

Chapter 2

ELIGIBILITY FOR ADMISSION

[24 CFR Part 5, Subparts B, D & E; Part 982, Subpart E]

This Chapter defines both HUD and SHA's criteria for admission and denial of admission to SHA's Housing Choice Voucher Program.

SHA's policy is to apply these criteria objectively and consistently to the evaluation of eligibility for all people who apply to SHA housing programs, and to give all applicants every opportunity to demonstrate their eligibility.

Families will be provided the opportunity to explain their circumstances, to furnish additional information, if needed, and to receive an explanation of the basis for any decision made by SHA pertaining to their eligibility.

A. Eligibility Factors [24 CFR 982.201(b)]

To be eligible for participation in SHA's Housing Choice Voucher Program an applicant must:

1. Be a "family," as defined below, which must have a head of household or spouse who is at least 18 years of age or an emancipated minor;
2. Be within the appropriate income limits as established annually by HUD;
3. Furnish verification of Social Security Numbers for all family members, if they have been assigned a Social Security Number;
4. Be a United States Citizen or Eligible Non-Citizen.*
5. Not owe money to SHA or other housing authorities;
6. Complete the application process, and provide truthful and verifiable information about income and personal circumstances; and
7. Cooperate in the verification of application information.

In addition to the above, all members of the family must meet SHA's criminal history standards and, if they have previously been Housing Choice Voucher residents, must meet SHA's Housing Choice Voucher participant history standards, as well as standards outlined in this chapter for admission to the program.

* Applications received on March 1, 2010 and later will require declaration and verification of immigration status at the time of application, although status was previously not verified until the first annual review. This policy changed due to the Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System-Amendments; Final Rule that was effective January 31, 2010 and required approval of Resolution 4952 by the Board of Commissioners which repealed Resolution 4541. Resolution 4952 was adopted on February 16, 2010.

B. Definitions of “Family” – Family Composition [24 CFR 982.201(c)]

Family

The definition of “family” includes:

1. A single person;
2. A household consisting of one or more adults and dependent children;
3. Two or more persons who share residency and whose income and resources are jointly available to meet the family’s needs;
4. Two or more elderly or disabled persons living together; or
5. One or more elderly, near-elderly or disabled persons living with one or more live-in aides.

Head of Household

A “head of household” is the adult member of the household who:

1. Has the legal capacity to enter into a lease under state and local law;
2. Will be issued the Housing Choice Voucher;
3. Will sign the lease; and
4. Will be responsible for meeting the family obligations under the lease and Housing Choice Voucher agreement.

Emancipated Minors

An emancipated minor may be a head of household.

Spouse of Head of Household

“Spouse” means the husband or wife of the head of household. It includes the partner in a common law marriage and same sex partners who reside in the same household. The term “spouse” does not include boyfriends, girlfriends, significant others, or co-heads of households.

Co-Head of Household

A “co-head of household” is an individual in the household who signs the lease and voucher agreement and who is equally responsible, with the head of household, for lease and Housing Choice Voucher agreement obligations. A family may have a spouse or a co-head, but not both. A co-head cannot be a dependent.

Elderly Family

A family in which the head of household, co-head of household, or spouse is age 62 or older.

Disabled Family

A family in which the head of household, co-head of household, or spouse meets the definition of disabled set forth in Chapter 1.

Live-in Aide

A person who resides with the family and who meets the requirements for a live-in aide described in Chapter 1.

Multiple Families in the Same Household

Two families living together (such as a mother and father, and a married child with his or her spouse and/or children) may be treated as a single family unit.

Joint Custody of Children

Children who are subject to a joint custody agreement will be considered to be members of that parent's household with whom they primarily reside (51 percent of the time).

Families who claim primary custody in a joint custody or temporary guardianship arrangement will be required to certify, and provide supporting documentation to establish, that the child or children reside primarily with the applicant or resident. At a minimum, the child's school records must show the child's primary address to be the same as the applicant or resident.

When both parents are on the waiting list and both claim the child as a family member, the primary custodial parent whose address is listed in the school records as the primary address for the child will be allowed to claim the school-age child as a dependent for the purposes of claiming the dependent deduction and determining subsidy.

C. Income Limits [24 CFR 982.201(b), 982.353]

To be income eligible the applicant must have a "extremely low income," that is, the applicant's income cannot exceed 30 percent of the area median income established annually by HUD for the Seattle/Everett Metropolitan Area and adjusted for family size, at the time the family receives the Housing Choice Voucher. Applicants that have a "very low income," that is, the applicant's income cannot exceed 50 percent of the area median income, will remain on the waiting list and will be contacted after all "extremely low income" households have been contacted.

