



Best Practices: Screening Applicants for a Criminal Record

Screening Criteria

- Do not bar all applicants who have a criminal record or a particular conviction.*
- Consider...
 - The individual circumstances of each applicant.
 - The relationship between the offense and the safety and security of other residents or the property.
 - How long ago the offense occurred.
 - Mitigating factors, including, but not limited to: (1) the seriousness of the offense; (2) the age of the applicant at the time of the offense; (3) evidence of rehabilitation, such as employment, participation in a job training program, education, participation in a drug or alcohol treatment program, or letters of support from a parole or probation officer, employer, teacher, social worker, or community leader; (4) if the offense is related to acts of domestic violence committed against the applicant; and (5) the effect a denial of admission would have on the household and the community.
 - Granting a waiver of admission policies or practices as a reasonable accommodation if the offense is related to a physical or mental disability.
- Do not consider...
 - Arrests that did not result in convictions.
 - Convictions dismissed under Cal. Penal Code § 1203.4 or 1203.4a. The purpose of the statute is to release an individual “from all penalties and disabilities resulting from the offense.”
 - Juvenile adjudications.

* Federal law does impose restrictions on admission to certain HUD-funded units. Applicants who are subject to a lifetime registration requirement under a state sex offender registration law are not eligible for admission to public housing, the voucher program, project-based Section 8, Section 8 moderate rehabilitation, Section 202, 811, 221(d)(3), or 236 housing. Applicants who have been convicted of manufacturing or producing methamphetamine on the premises of federally assisted housing are not eligible for admission to public housing, the voucher program, or Section 8 moderate rehabilitation housing.

Application

- The written application materials should...
 - Outline the screening criteria that will be used.
 - Provide space for the applicant to explain the conviction and present evidence that he or she will be a suitable tenant.
 - Provide space for the applicant to request a waiver of admission policies or practices as a reasonable accommodation.
 - Be written in language that is clear and accessible. Applicants who do not understand a question or cannot remember the specifics of a conviction are often rejected for misrepresentation.

Notice of Denial and Appeal Process

- Send a written notice to each applicant denied admission. The notice should...
 - List the particular conviction or convictions that led to the decision.
 - Explain how the applicant can request an informal meeting to contest the decision.
 - State that an applicant with a disability is entitled to request a reasonable accommodation to participate in the meeting.
 - Inform the applicant that he or she is entitled to bring an advocate or attorney to the meeting.
 - Describe the evidence that the applicant can present at the meeting.
 - Inform the applicant that if the offense is related to a physical or mental disability, he or she is entitled to request a waiver of admission policies or practices as a reasonable accommodation.
 - Provide referral information for local legal services and housing rights organizations.
 - Note: If the rejection is based on a criminal background check obtained from a tenant screening agency, the Fair Credit Reporting Act and the California Investigative Consumer Reporting Agencies Act impose additional notice requirements.
- Give applicants denied admission the chance to challenge the decision in an informal meeting.
- An applicant who goes through the appeal process should not lose his or her place on the waitlist.
- Allow the applicant to bring an advocate or attorney to the meeting.
- Confine the subject of the meeting to the reason for denial listed in the notice.
- Give the applicant a chance to present documents and witnesses showing that he or she will be a suitable tenant.
- Have an impartial person conduct the meeting. It should not be the staff person who made the initial decision or a subordinate of the person who made the initial decision.
- Within 5 days of the meeting, provide the applicant with a written decision that states the reason for the decision and the evidence relied upon.