

Chapter 3

ELIGIBILITY

INTRODUCTION

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

To be eligible for the public housing program:

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

This chapter contains three parts:

Part I: Family and Household Members. This part contains HUD and DMMHA definitions of family and household members and explains initial and ongoing eligibility issues related to these members.

Part II: Basic Eligibility Criteria. This part discusses income eligibility, and rules regarding citizenship, social security numbers, and family consent.

Part III: Denial of Admission. This part covers factors related to an applicant's past or current conduct (e.g. criminal activity) that can cause the DMMHA to deny admission.

PART I: FAMILY AND HOUSEHOLD MEMBERS

3-I.A. FAMILY AND HOUSEHOLD [24 CFR 5.105 (a) (2), 24 CFR 5.403, FR Notice 02/03/12, and Notice PIH 2014-20]

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

Family

To be eligible for admission, an applicant must qualify as a family. *Family* as defined by HUD, includes but is not limited to the following, regardless of actual or perceived sexual orientation, gender identity, or marital status, a single person, who may be an elderly person, disabled person, near-elderly person, or any other single person; or a group of persons residing together. Such group includes, but is not limited to a family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family), an elderly family, a near-elderly family, a disabled family, a displaced family, or the remaining member of a tenant family.

To be eligible for participation, applicants must meet the following qualifications:

1. The Head of Household must be an individual who is 18 years old or older, or have the legal capacity to sign legal contracts/documents.
2. Qualify as a Family, as defined by HUD above and additionally as follows:

A family is defined as:

- A) Single persons or two or more persons related by blood, marriage, adoption or other operation of the law; or
- B) Two adults who share residency with their income and resources available to meet the family's needs and who provide evidence of a stable family relationship, including, but not limited to the following:

- a) Evidence of continuous cohabitation for a period of not less than 6 months within the last 24 months, such as:
 1. Real estate title in both parties' names
 2. Lease agreement in both parties' names. In the event that a lease agreement is not available, the DMMHA will accept a notarized statement from the lessor.
 3. Property tax statement in both parties' names
 4. Mortgage documents in both parties' names

Evidence submitted must be current (within 12 months, unless otherwise specified above), and not obtained solely for the purpose of securing housing assistance.

SUFFICIENCY OF THE EVIDENCE IS AT THE SOLE DISCRETION OF THE DMMHA.

Household

Household is defined as a family plus additional people who, with the DMMHA's permission, live in a public housing unit, such as live-in aides, foster children, and foster adults.

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

Family Break-up

Applicant Family Break Up

If a family on the waiting list breaks up, the family member who is listed as the head of household at the time of application will retain the original application date position on the waiting list and the other family member(s) must make a new application when the waiting list is open.

Resident Family Break Up

In the case of a divorce, legal separation or other family break-up, DMMHA in its sole discretion, will determine which family member(s) will remain on the public housing lease. Other former family members may submit new applications.

If a court determines the disposition of property between members of the assisted family, the DMMHA is bound by the court's determination of which family members continue to receive assistance.

If a court has not determined which family member continues to receive assistance, the DMMHA determination will be made based on the family member who was head of the household at the time of application unless the family made a decision to request, in writing, that a different eligible household member become the head of the household throughout the course of tenancy. If no such request was made, the head of household at the time of application will retain the Public Housing Assistance.

Break-Up Involving Domestic Violence

In the case of domestic violence, the adult member of the household who is the victim of domestic violence, dating violence, sexual assault, or stalking, or has custody of a minor child who has been the victim of domestic violence, dating violence, sexual assault, or stalking by an affiliated individual; may be eligible to remain in the Public Housing unit provided that they are in good standing with DMMHA and notify DMMHA of their victim status under the Violence Against Women Act of 2013. In such cases, a new lease will be executed with the remaining household. The remaining household may be allowed to reside in the current unit, in accordance with DMMHA occupancy standards policy. (For documentation requirements and policies related to domestic violence, dating violence, sexual assault, and stalking, see section 16-VI of this plan)

Remaining Member of a Tenant Family [24 CFR 5.403]

The HUD definition of family includes the *remaining member of a tenant family*, which is a member of a resident family who remains in the unit when other members of the family have left

the unit. Household members such as live-in aides, foster children, and foster adults do not qualify as remaining members of a family.