The following applicants, however, are income eligible if their income exceeds 50 percent of the area median income provided their income is "low," that is, does not exceed 80 percent of

median income established annually by HUD for the Seattle/Everett Metropolitan Area and adjusted for family size:

1. A family that has been continuously assisted under the 1937 Housing Act. An applicant is continuously assisted if the family has received assistance under any 1937 Housing Act program within 120 days of voucher issuance;
2. A family that has been physically displaced by rental rehabilitation activity under 24 CFR Part 511;
3. A family residing in a project subject to a home-ownership program under 24 CFR 248.173 that is not participating in the program;
4. A family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165;
5. A family that qualifies for voucher assistance as a family residing in a project subject to a resident home-ownership program that is not participating in the program; and
6. A family participating in a Housing Choice Voucher Program home-ownership program.

The following applicants are income eligible if their income exceeds 80 percent of median income established annually by HUD for the Seattle/Everett Metropolitan Area and adjusted for family size:

1. A family that is displaced as a result of the prepayment of a mortgage or voluntary termination of a mortgage insurance contract under 24 CFR 248.165; and
2. A family living in a unit which becomes a Project-Based Voucher Program unit under SHA's project-basing policies described in Chapter 5, provided the family's income was lower than the target income level for the unit described in the HAP Contract or Agreement to Enter Into a HAP Contract (AHAP) when the family first leased the unit.

Families whose annual income exceeds the applicable income limit will be denied.

Income Limits for Families Exercising Portability

Families who port-in to SHA's Housing Choice Voucher Program must be within the applicable income limit for SHA's program if leasing up for the first time.

D. Mandatory Social Security Numbers [24 CFR 5.216, 5.218]

Families are required to provide, prior to admission, verification of Social Security Numbers for all family members who have been assigned a Social Security Number. This requirement also applies to persons joining the family after the family has been admitted to the program, except for the addition of individuals under the age of six who do not have an assigned SSN who must provide verification of a newly assigned SSN within 90 days of being added to the household.

Failure to provide verification of Social Security Numbers is grounds for denial or termination of assistance.

Persons who have not been assigned a Social Security Number must certify that they have never been assigned a Social Security Number and can only be admitted to the program if they do not contend to have eligible immigration status and are part of a “mixed” family. [24 CFR 5.216(a), 5.516, 5.518, 5.520]

Persons who provide Social Security Numbers, but cannot provide verification, can retain their place on our waiting list for a period of 90 days, but cannot be admitted to the program until verification is provided. Existing program participants as of January 31, 2010, who are 62 years of age or older, and had not previously disclosed a valid SSN are exempt from disclosure, even if the individual moves to a new assisted unit.

E. Citizenship/Eligible Non-Citizen [24 CFR Part 5, Subpart E]

The status of each member of the family is considered individually for the citizenship/eligible immigration requirement before the family’s status is defined.

Only those family members who are U.S. citizens or eligible immigrants may receive benefits from the Housing Choice Voucher Program. Eligible immigrants are persons who are in one of the immigrant categories set forth in 42 U.S.C. Section 1436(a):

1436a. Restriction on use of assisted housing by non-resident aliens

(a) Conditions for assistance

Notwithstanding any other provision of law, the applicable Secretary may not make financial assistance available for the benefit of any alien unless that alien is a resident of the United States and is—

- (1) an alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(15) and (20) of title 8, excluding, among others, alien visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country;
- (2) an alien who entered the United States prior to June 30, 1948, or such subsequent date as is enacted by law, has continuously maintained his or her residence in the United States since then, and is not ineligible for citizenship, but who is deemed to be lawfully admitted for permanent residence as a result of an exercise of discretion by the Attorney General pursuant to section 1259 of title 8;
- (3) an alien who is lawfully present in the United States pursuant to an admission under section 1157 of title 8 [refugee] or pursuant to the granting of asylum (which has not been terminated) under section 1158 of title 8;
- (4) an alien who is lawfully present in the United States as a result of an exercise of discretion by the Attorney General for emergent reasons or reasons deemed strictly in the public interest pursuant to section 1182(d)(5) of title 8;
- (5) an alien who is lawfully present in the United States as a result of the Attorney General’s withholding deportation pursuant to section 1231(b)(3) of title 8;
- (6) an alien lawfully admitted for temporary or permanent residence under section 1255a

