

**HOUSING AUTHORITY OF NEW ORLEANS
BOARD OF COMMISSIONERS
REGULAR MEETING
MAY 21, 2013**

RESOLUTION NO. 2013-20

WHEREAS, the Housing Authority of New Orleans (HANO) is the city's major provider of affordable housing and a steward of safe and healthy communities, and has a responsibility to give men and women with criminal histories the opportunity to rejoin their families and communities as productive members; and

WHEREAS, HANO adopted a new Criminal Background Policy Statement on March 26, 2013 that provides all individuals, regardless of their criminal history, access to employment and housing opportunities at HANO; and

WHEREAS, in order to implement this new Criminal Background Policy Statement, HANO must amend and revise several of its operating policies and procedures to ensure that they are in compliance with and follow the letter and the spirit of the new policy statement; and

WHEREAS, one such document is HANO's Housing Choice Voucher Program (HCVP) Administrative Plan ("Admin Plan") which establishes policies and procedures for implementing the HCVP program in a manner consistent with HUD requirements, and HANO's agency goals and objectives; and

WHEREAS, in consultation with the Vera Institute of Justice, HANO has proposed several amendments and revisions to the Admin Plan related to HANO's Criminal Background Policy Statement as referenced in Exhibit A, and a draft of the revised Admin Plan was published on the HANO website on April 25, 2013 for public comment; and

WHEREAS, these proposed amendments and revisions will ensure that HANO's HCVP program is in compliance with its new Criminal Background Policy Statement;

THEREFORE, BE IT RESOLVED, that the Board of Commissioners of the Housing Authority of New Orleans adopts the amendments and revisions to the Admin Plan related to HANO's new Criminal Background Policy Statement summarized in Exhibit A, and authorizes the Administrative Receiver to take any and all other action necessary to ensure that the Admin Plan is implemented in accordance with HANO's Criminal Background Policy Statement.

Executed this 21st day of May, 2013

APPROVAL:



**DAVID GILMORE
ADMINISTRATIVE RECEIVER
CHAIRMAN, BOARD OF COMMISSIONERS**

**HOUSING AUTHORITY OF NEW ORLEANS
Administrative Plan (“Admin Plan”)**

Chapter 4: ELIGIBILITY and Chapter 19: TERMINATION OF ASSISTANCE AND TENANCY

Summary of Proposed Changes by the Vera Institute of Justice

Proposed Changes to the Administrative Plan that do not relate to HANO’s Criminal Background Policy are not addressed in this document
May 13, 2013

The following table includes the: (1) proposed changes, (2) new proposed policy language, and (3) reasoning for each change.

Item No.	Section	Subsection	Proposed Change	New Proposed Policy	Rationale
4.22 SCREENING FOR ELIGIBILITY					
1.	N/A	N/A	<p>Reorganize Part 4.22. Add new sections, incorporate content of existing sections in new sections.</p> <p><u>Current sections</u></p> <ul style="list-style-type: none"> Sex Offender Screening Louisiana Sex Offender and Child Predator Registry 	<p><u>New sections</u></p> <ul style="list-style-type: none"> 4.22.3 Screening for Criminal Record 4.22.4 Federally Barred Admission 4.22.5 Other Criminal Records 4.22.6 Drug and Alcohol Abuse 	<p>Consolidate all screening procedures and requirements for criminal records, drug abuse, and alcohol abuse into one section, avoid redundancy and promote clarity for the reader.</p>
2.	4.22.3 Screening for Criminal Record		<p>Remove the following:</p> <p>HANO will deny HCV program admission to any applicant or applicant family member who has a criminal record and/or criminal history involving drug related, violent or other criminal activity which present a threat to the health, safety, or right to peaceful enjoyment of the premises by other residents. In making its decision to deny admission, HANO will base an admission denial due to criminal record and/or history at least 3 years prior to the date of application. HANO may extend the review period beyond 3 years based on the seriousness of the offense as detailed in HANO’s HCV program Procedure Manual. Applicants denied admission to the HCV program are</p>	<p><u>New section:</u></p> <p>HANO will conduct a criminal record check for all applicants who are 18 years of age or older in the household to determine: (1) whether any member of the household is subject to a mandatory federal requirement for denial of admission, and (2) whether any member of the household has one or more criminal conviction(s) that represent a risk to the safety and well-being of the community. This record check will be conducted prior to determination of final eligibility</p> <p>For any denial based on a</p>	<p>The description of the technical process to conduct criminal background checks is outdated and not consistent with the procedures currently in place at HANO, this section needed to be removed. The new proposed policy clarifies who is subject to criminal background screening and which aspects of screening apply to federally barred admission and to drug and alcohol abuse.</p>