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

The HUD definition of *Head of household* means the adult member of the family who is considered the head for purposes of determining income eligibility and rent. The head of household and all adult household members age 18 or older are responsible for ensuring that the family fulfills all of its responsibilities under the program, alone or in conjunction with a spouse.

At the time of application, the family must designate which household member will be considered the head of household. The family may designate any qualified family member as the head of household.

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

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

A *dependent* is a family member who is under 18 years of age or a person of any age who is a person with a disability or a full-time student, except that the following persons can never be dependents: the head of household, spouse, foster children/adults and live-in aides.

Joint Custody of Dependents

Persons who reside in the unit at least 50% (183 calendar days or more) of the year will be considered for the purposes of determining the number of bedrooms for family eligibility (i.e. joint custody of minors). No child may be on more than one assisted lease agreement.

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

The DMMHA may also honor a notarized affidavit from one biological parent of a child when determining eligibility of other family members under the age of 18 being added to the household (for example – grandmother obtaining custody of grandchild, sister obtaining custody of niece or nephew, etc.).

In instances where no biological parent can be located, and/or when no biological parent will provide a notarized affidavit, the DMMHA will ask the guardian of the minor child to provide additional documentation acceptable to the DMMHA verifying that the guardian has custody of the minor child (i.e. court orders granting custody of the child, receiving benefits for the child such as FIP, school records indicating the guardian as the contact person for the child). Sufficiency of the documents is at the sole discretion of the DMMHA.

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

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

3-I.F. ELDERLY AND NEAR-ELDERLY PERSONS, AND ELDERLY FAMILY [24 CFR 5.100, 5.403, 945.105, and FR Notice 02/03/12]

Elderly Persons

An *elderly person* is a person who is at least 62 years of age.

Near-Elderly Persons

A *near-elderly person* is a person who is 50-61 years of age.

Elderly Family

An *elderly family* is one in which the head, spouse, or sole member is an elderly person.

3-I.G. DISABLED FAMILY [24 CFR 5.403, FR Notice 02/03/12]

Disabled Family

A *disabled family* is one in which the head or spouse is a person with disabilities.

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

A *guest* is defined as a person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

Provided the tenant gives the DMMHA prior written notification, including the beginning and ending date of the visit, they will be allowed to have overnight visitors for a total of no more than fourteen (14) days, for all such guests, within a 12-month period. For guests who will be staying in the unit for more than 3 days, the tenant must provide visitor's name, date of birth, and social security number so that DMMHA can check the visitor's criminal background and sex offender list. Under extenuating circumstances, this fourteen (14) day time period may be extended by the DMMHA upon prior request by the tenant. Written permission must be obtained from the Housing Agency for any deviation from the occupancy standards listed in this Policy. Violations of this Policy are grounds for eviction.

Children who are subject to a joint custody arrangement or for whom a family has visitation privileges, that are not included as a dependent family member because they live outside of the public housing unit more than 50 percent of the time (183 days per year), are not subject to the time limitations of guests as described above.

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

Guests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants. In addition, guests who remain in the unit

beyond the allowable time limit will be considered unauthorized occupants, and their presence constitutes violation of the lease.

3-I.I. FOSTER CHILDREN AND FOSTER ADULTS

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

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

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

3-I.J. ABSENT FAMILY MEMBERS

Definition of Temporarily Absent

A family member age 18 or older who is temporarily out of the unit may not be counted as a family member at initial entry or transfer. A family member age 18 or older who is temporarily out of the unit during occupancy, may be considered temporarily absent provided that there is evidence acceptable to DMMHA that such person will be returning to the home within 180 consecutive calendar days. DMMHA defines “temporarily absent” as an absence of not more than 180 consecutive calendar days.

Absent Students

Students living away from the unit to attend school, but living in the assisted unit for a minimum of three months per year, will be considered a family member.

