needed for eligibility or continued assistance determination.

If the family's assistance is denied or terminated, the criminal record information shall be shredded immediately upon completion of the review or hearing procedures and a final decision has been made.

The NBHA will document in the family's file that the family was denied admission or the tenancy was terminated due to findings in the Criminal History Report.

B. SCREENING AND TERMINATION FOR DRUG ABUSE AND OTHER CRIMINAL ACTIVITY:

Purpose:

All federally assisted housing is intended to provide a place to live and raise families, not a place to commit crime, to use or sell drugs or terrorize neighbors. It is the intention of the NBHA to fully endorse and implement a policy designed to:

- Help create and maintain a safe and drug-free community.
- Keep our program participants free from threats to their personal and family safety.

Administration:

All screening and termination of assistance procedures shall be administered fairly and in such a way as not to violate rights to privacy or discriminate on the basis of race, color, nationality, religion, familial status, disability, sex, or other legally protected groups.

The privacy policy will be posted on the bulletin boards of the NBHA's Administrative Office lobby area and copies will be made readily available to applicants upon request.

To the maximum extent possible, the NBHA will encourage other community and governmental entities in the promotion and enforcement of this policy.

Screening of Applicants:

Criminal Background screening will apply to any member of the household who is 18 years of age or older, or an emancipated minor.

Disclosure of Criminal Records to the Family:

If the NBHA takes any adverse action based on a criminal conviction record, the applicant or participant will be notified of the criminal record and an opportunity to dispute the record.

Applicants will be provided an opportunity to dispute the record at an informal review.

Standard for Violation:

The NBHA will deny participation in the program to applicants where the NBHA determines there is reasonable cause to believe that the person is illegally using a controlled substance or engages in drug-related or other criminal activity. The same will apply if it is determined that the person abused alcohol in a way that may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents. This includes cases where the NBHA determines that there is a pattern of illegal use of controlled substance or a pattern of alcohol abuse.

The NBHA will consider the illegal use of a controlled substance or alcohol abuse to be a pattern if there is more than one arrest or conviction, during the previous 18 months.

“Engaged in or Engaging in” violent criminal activity means any act within the past five (5) years by an applicant or participant or household member which involved criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage, which resulted in the arrest and/or conviction of the applicant, participant, or household member.

In evaluating evidence of negative past behavior, the NBHA will give fair consideration to the seriousness of the activity with respect to how it would affect

other residents, and/or likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

Applicants will be denied assistance if they have been convicted of violent criminal activity within the last five (5) years prior to the date of the certification interview.

If an applicant is denied admission to the program for the reasons detailed in this section, the applicant retains the right to appeal. (See “Complaints and Appeals” Chapter of this Admin Plan).

Denial of Assistance for Sex Offenders:

The NBHA will deny admission if any member of the household is subject to a lifetime registration requirement under a State sex Offender Registration Program. In screening applicants, the NBHA will perform criminal history background checks using CT Sex Offenders and Drusjodin Website to determine whether any household member is subject to a lifetime Sex Offender Registration Requirements.

Denial and Termination of Assistance for Drug-related Criminal Activity or Violent Criminal Activity:

Denial: Persons evicted from federally assisted housing because of drug-related criminal activity are ineligible for admission to the Section 8 Program for a five (5) year period beginning on the date of such eviction.

However, the household may be admitted if, after considering the individual circumstances of the household, the NBHA determines that:

- The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by the NBHA.
- The circumstances leading to eviction no longer exist because the criminal household member has died or is imprisoned.

Termination: Under the family obligations listed at 24 CFR 982.551, the member of the household must not engage in drug-related criminal activity or violent criminal activity, or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. HUD regulations at 24 CFR 982.553(b) requires the NBHA to establish standards for termination of assistance when this family obligation is violated. The NBHA has established the following standards

for termination of assistance for the family when a household member has violated the family obligation to refrain from participating in drug-related or violent criminal activity.

The NBHA may waive the requirement regarding drug-related criminal activity if:

- The person demonstrates successful completion of a credible rehabilitation program approved by the NBHA, or
- In appropriate cases, the NBHA may permit the family to continue receiving assistance provided that family members determined to have engaged in the prescribed activities will not reside in the unit. If the violating member is a minor, the NBHA may consider individual circumstances with the advice of Juvenile Court officials.

Terminating Assistance for Alcohol abuse by Household Members under the family obligations listed at 24 CFR 982.551, the members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. Assistance will be terminated due to violation of a family obligation if the NBHA determines that a member of the household has demonstrated a pattern of alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

C. **FAMILY OBLIGATIONS:** [24 CFR 982.551]

Department of Housing and Urban Development regulations for the Housing Choice Voucher Program permits NBHA to terminate assistance to participants in these programs if any household members or guests do not abide by the following family obligations once the unit is approved and the HAP contract has been executed.