		<p>entitled to an informal review and may present mitigating circumstances and/or request a reasonable accommodation in connection with any denial by HANO.</p> <p>It is HANO's policy to conduct screening for drug abuse and other criminal activity. In an effort to prevent future drug-related and other criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or right to peaceful enjoyment of the premises by other residents, and as required by HUD, HANO will endeavor to screen applicants as thoroughly and fairly as possible for drug-related and violent criminal behavior. Such screening will apply to any member of the household who is 18 years of age or older, including live-in aides.</p> <p>HANO will conduct criminal record screening upon admission to the program and at regular recertifications for all adult household members. Additionally HANO may conduct additional criminal record screenings if necessary to ensure program integrity. HANO will use the following resources to conduct criminal record screening:</p> <ul style="list-style-type: none"> • Local law enforcement database and records; • Louisiana Computerized Criminal History. The LCCH check includes a review to determine if there is a requirement for lifetime and ten year registration for sex offenses; and • National Crime Information Center (NCIC). <p>Families are provided an opportunity to explain circumstances and/or provide additional information when appropriate. HANO provides applicants an explanation of the basis for any decision made by</p>	<p>household member's criminal record, HANO may permit eligibility to the program conditioned on the exclusion of the denied family member from the household.</p>	<p>Provisions regarding the review process for persons with a background of criminal convictions are moved to the new section 4.22.5 .</p>
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3	4.22.4 Federally Barred Admission	N/A	<p>HANO pertaining to the applicant's eligibility.</p> <p>If the results of the criminal background check indicate that there may be past criminal activity, but the results are inconclusive, i.e. same name or same date of birth or same social security number, HANO may require the individual to undergo a fingerprint or State ID check with the New Orleans branch of the State Police. Further information may be obtained from the NCIC.</p> <p>If HANO proposes to deny assistance based on criminal record information, HANO will notify the household of the proposed action and will make the record available upon request to the applicant. The applicant will have an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission.</p> <p>If the criminal record check (CRC) identifies a pending criminal investigation HANO will defer an eligibility determination until the case is decided. Criminal record checks will be considered current for a period of one year. If lease up (for new applicants) is not effective within one year from the date the CRC was run, a new CRC will be required.</p> <p>Remove the following provisions but incorporate the content in the new section 4.22.4.</p> <p>Sex Offender Screening HANO will perform criminal background checks necessary to determine whether any household member is subject to a lifetime registration requirement under a state sex offender program in Louisiana, as well as in any other state where a household member is known to have</p>	<p>New section:</p> <p>HANO is required by federal law to deny assistance to an applicant if any of the household members:</p> <ul style="list-style-type: none"> - Is subject to a lifetime registration requirement under a state sex offender registration program; - Has ever been convicted of drug-related criminal activity 	<p>To help with clarity, HANO should keep all federal exclusions in a separate category titled Federally Barred Admissions.</p> <p>Changed the timeframe for evictions for drug-related criminal activity to comport with the</p>
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4	4.22.5 Other Criminal Records	N/A	<p>resided. HANO will deny admission if any member of the household is subject to a lifetime registration requirement under a State Sex Offender Registration Program.</p> <p>Louisiana Sex Offender and Child Predator Registry Anyone who is convicted of a Sex Offense as characterized by the State of Louisiana will be denied assistance.</p>	<p>for manufacture or production of methamphetamine on the premises of federally assisted housing;</p> <ul style="list-style-type: none"> - Has been evicted from federally assisted housing for drug-related criminal activity during the previous three years, except if one of the following occurred: <ul style="list-style-type: none"> ▪ The circumstances leading to the eviction no longer exist. ▪ The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program. 	<p>timeframe in HUD policy 24 C.F.R. 5.854</p>
		New section		<p>Except as mandated by federal law, no applicant for the HCV program will be automatically barred from receiving housing assistance because of his or her criminal background.</p> <p>For applicants not barred by federal law, the applicant's criminal conviction(s) will be assessed to determine the risk the applicant poses to the safety and well-being of the community using valid written criteria. Applicants whose conviction(s) do not suggest a significant level of risk will be deemed admissible to the program if otherwise eligible. Applicants whose conviction(s) suggest a significant level of risk will be reviewed by a panel of HANO</p>	<p>Provisions of the current Admin Plan are moved (see item No. 2) and the language modified to ensure Admin Plan is in compliance with HANO's new Criminal Background Policy Statement which was adopted on March 26, 2013.</p>