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

A child who is temporarily away from the home because of placement in court ordered foster care or the Department of Human Services’ Children in Need of Assistance (CINA) Program, is considered a member of the family, provided that there is evidence acceptable to DMMHA that such child will be returning to the home within 180 consecutive calendar days.

Absence from Unit

The DMMHA defines a permanently absent family member as a family member who will be away from the unit for more than 180 consecutive days.

1. The entire family/household may not be absent from the unit for a period of more than 180 consecutive calendar days, except where permitted under federal regulations for members of the armed forces serving in active duty under federally declared hostile action. Absence beyond this length may result in DMMHA issuing a Notice of Lease Termination.

Family Members Permanently Confined for Medical Reasons

If a family member is confined to a nursing home or hospital on a permanent basis, that person is no longer considered a family member and the income of that person is not counted.

The DMMHA will request verification from a responsible medical professional and will use this determination. If the responsible medical professional cannot provide a determination, the person generally will be considered temporarily absent unless absent from the unit for more than 180 consecutive calendar days. If absent for more than 180 consecutive calendar days, the family member will no longer be considered a family member.

Return of Permanently Absent Family Members

The family must request, in writing, DMMHA approval for the return of any adult family members that the DMMHA has determined to be permanently absent. The individual is subject to the eligibility and screening requirements discussed elsewhere in this chapter.

3-I. K LIVE-IN AIDE

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

The DMMHA will approve a live-in aide if needed as a reasonable accommodation for a person with disabilities in accordance with 24 CFR 8.

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

Applicants or tenants requesting a live-in aide as a reasonable accommodation must provide a statement, from a professional with direct knowledge, certifying that the live-in aide is a medical necessity.

When an applicant or tenant can provide written documentation to the satisfaction of the Housing Agency that a live-in aide is required and available, the following provisions shall apply:

1. The live-in aide must submit information as requested, and be reviewed by staff for eligibility under the Eligibility Criteria of this Chapter. DMMHA requires a minimum of 14 calendar days to screen and process such requests. If the DMMHA determines an individual proposed as a live-in aide to be ineligible, the applicant may propose an alternate live-in aide for screening or may appeal the DMMHA's determination as provided in the Informal Review Procedure.
2. The applicant and the live-in aide may each be allocated a separate bedroom. Additional bedrooms will not be provided for the family of a live-in aide.

3. The primary tenant or head of household is responsible for all acts of all household members with respect to the requirements of the Dwelling Lease. Any violation of Dwelling Lease provisions by the live-in aide may be cause for eviction of the entire household.
4. The live-in aide does not have rights to continue in occupancy as a remaining member of a household.

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

- The person commits fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
- The person has a history of drug-related criminal activity or violent criminal activity; or
- The person currently owes rent or other amounts to the DMMHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.
- The person does not meet the DMMHA's additional screening criteria in Part III of this Chapter.

PART II: BASIC ELIGIBILITY CRITERIA

3-II.A. INCOME ELIGIBILITY AND TARGETING

Income Limits

HUD is required by law to establish income limits that determine the income eligibility of applicants for HUD's assisted housing programs, including the public housing program. The income limits are published annually and are based on HUD estimates of the median incomes for families of different sizes.

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

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

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

Extremely low-income family. A family whose annual income does not exceed the greater of 30 percent of the area median income or the federal poverty level. **Using Income Limits for Eligibility [24 CFR 960.201]**

Income limits are used to determine eligibility at admission. Eligibility is established by comparing a family's annual income with HUD's published income limits. To be income-eligible, a family must be a *low-income* family.

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

At least 40 percent of the families admitted from the DMMHA waiting list to the DMMHA's public housing program during a DMMHA fiscal year must be *extremely low-income* families.

Meeting the income targeting requirements may require skipping higher income families on the waiting list as necessary to satisfy the DMMHA's annual targeting requirement.

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

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

All applicant families will be notified of the requirement to submit evidence of their citizenship status when they apply to the program. Where feasible, and in accordance with the DMMHA's Limited English Proficiency Plan, the notice will be in a language that is understood by the individual if the individual is not proficient in English.