of title 8 [Adjustment of status of certain entrants before January 1, 1982, to that of person admitted for lawful residence.(other conditions apply – see title itself)]; or (7) an alien who is lawfully resident in the United States and its territories and possessions under section 141 of the Compacts of Free Association between the Government of the United States and the Governments of the Marshall Islands, the Federated States of Micronesia (48 U.S.C. 1901 note) and Palau (48 U.S.C. 1931 note) while the applicable section is in effect: *Provided*, That, within Guam any such alien shall not be entitled to a preference in receiving assistance under this Act over any United States citizen or national resident therein who is otherwise eligible for such assistance.

Mixed Families

A “mixed family” is a family whose members include those with citizenship or eligible immigration status and those without citizenship or eligible immigration status. A mixed family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Assistance for such families will be pro-rated according to the number of residents who are citizens or have eligible immigration status.

Ineligible Families

“Ineligible families” are those families in which no members are eligible for assistance.

Non-Citizen Students

A “non-citizen student” is any alien who:

1. Has a residence in a foreign country that he or she intends to maintain;
2. Is a bona fide student qualified to pursue a full course of study; and
3. Is admitted to the United States temporarily and solely for purposes of pursuing such course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by such alien and approved by the Attorney General as provided in 42 U.S.C. 1436a(c)(2).

Appeals

Applicants who are denied admission because of immigration status under this section are entitled to an informal hearing as provided in Chapter 20 of this Administrative Plan.

Verification of Immigration Status at Admission

SHA will not provide assistance to families prior to the verification of eligibility of the family pursuant to this section.

Verification of eligibility based on citizenship status must be provided at admission to the program. [24 CFR 5.512]

F. Criminal History and Other Criteria for Admission

HUD-Mandated Denials: Criminal history

SHA is required by HUD regulations [24 CFR 982.553(a)] to deny the applications that involve:

1. Eviction in last 3 years from federally assisted housing for illegal drug activity: SHA shall deny admission to any SHA housing program to applicants who have been evicted from public or other federally assisted housing due to drug-related activity within the last three (3) years. [24 982.553(a)]
 - a) Definition of drug-related criminal activity: Drug-related criminal activity means 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.
 - b) Evidence of rehabilitation or permanent absence of criminal from household: SHA may, however, admit the household if it determines that:
 - i. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by SHA; or
 - ii. The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).
 - a) Evidence of rehabilitation: SHA's standards for evidence of rehabilitation under this section may take into consideration documented evidence of rehabilitation for drug-related offenses if the applicant can provide all of the following:
 - i. Evidence of completion of a recognized drug treatment program;
 - ii. Commitment of appropriate services by a recognized service provider; and
 - iii. No re-offense in the two (2) year period preceding the issuance interview.
2. Current use of illegal drugs: SHA shall deny admission to households if it determines that a household member is currently engaged in illegal drug use.
3. Methamphetamine production in federally assisted housing: SHA shall permanently prohibit admission to any applicant if any household member has been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.
4. Sex-offenders: SHA shall deny admission to a household if any household member is subject to a lifetime registration requirement under a state sex offender registration program. Because Washington State has no lifetime registration requirement, SHA will deny admission to any sex-offender for the duration of any Washington State sex-offender registration requirement.

5. Pattern of abuse of alcohol: SHA shall deny admission to a household if it has cause to believe that a household member's abuse or pattern of abuse of alcohol may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.
 - a. A Waiver of this may be granted if the family can demonstrate to the Housing Authority's satisfaction that the family member is no longer engaging in abuse of alcohol and:
 - * Has successfully completed a supervised alcohol rehabilitation program;
 - * Has other wise been rehabilitated successfully; or
 - * Is participating in a supervised alcohol rehabilitation program.

HUD-Required Denials: Failure to Submit Consent Forms

SHA will not admit a family if any member of the family fails to sign and submit consent forms for obtaining information required by SHA, including Form HUD-9886. This denial is required pursuant to 24 CFR 982.552(b).