1. **The Family MUST:**
 - a. Supply any information that NBHA or HUD determines to be necessary in the administration of the program, including submission of required evidence of citizenship, or eligible immigration status. Information includes any requested certification, release, or other documentation. This also includes information for use in regularly scheduled reexamination or interim reexamination of family income, composition and criminal history. Appointments with the Authority must be kept as scheduled, complete paperwork, return forms, and sign documents by the deadline imposed by the Housing Authority staff. Provide current, reliable mailing address if different from assisted dwelling to help ensure receipt of NBHA correspondence.

- Two missed appointments to supply NBHA with this information is considered a breach of a family responsibility. Change in household income and criminal history must be reported in writing within 30 days of the change (such as, hire date of new job – not first paycheck).
- b. Disclose and verify social security numbers and sign and submit consent forms for obtaining information.
 - c. Supply any information requested by NBHA to verify that the family is living in the unit or information related to family absence from the unit.
 - d. Notify NBHA in writing within 30 days if any family member no longer lives in the unit.
 - e. Notify NBHA in writing within 10 days when the family or a family member is away from the unit for an extended period of time (10 days or more) in accordance with NBHA policies.
 - f. Notify NBHA and the owner in writing before moving out of the unit or terminating the lease.
 - g. Allow NBHA to inspect the unit at reasonable times and after reasonable notice. Two missed appointments for inspection are considered a breach of this family responsibility.
 - h. Use the assisted unit for residence by the family. The unit must be the family's only residence.
 - i. The compositor of the assisted family must be approved by the NBHA. The family must notify the NBHA in writing within 30 days of the birth, adoption, or court awarded custody of a child. The family must request in writing NBHA approval to add any other family member as an occupant of the unit, (landlord must give permission first). Additional family members must not move into the unit until the NBHA has given written approval.
 - j. Promptly give NBHA a copy of all notices including any owner eviction notice.
 - k. Pay utility bills and supply appliances that the owner is not required to supply under the lease.
 - l. You may have guests, but such guests may not occupy the premises for more than 30 consecutive days or more than 60 non-consecutive days in any 12-month period. You may not have any series of guests who exceed these limits without our approvals. The assistance you receive is for your immediate family, not for your friends and relatives. A guest is considered to occupy the unit if they conduct normal daily functions in the assisted unit (such as: bathing, eating, sleeping, storing clothing or other personal belongings, etc.) Must get NBHA approval prior to allowing additional family member(s) to move in.
 - m. Any information supplied by the family must be true and complete.
 - n. The family is responsible for a HQS breach caused by the family.

2. **The Family (including Each Family Member) MUST NOT:**

- a. Own or have any interest in the unit (other than in a cooperative, or the owner of a manufactured home leasing a manufactured home space).
- b. Commit any serious or repeated violation of the lease. Under 24CFR5.2005 (c) (i) any incident(s) of actual or threatened domestic violence, dating violence, or stalking will not be construed as a serious or repeated lease violation by the victim, or threatened victim of the domestic violence, dating violence, or stalking, or as a good cause to terminate the tenancy, occupancy rights, or assistance to the victim. Serious or repeated violations, i.e. (non-payment or late payment of rent, poor housekeeping, disturbing the peaceful enjoyment of neighbors).
- c. Commit fraud, or bribery or any other corrupt or criminal act in connection with the program.
- d. Participate in illegal drug or violent criminal activity.
- e. Sublease or let the unit or assign the lease or transfer the unit.
- f. Receive Housing Choice Program tenant-based housing assistance while receiving another housing assistance program.
- g. Damage the unit or premises (other than damage from ordinary wear and tear) or permit any guest to damage the unit or premises.
- h. Engaged in threatening, abusive or violent behavior toward any NBHA personnel.
- i. Engage in illegal use of a controlled substance; or abuse of alcohol that threatens the health and safety or right to peaceful enjoyment of the premises by other residents.

ANY INFORMATION THE FAMILY SUPPLIES MUST BE TRUE AND COMPLETE:

By its signature, the family agrees to fulfill the program responsibilities noted above, and understands that failure to do so, BY ANY FAMILY MEMBER, may result in permanent loss of housing assistance eligibility, and criminal prosecution.

Public Housing Authority Discretion [24 CFR 982.552 (c)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, the NBHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. The NBHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. The NBHA may also review the family's more recent history and record of compliance and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

The NBHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were

culpable for the action or failure to act, will not reside in the unit. The NBHA may permit the other members of a family to continue in the program.

Enforcing family Obligations:

Explanations and Terms:

The term “promptly” when used with the family obligations always means “within 30 days”. Denial or termination of assistance is always optional except where this Plan or the regulations state otherwise.

Housing Quality Standards (HQS) Breach:

The NBHA HQS Inspector will determine if any HQS breach as identified in 24 CFR 982.404 (b) is the responsibility of the family. Families may be given extensions to cure HQS breaches by the Program Supervisor, Executive Director or Designee.