5	4.22.6 Drug and Alcohol Abuse	N/A	New section	<p>officials to assess, based on the totality of the circumstances including any information the applicant wishes to provide, whether the applicant should be admitted to the program or denied. HANO may, at its sole discretion, include external experts on the panel. If the panel recommends denial of an applicant, the HANO chief executive officer will review the recommendation and make the final decision on admission. The risk assessment criteria HANO uses and the review process are detailed in criminal background screening procedures.</p> <p>In an effort to prevent drug-related criminal activity, as well as other patterns of behavior that pose a threat to the health, safety or the right to peaceful enjoyment of the premises by other residents, HANO will endeavor to screen applicants as fairly as possible.</p> <p>HANO will screen applicants to determine whether any household member is currently engaging in the illegal use of a drug.</p> <p>A person is "currently engaging in" the illegal use of a drug when he or she has two or more convictions for drug possession in the past three months. HANO will not deny admission if the household member who is currently engaging in the illegal use of a drug is enrolled in a supervised drug rehabilitation</p>	
				<p>Provisions regarding denial of admission based on current patterns of behavior are moved (see item No. 7) and the language modified to:</p> <ul style="list-style-type: none"> provide a more specific definition for "currently engaging in the illegal use of a drug" and for alcohol abuse. These standards must be set per HUD requirements (§5.854, §5.857). <ul style="list-style-type: none"> separate out the screening standards for illegal use of a drug from those for alcohol abuse for clarity reasons. 	

6	4.22.7 Previous Behavior in Assisted Housing		<p>Remove the following:</p> <ul style="list-style-type: none"> [...] Depending on the seriousness of the offense, HANO may extend the number of years it reviews for criminal activity Any public housing authority has ever terminated assistance under the program for any member of the family <p>[...]</p> <p>If HANO previously denied admission to an applicant because of a determination concerning a member of the household under 24 CFR 5, HANO may reconsider the application if there is sufficient evidence that the members of the household are not currently engaged in, and have not engaged in, such criminal activity during a reasonable period, determined by HANO, before the admission decision.</p>	<p>program.</p> <p>HANO will screen applicants to determine if any household members' alcohol abuse or pattern of alcohol abuse may interfere with the health, safety or right to peaceful enjoyment of the premises by other residents. Such abuse is defined as having two or more convictions for alcohol-related offenses in the past three months. HANO will not deny admission if the household member who is currently engaging in the abuse of alcohol is enrolled in a supervised rehabilitation program.</p> <p>See items No. 3, 4 and 5.</p>	
				<p>The provision concerning the review for criminal activity is covered in section 4.22.5.</p> <p>The provision restricting admission on the ground of previous terminations is inconsistent with the criminal record screening policy and should be removed</p> <p>The provisions concerning previously denied admission are removed because they are inconsistent with the new proposed policy.</p>	

4.23 DENIAL OF ASSISTANCE

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4.23.2 Prohibited Reasons for Denial of Program Assistance

Criminal background screening

Remove the following:

Mandatory Denial: Criminal Background 24 CFR 982.553(a)
HUD requires that HANO deny assistance in the cases outlined below. HANO 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. A conviction will be given more weight than an arrest. HANO will also consider evidence from treatment providers or community-based organizations providing services to household members.

- If any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity.
 - HANO will admit an otherwise-eligible family who was evicted from federally-assisted housing within the past 3 years for drug-related criminal activity, if HANO is able to verify that the household member who engaged in the criminal activity has completed a supervised drug rehabilitation program approved by HANO, or the person who committed the crime is no longer living in the household and/or if the circumstances leading to eviction no longer exist, i.e. the offender has died or is in prison.
- 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.

See items No. 2, 3, 4 and 5.

The procedures governing mandatory denials of assistance based on criminal backgrounds are outlined in sections 4.22.3 through 4.22.6.

This section needs to be removed to avoid redundancy, inconsistencies with other sections and confusion based on the multiplication of similar provisions in different locations.

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.
- If HANO determines that any household member is currently engaged in the use of illegal drugs or HANO 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.
 - *Currently engaged in, current use of or current abuse* is defined as within the previous six months from the date of screening. HANO may obtain information from drug abuse or other treatment entities to determine whether a household member is currently engaging in illegal drug activity or criminal behavior
 - A family may also be required to provide documentation from a professional with knowledge that the household member has successfully completed a drug rehabilitation or treatment program, such as Orleans Parish Criminal District Court's Drug Court
 - HANO will not refuse a household member who has provided the above certification of no illegal drug for six months and documentation of successful completion of a drug rehabilitation or treatment program as noted