Declaration [24 CFR 5.508]

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

U.S. Citizens and Nationals

The DMMHA requires both current tenants (program participants) and applicants to submit the required citizenship or eligible immigration documentation for every household member in order to receive or continue to receive housing assistance. Documentation is required of all new applicants at the time an application is processed by the Housing Agency. Whenever a new family member is added, documentation must be provided before the new member can be added to the household.

DMMHA will comply with HUD regulation 24CFR Part 5, as applicable and as amended, regarding the eligibility for assistance or continued assistance of all non-citizens.

Eligible Noncitizens

In addition to providing a signed declaration, those declaring eligible noncitizen status must sign a verification consent form and cooperate with DMMHA efforts to verify their immigration status as described in Chapter 7 of this Plan. The documentation required for establishing eligible noncitizen status varies depending upon factors such as the date the person entered the U.S., the conditions under which eligible immigration status has been granted, the person's age, and the date on which the family began receiving HUD-funded assistance.

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

Ineligible Noncitizens

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

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

Mixed Families

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

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

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

If after completion of the application the family is determined to be ineligible, the Public Housing Administrator or his/her designated representative, will prepare and forward a Notice of Ineligibility to the family stating the reason for the ineligibility. The notice also will inform the family that if they do not understand or disagree with the determination, they are entitled to request an informal hearing.

The files for all applicants determined to be ineligible will be maintained for a minimum of three years.

3-II.C. SOCIAL SECURITY NUMBERS [24 CFR 5.216 and 5.218, Notice PIH2018-24]

The applicant and all members of the applicant's household must disclose the complete and accurate social security number (SSN) assigned to each household member, and the documentation necessary to verify each SSN. If a child under age six (6) has been added to an applicant family within the six 6 months prior to program admission, an otherwise eligible family may be admitted to the program and must disclose and document the child's SSN within 90 days of admission. A detailed discussion of acceptable documentation is provided in Chapter 7 of this Plan.

Note: These requirements do not apply to noncitizens who do not contend eligible immigration status.

In addition, each participant who has not previously disclosed an SSN, has previously disclosed an SSN that HUD or the SSA determined was invalid, or has been issued a new SSN must submit their complete and accurate SSN and the documentation required to verify the SSN at the time of the next interim or annual reexamination or recertification. Participants age 62 or older as of January 31, 2010, whose determination of eligibility was begun before January 31, 2010, are exempt from this requirement and remain exempt even if they move to a new assisted unit.

The DMMHA must deny assistance to an applicant family if they do not meet the SSN disclosure and documentation requirements contained in 24 CFR 5.216.

The Social Security numbers of household members, such as live-in aids, will be verified for the purpose of conducting criminal background checks.

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

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

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

PART III: DENIAL OF ADMISSION

3-III.A. OVERVIEW

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

In addition, HUD requires or permits the DMMHA to deny admission based on certain types of current or past behaviors of family members as discussed in this part. The DMMHA's authority in this area is limited by the Violence against Women Act of 2013 (VAWA), which expressly prohibits the denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been the victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005(b)].

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

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

- Any member of the household has been evicted from federally-assisted housing in the last three (3) years for drug-related criminal activity.
- The DMMHA determines that any household member is currently engaged in the use of illegal drugs.
- The DMMHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents.

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

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing
- Any household member is subject to a lifetime registration requirement under a state or federal sex offender registration program. The DMMHA will check the National Sex Offender Public Registry for each applicant age 18 or older.

3-III.C. DMMHA SPECIFICALLY IDENTIFIED DENIALS

1. Applications where any household member is currently engaged in or has engaged in a sexually related offense, murder, attempted murder, homicide, or attempted homicide regardless of when the offense occurred.
2. Failure to disclose criminal history by an applicant or any household member is grounds for automatic denial of participation in the Public Housing program, if the offense would otherwise prohibit the participant or household member for qualifying for the Public Housing Program

3. Applications where any household member is subject to a lifetime registration requirement on a sex offender registry at the time of initial eligibility determination or have a criminal record that indicates that such activity has ever occurred regardless of when the offense occurred.