Lease Violations:

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

- If the owner terminates tenancy for serious or repeated violations of the lease.
- If there are police reports, neighborhood complaints or other third party information, that has been verified by the NBHA.
- Non-payment of rent is considered a serious violation of the lease.

Causing intentional destruction to the property or causing excessive damage to the property due to lack of care, failure to maintain the property and/or failure to notify the owner of needed repairs that cause extensive damage due to the negligence of the tenant in not reporting needed repairs is a serious violation of the lease.

Family Member Moves Out:

Families are required to notify the NBHA if any family member leaves the assisted household. The notification must include at a minimum the following information:

- Notarized statement from leaseholder/head of household certifying that the person does not live with him or her.

- Copy of a current lease for the person.
- Recent mail addressed to the person at an alternate address
- Copy of a valid Drivers License/State of Connecticut ID containing the new address.

Limitation on Profit-Making Activity in Unit:

- If the NBHA determines that the use of the unit as a business is not incidental to its use as a dwelling unit, it will be considered a program violation.
- If the NBHA determines the business is not legal, it will be considered a program violation.
- If the NBHA determines that the business activity is not in violation of the above conditions and the landlord has given written authorization for the family to operate the profit making activity in the assisted property, the family will not be considered in violation of the lease.

Interest in Unit:

The owner may not reside in the assisted unit regardless of whether she/he is a member of the assisted.

In case of fraud, the NBHA will consider which family members were involved, the circumstances, and any hardship that might be caused to innocent members.

D. **PROCEDURES FOR NON-CITIZENS:** [24 CFR 5.514; 5.516; 5.518]

Denial or Termination due to Ineligible Immigrant Status:

Applicant or participant families in which all members are neither U. S. Citizens nor eligible immigrants are not eligible for assistance and must have their assistance terminated. The NBHA must offer the family an opportunity for a hearing. (See “Eligibility for Admission”, section on Citizenship/Eligible Immigration Status).

Assistance may not be terminated while verification of the participant family’s eligible immigration status is pending.

Procedure for Denial or Termination:

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verification failed to document the status, the family may make an appeal to the INS and request a hearing with the NBHA either after the INS appeal or in lieu of the INS appeal.

After the NBHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

E. **ZERO (\$0) ASSISTANCE TENANCIES:**

HAP Contracts On or After 10/2/95: [24 CFR 982.455(a)]

The family may remain in the unit at \$0 assistance for 180 days after the last HAP payment and then the assistance will be terminated. If, within the 180-days timeframe, the NBHA receives notice that the family incurs a decrease in their income, which would cause the family to be eligible for a housing assistance payment, the NBHA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days of receiving zero assistance, the rent for the new unit would have to be high enough to necessitate a housing assistance payment.

F. **OPTION NOT TO TERMINATE FOR MISREPRESENTATION:**
[24 CFR 982.551, 982.552 9(c)]

If the family has misrepresented any facts that caused the NBHA to overpay assistance, the NBHA may choose not to terminate and may offer to continue assistance provided that the family executes a Repayment Agreement and makes payments in accordance with the agreement.

G. **MISREPRESENTATION IN COLLUSION WITH OWNER:**
[24 CFR 982.551, 982.552 (c)]

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, the NBHA will deny or terminate assistance.

H. **MISSED APPOINTMENTS AND DEADLINES:**

[24 CFR 982.551, 982.552 (c)]

It is a Family Obligation to supply information, documentation, and certification as needed for the NBHA to fulfill its responsibilities. The NBHA schedules appointments and sets deadlines in order to obtain the required information. The obligation also requires that the family allows the NBHA to inspect the unit, and appointments are made for this purpose.

An applicant or participant who fails to keep an appointment, or to supply information required by a deadline without notifying the NBHA, may be sent a Notice of Denial or Termination of Assistance for failure to provide required information, or for failure to allow the NBHA to inspect the unit.

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements will be imposed for the following events and circumstances:

- Eligibility for Admissions
- Verification Procedures
- Voucher Issuance and Briefings
- Housing Quality Standards and Inspections
- Recertifications
- Appeals

Acceptable reasons for missing appointments or failing to provide information by deadlines are:

- Medical Emergency
- Emergency, not including incarceration

Procedure when Appointments are Missed or Information Not Provided:

For most purposes in this Plan, the family will be given two opportunities before being issued a notice of termination or denial for breach of a family obligation. After issuance of the termination notice, if the family offers to correct the breach within the time allowed, the termination will be rescinded when the family cures the breach.

The family may also request, in writing, an Informal Hearing within the time allowed.

The notice will not be rescinded even if the family offers to cure the breach if this is a repeat offense.

The notice will be rescinded if the family offers to cure and the family does not have a history of non-compliance.