	above.			
8	4.23.2 Prohibited Reasons for Denial of Program Assistance	Other Permitted Reasons for Denial of Assistance	Remove the following: HANO may restrict admissions based on previous criminal activities. HANO may also deny assistance for the reasons discussed in this section: HANO may, on a case-by-case basis, decide not to deny assistance where denial is not required by federal regulations	See items No. 2, 3, 4 and 5. The procedures governing permitted denials of assistance based on criminal backgrounds are outlined in sections 4.22.3 through 4.22.6.
4.24 CRITERIA FOR DENYING ASSISTANCE				
9	N/A	N/A	The title for section 4.24 is reformulated, the subsections are renumbered. CRITERIA FOR DECIDING TO DENYING ASSISTANCE <ul style="list-style-type: none"> • 4.24.1 Evidence Circumstances • 4.24.2 Consideration of Circumstances • 4.24.3 Making the Decision to Deny Assistance • 4.24.4 Removal of a Family Member's Name from the Household and Application • 4.24.5 Reasonable Accommodation 	New title and section numbers: CRITERIA FOR DENYING ASSISTANCE <ul style="list-style-type: none"> • 4.24.1 Consideration of Circumstances • 4.24.2 Making the Decision to Deny Assistance • 4.24.3 Removal of a Family Member's Name from the Household and Application • 4.24.4 Reasonable Accommodation
10	4.24.1 Evidence	N/A	Remove the section and following language: HANO will use the concept of the preponderance of the evidence as the standard for making admission decisions Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the	See items No. 2, 3, 4 and 5. The standard of evidence to make admission decisions based on criminal records is outlined in sections 4.22.3 through 4.22.6.

		evidence may not be determined by the number of witnesses, but by the greater weight of all evidence For example, if one witness with no bias accused an applicant family member of violent criminal behavior and the family member used as witnesses two alleged co-conspirators to refute the allegation, HANO may accept the unbiased witness testimony as more convincing.			
11	4.24.2 Consideration of Circumstances	N/A	Remove the following: <ul style="list-style-type: none"> In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully. HANO will require the applicant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.	See item No. 5.	The provisions regarding drug or alcohol rehabilitation programs are covered in section 4.22.6 and need to be removed from this section to avoid redundancy.
19.7 CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE					
12	19.7.1 Evidence	N/A	Add language to existing provisions	Criminal activity that occurred prior to program participation cannot be grounds for termination.	Need to clarify that criminal activity that happened prior to program participation will not be grounds for termination.
19.11 TERMINATION OF TENANCY BY THE OWNER					
13	19.11.3 Termination by the Owner Due to Criminal Activity or Alcohol Abuse	N/A	Add language to existing provisions	Criminal activity that occurred prior to tenancy cannot be grounds for termination.	Need to clarify that criminal activity that happened prior to tenancy will not be grounds for termination.



May 21, 2013

MEMORANDUM

**To: David Gilmore
Administrative Receiver
Chairman, Board of Commissioners**

**From: Maggie Merrill
Senior Advisor to the Administrative Receiver**

**Re: Amendments to HANO's Housing Choice Voucher Program Administrative
Plan Related to HANO's New Criminal Background Policy**

As the city's major provider of affordable housing and a steward of safe and healthy communities, the Housing Authority of New Orleans (HANO) has a responsibility to give men and women with criminal histories the opportunity to rejoin their families and communities as productive members. To that end, HANO adopted a new Criminal Background Policy Statement on March 26, 2013 that provides all individuals, regardless of their criminal history, access to employment and housing opportunities at HANO. Since that time, HANO has been working with the Vera Institute of Justice ("Vera") to implement the new policy statement.

In order to implement this new Criminal Background Policy Statement, HANO must amend and revise several of its operating policies and procedures to ensure that they are in compliance with the letter and the spirit of the new policy statement. One such document is HANO's Housing Choice Voucher Program (HCVP) Administrative Plan ("Admin Plan") which establishes policies and procedures for implementing the HCVP program in a manner consistent with HUD requirements, and HANO's agency goals and objectives. In consultation with Vera, HANO has proposed changes to the Admin Plan related to the new Criminal Background Policy Statement. A draft of the revised Admin Plan was published on the HANO website on April 25, 2013 for public comment. All proposed amendments and revisions to the Admin Plan have been summarized and are attached hereto as Exhibit A.

The Board of Commissioners is hereby requested to adopt the amendments and revisions to the Admin Plan related to HANO's new Criminal Background Policy Statement summarized in Exhibit A, and to authorize the Administrative Receiver to take any and all other action necessary to ensure the Admin Plan is implemented in accordance with HANO's Criminal Background Policy Statement.