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

The DMMHA may deny an application if the applicant household is currently engaged in, or has engaged in the following activities during a reasonable period of time: (1) violent criminal activity, (2) other criminal activity which may threaten the health, safety or right to peaceful enjoyment of the premises by other residents; or (3) other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the DMMHA (including a DMMHA employee or a DMMHA contractor, subcontractor or agent).

The DMMHA may also deny an application if the applicant household is currently engaged in or has engaged in drug-related criminal activity.

Reasonable Period of Time

Reasonable period of time shall mean all criminal activity that has occurred (offense date) within the last five years before the date that the applicants name is pulled from the waiting list and DMMHA begins the screening process. This period of time shall not apply to mandatory denials or certain specifically identified denials.

Criminal Activity [24 CFR 960.203 (c)]

The DMMHA is responsible for screening family behavior and suitability for tenancy. In doing so, the DMMHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would adversely affect the health, safety, or welfare of other tenants.

The DMMHA will conduct criminal background checks through local law enforcement, Iowa Courts On-line and utilizes a third-party screening company for all adult household members.

Drug-related Criminal Activity - defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug [24 CFR 5.100].

The DMMHA will determine persons ineligible for the Public Housing Program for any drug-related activity that occurred within the last five (5) years from the date the applicant's name is pulled from the waiting list and DMMHA begins the screening process.

The DMMHA will determine persons ineligible for the Public Housing Program for any drug-related activity that occurred while participating in a federally subsidized housing program within a reasonable period of time (criminal activity that has occurred (offense date) within the last ten years before the date that the applicants name is pulled from the waiting list and DMMHA begins the screening process).

The DMMHA will determine persons ineligible for the Public Housing Program for a pattern of drug-related activity that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents. (See Section 3-III.E Consideration of Circumstances).

Violent Criminal Activity

The DMMHA will determine persons ineligible for the Public Housing Program for violent criminal activity that has occurred within a reasonable period of time (criminal activity that has occurred (offense date) within the last five years before the date that the applicants name is pulled from the waiting list and DMMHA begins the screening process.) Violent criminal activity includes, but is not limited to, any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage. The DMMHA may consider relevant circumstances, as discussed in Section 3-III.E. when deciding whether to deny assistance based on violent criminal activity except in the situations for which denial of assistance is mandated by HUD, or in cases where the applicant family or member thereof has committed a sexually related offense, murder, attempted murder, homicide, or attempted homicide.

Pattern of Criminal Activity

The DMMHA will determine persons ineligible for the Public Housing Program for a pattern of violent criminal activity that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents, or other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the DMMHA (including a DMMHA employee or a DMMHA contractor, subcontractor or agent).

The DMMHA may consider relevant circumstances, as discussed in Section 3-III.E. when deciding whether to deny assistance based on a pattern of criminal activity except in the situations for which denial of assistance is mandated by HUD, or in cases where the applicant family or member thereof has committed a sexually related offense, murder, attempted murder, homicide, or attempted homicide.

“Pattern of Activity” shall mean activity that happens in a regular and repeated way. “Pattern of activity” may include activity outside the reasonable period of time.

Other Criminal Activity

The DMMHA will review any record of other criminal activity and will determine any applicant and/or family member ineligible if there is reasonable cause to believe that the applicant's activity or pattern of activity may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents or other criminal activity which may threaten the health or safety of the owner, property management staff, or persons performing a contract administration function or responsibility on behalf of the DMMHA (including a DMMHA employee or a DMMHA contractor, subcontractor or agent).

The DMMHA may consider relevant circumstances, as discussed in Section 3-III.E. when deciding whether to deny assistance based on a family's past criminal history except in the situations for which denials of assistance is mandated by HUD, or in cases where the applicant

family or member thereof has committed a sexually related offense, murder, attempted murder, homicide, or attempted homicide.

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

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

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

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

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

Past Performance in Meeting Financial Obligations, Especially Rent

References from Landlords and Prior Landlords. DMMHA staff will obtain references from current and prior landlords, if any. The DMMHA will attempt to contact the applicants' current and prior landlords to obtain landlord references. If the DMMHA is unable to obtain references from the landlords after two attempts to contact the landlords, the DMMHA will proceed with processing the pre-application without the landlord references. References from landlords who are related by blood or marriage will be considered insufficient.

The DMMHA will attempt to check court records for evidence of evictions or judgments against members of the household.

The DMMHA will deny an applicant that has been evicted from any rental property for any reason that has occurred within one year of initial eligibility with the following possible exceptions:

For evictions that have occurred within the last year as a result of non-payment of rent, the DMMHA will not deny the applicant if the applicant has successfully completed the RENTWise Program.

For evictions that have occurred within the last year as a result of non-payment of rent, the DMMHA may allow for consideration of the circumstances surrounding the eviction if the reason for non-payment was beyond the participant's control.

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

DMMHA will screen utilizing PHA and landlord references for the past five years, gathering information on whether the applicant kept a unit clean, safe and sanitary; whether they violated health or safety codes; whether any damage was done by the applicant to a current or previous unit or the development, and, if so, how much the repair of the damage cost; whether the applicant's housekeeping caused insect or rodent infestation; and whether the neighbors complained about the applicant or whether the police were ever called because of disturbances.

Police and court records within the past five years will be used to check for any evidence of disturbance of neighbors or destruction of property that might have resulted in arrest or conviction. See 3-III.E Criteria for Deciding to Deny Admission, Evidence

Previous Behavior [960.203(c) and (d)]

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

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

The applicant has a previous rental history which reflects an unwillingness or inability to abide by the terms of the Dwelling Lease, or whose habits and practices may be expected to have a detrimental effect on other tenants or DMMHA staff, or persons performing a contract administration function or responsibility on behalf of the DMMHA (including a DMMHA contractor, subcontractor or agent). The same selection criteria will be used to evaluate a person wishing to join a family already in occupancy.

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

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

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

Has a pattern of eviction from housing or termination from residential programs within the past five years.

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

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

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

Screening for Previous Behavior in Assisted Housing

HUD authorizes the DMMHA to deny assistance based on the family's previous behavior in assisted housing:

The DMMHA will deny assistance if any family member has been evicted or terminated from federally subsidized housing (including the HOME Tenant Based Rental Assistance Program) for drug-related activity, violent criminal activity or other criminal activity within a reasonable period of time (criminal activity that has occurred (offense date) within the last ten years before the date that the applicants name is pulled from the waiting list and DMMHA begins the screening process.)

The DMMHA will deny assistance if any family member has been evicted or terminated from federally subsidized housing (including the HOME Tenant Based Rental Assistance Program) for unreported income, HQS or UPCS breach caused by the family, or unauthorized persons within the last five (5) years from the date that the applicant's name is pulled from the waiting list and DMMHA begins the screening process.

The DMMHA will deny assistance if a family member has previously been terminated or evicted from any federally subsidized housing program (including the HOME Tenant Based Rental Assistance Program) for other reasons not previously listed if the eviction or termination was within two (2) years before the date that the applicant's name is pulled from the waiting list and DMMHA begins the screening process.

Applicants who were evicted or terminated from a federally subsidized housing program (including the HOME Tenant Based Rental Assistance Program) for a second time, for any reason, will be denied if the second eviction or termination was within five (5) years before the date that the applicant's name is pulled from the waiting list and DMMHA begins the screening process.

Applicants who were evicted or terminated from a federally subsidized housing program (including the HOME Tenant Based Rental Assistance Program) for a third time, for any reason, will be permanently barred from participating in DMMHA programs and their application will be denied.

Adult household members of a family or a previous head of household who have a negative past or current participation with DMMHA or another federally subsidized program (including the HOME Tenant Based Rental Assistance Program) may be held responsible for the negative past or current participation if they were over the age of 18 and a member of the assisted household at the time it was determined that the assisted household was terminated/evicted by DMMHA or any other federally subsidized program (including the HOME Tenant Based Rental Assistance Program).

Negative Current Behavior in Assisted Housing

The DMMHA may deny assistance to an applicant/participant currently in assisted housing or to an adult household member of an assisted household if information is received by DMMHA during the screening process that indicates that the applicant's current behavior in assisted housing is negative (including but not limited to owes money to assisted housing provider, damages to assisted housing unit, etc.).

Owing Money to the DMMHA or Any Other PHA

If the applicant owes outstanding funds to the DMMHA, the application will not be processed further until the balance owed is paid in full. Payment of owed balances by an applicant in order to have an application processed does not guarantee that the applicant will be determined eligible to receive assistance.

In the event that the applicant owes money to DMMHA, the DMMHA will notify applicants of any outstanding balance owed and allow the applicant 60 calendar days to pay the balance in full or demonstrate that the balance is no longer currently owed. If the applicant fails to repay the balance in full within the 60-calendar day time frame, the applicant will be determined ineligible for assistance and their application for assistance will be denied.

In the event that the applicant owes money to any other Public Housing Authority (PHA), the DMMHA will notify the applicant it has been determined that the applicant owes money to another PHA and that the application will be denied within 60 calendar days unless the applicant can verify, in writing, acceptable to the DMMHA that they have reimbursed the other PHA for the full amount due or demonstrate that the balance is no longer currently owed prior to the expiration of those 60 days.

Adult household members of a family or a previous head of household who owe money to DMMHA or another PHA may be held responsible for the monies owed if they were over the age of 18 and a member of the assisted household at the time it was determined that the assisted household owed money to DMMHA or any other federally subsidized program.

The DMMHA will NOT enter into any re-payment agreements with applicants for monies owed.

Abuse of Alcohol

The DMMHA will deny housing assistance for any person if the DMMHA determines that the person's abuse of alcohol interferes with the health and safety of any other individual or right to peaceful enjoyment of the premises of any other individual. The DMMHA will deny housing assistance if it determines there is reasonable cause to believe that the head of household or household member or anyone under the control of the household members has a pattern of abuse of alcohol. Examples of alcohol abuse may include but are not limited to history of:

- a. Police records or court documents regarding an alcohol related activity; or
- b. Child Protective Investigation (CPI) report or verification from a credible agency.

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

Threatened Violent or Abusive Behavior Toward DMMHA Personnel.

The DMMHA will deny an applicant if any family member has engaged in or threatened violent or abusive behavior toward DMMHA personnel.

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

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

Fugitive felons, Parole/Probation Violators

The DMMHA may, at its sole discretion, deem ineligible:

1. Fugitive felons or parole/probation violators, based on police records and criminal background checks.
2. Persons fleeing prosecution, custody, confinement after conviction and parole violators, based on police records and criminal background checks.

Misrepresentation

The DMMHA may, at its sole discretion deny assistance to an applicant family if:

The family does not provide information that the DMMHA or HUD determines is necessary in the administration of the program.

The family does not provide complete and true information to the DMMHA. The determination of misrepresentation is based on, including but not limited to the following: information obtained from the applicant/participant on the application forms or information provided by the applicant or participant at any update or recertification appointment or any public record.

History of Trespassing

If an applicant has a record of trespassing on property owned or operated by the DMMHA, or is currently on a DMMHA No Trespass list, the DMMHA may, at its sole discretion, deny the application for assistance.

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

Evidence

In the event of drug-related criminal activity, violent criminal activity, or any other criminal activity, DMMHA will deny assistance if the preponderance of evidence indicates that a family household member is currently engaged in or has engaged in such activity, regardless of whether the family member has been arrested or convicted. In determining whether the family household member engaged in such activity, DMMHA will utilize all available evidence including, but not limited to police reports detailing the circumstances of the offense, witness statements, and other relevant documentation to assist in making a determination that the disqualifying conduct occurred. Before DMMHA will deny, the evidence as a whole must show by a preponderance of

the evidence that the family household member is currently engaged in or has engaged in such activity.

In reviewing the evidence, DMMHA will not be bound by the Iowa or Federal Rules of Evidence regarding admissibility and may consider evidence that may otherwise be inadmissible under those Rules.

Should the application process reveal that the applicant household member is currently engaged in, or has engaged in any of the above-mentioned activities, then DMMHA shall provide the applicant with notification of the opportunity to dispute and/or provide additional information relevant to the cited activity. Should the applicant fail to respond within the specified time period, then the applicant will be denied admission to the Public Housing Program. Should the applicant respond, DMMHA may consider relevant circumstances for past criminal history as stated in Section 3-III.E. Consideration of Circumstances.

Consideration of Circumstances for Past Criminal History [24 CFR 960.203(c) (3) and (d)]

The DMMHA may consider relevant circumstances when deciding whether to deny assistance based on a family's past criminal history except in the situations for which denial of assistance is mandated by HUD or in cases where the applicant family or a member thereof has committed a sexually related offense, murder, attempted murder, homicide, or attempted homicide.

The DMMHA may consider the following factors prior to making its decision to deny based on past criminal history:

- The seriousness of the case, especially with respect to how it could affect other residents.

- The extent of participation or culpability of individual family members, including whether the culpable family member is (as discussed further in section 3-III.F) a victim of domestic violence, dating violence, sexual assault or stalking.

- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future.

- In the case of drug or alcohol abuse, whether the culpable household member has successfully completed a supervised drug or alcohol rehabilitation program.

- The DMMHA may require the applicant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program.

- The DMMHA may take into consideration recent participation in a recognized supportive services program.

Removal of a Family Member's Name from the Application

Should the DMMHA's screening process reveal that an applicant's household includes an individual subject to state lifetime registered sex offender registration, the DMMHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the DMMHA must deny admission to the family [Notice PIH 2012-28].

For other criminal activity, the DMMHA may permit the family to exclude the culpable family members as a condition of eligibility. [24 CFR 960.203(c) (3) (i)].

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT AND STALKING

The Violence against Women Act of 2013 (VAWA) and the HUD regulations at 24 CFR 5.2005(b) prohibit denial of admission to an otherwise qualified applicant on the basis or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

Definitions

- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law, such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- The term *sexual* assault means any nonconsensual act prohibited by Federal, tribal, or state law, including when the victim lacks capacity to consent.
- The term *stalking* means:
 - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
 - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily

injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
 - Any individual, tenant or lawful occupant living in the household of that individual.
 -

Notification

The DMMHA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section 16-VI.C of this ACOP, a notice of VAWA rights, and a copy of the form HUD-5382. The DMMHA will request in writing that an applicant wishing to claim this protection notify the DMMHA within 14 business days.

The DMMHA will inform applicants of their right to dispute a denial by certifying that they are a victim of domestic violence, dating violence, sexual assault or stalking.

Victim Documentation

The certification must include but is not limited to:

- The applicant notifying DMMHA in writing of victim status within fourteen (14) calendar days of the notification of denial of admission.
- The domestic violence, dating violence, sexual assault or stalking must be directly related to the reason for denial of admission.
- Applicants must complete the HUD approved certification form to certify victim status.
- Determination of the sufficiency of the content in the certification is at the sole discretion of DMMHA.

If the certification is acceptable to the DMMHA, the DMMHA will withdraw the denial of admission and continue to process the application for the applicant qualifying as the victim.

If the certification is not acceptable, or not submitted to DMMHA within the required time frame, the DMMHA will continue with the denial of admission and inform the applicant of their right to an informal review regarding the denial.

The DMMHA will comply with the confidentiality requirements of the Violence Against Women Act of 2013.

Perpetrator Documentation

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

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

2. Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation.

3-III.G. NOTICE OF ELIGIBILITY OR DENIAL

Applicants determined to be qualified for housing at the DMMHA may be notified in writing when a unit in the Site that they have chosen becomes available to them (see Chapter 5 Part 2 – Unit offers for more detail on the offer process).

If the DMMHA determines that a family is not eligible for the program for any reason, the family will be notified promptly. The notice will describe: (1) the reasons for which assistance has been denied, (2) the family's right to an informal review, and (3) the process for obtaining the informal review [24 CFR 982.554 (a)]. See Chapter 14, for informal review policies and procedures. This notice will also include a copy of the On-Line Rental Exchange adverse action letter if the applicant was denied as a result of information found using the On-Line Rental Exchange system as part of the screening process. The adverse action letter includes information on how applicants can request a copy of the information that was found as a result of the search (criminal records and eviction records).

Notice requirements related to denying admission to noncitizens are contained in Section 3-II.B.

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