SHA Policy on Denying Admission Based on Family History [24 CFR 982.552(c)]

Participant History Requirements

In addition to denial of admission for the reasons outlined above, SHA may deny admission to a family if any family member:

1. Has been previously assisted under the program and was terminated for violating any family obligation in the last 5 years;
2. Has been evicted from federally assisted housing for any reason in the last 5 years;
3. Has ever committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program, or unlawfully manipulated the application process in any way in the last five (5) years;
4. Currently owes rent or other amounts to SHA or any other public housing authority (PHA) that receives federal housing subsidies;
5. Has not reimbursed any PHA in full 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;
6. Breaches an agreement with SHA to pay amounts owed to SHA, or amounts paid to an owner by SHA;
7. Having participated in the Family Self-Sufficiency (FSS) program, fails to comply, without good cause, with the family's FSS contract of participation;
8. Has ever engaged in or threatened abusive or violent behavior toward SHA or other housing authority personnel, in the last five (5) years, as follows:
 - a) "Abusive or violent behavior" includes verbal as well as physical abuse or violence. Use of expletives that are generally considered profane, racial epithets, or other language, written or oral, that is customarily used to insult or intimidate, may be cause for denial; or
 - b) "Threatening" refers to oral or written threats, or physical gestures, that

communicate intent to abuse or commit violence.

9. Has persistently failed to fulfill his or her obligations under the Welfare-to-Work voucher program.

Violence Against Women Act

No applicant for the HCV program who has been a victim of domestic violence, dating violence, or stalking shall be denied admission into the program if they are otherwise qualified.

Criminal History Requirements [24 CFR 982.552(e)]

SHA will perform criminal background checks on all applicants to the Housing Choice Voucher program. There will be a 12 month period of ineligibility for the HCV program for any applicant or family member that has been convicted and incarcerated for a Class A felony. In addition SHA may deny an applicant or family member that who has committed a series of crimes of any kind that indicate habitual criminal behavior.

The 12 month period of ineligibility will begin upon the applicant's release from incarceration. A list of Class A felonies is below. This list is not inclusive and comparable crimes may be considered for denial of assistance.

- Arson
- Assault
- Burglary
- Explosives
- Extortion
- Homicide
- Incendiary devices, possession, manufacturing or disposal of incendiary device
- Kidnapping
- Leading organized crime
- Machine gun use in felony
- Malicious explosion of substance
- Malicious placement of an explosive
- Manslaughter
- Possession of explosive device
- Robbery
- Setting a spring gun
- Trafficking
- Treason

While a criminal record will not automatically exclude an applicant from consideration, it is an important criteria used in determining a person's eligibility. In determining an applicant's

eligibility, the Housing Authority will consider an applicants arrest record, but, place greater emphasis on actual convictions.

Time Intervals Do Not Include Time in Jail

The intervals noted above are the time periods that must have passed after the convicted household member was released from incarceration.

Violence Against Women Act

Criminal activity directly related to domestic violence, dating violence, or stalking engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim of that domestic violence, dating violence or stalking.

Screening for Families Exercising Portability

SHA shall use the HUD-required denials, SHA participant history requirements, and criminal history requirements described above to screen families seeking to port-in to SHA's Housing Choice Voucher program.

Consideration of Circumstances [24 CFR 982.552(c)(2)]

In determining whether to deny or terminate assistance because of a family member's action or failure to act, SHA may consider all relevant circumstances such as the seriousness of the act or failure, the extent of participation or culpability of family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure to act.

Notice of Standards to Applicants and Participants

SHA shall give every applicant and participant a written description of:

1. Family obligations under the program;
2. The grounds on which SHA may deny or terminate assistance because of family action or failure to act; and
3. SHA's informal review procedures for denial of admission to the program.

Notice to Waiting List

SHA shall notify applicants on the waiting list, who submitted pre-applications prior to SHA establishing new standards for denying admission based on criminal background or other aspects of family history outlined above, of the new standards for denying admissions.

G. Notice to Landlords: Not Responsible for Tenant Screening [24 CFR 982.307)]

SHA shall screen applicants for satisfaction of the program admission criteria only. SHA does not screen for applicant or family behavior not related to participant history requirements. SHA does not screen for suitability for tenancy. Screening for suitability is the property owner's responsibility. SHA has no responsibility for the family's behavior or conduct as tenants, and has no liability to property owners or others for the acts of Housing Choice Voucher Program tenants.

Information Provided to Owners

The owner is responsible for the screening and selection of any family that will occupy the owner's unit. Before approving a tenancy, SHA will inform the owner that screening and selection for tenancy is the owner's responsibility.

Upon request by the owner, SHA will give the owner:

1. The family's current and previous address(es) as shown in SHA's records; and
2. The name and address (if known by SHA) of the landlord at the family's current and previous address(es).

The same information will be supplied to all owners who request it.

Different Standards for Project-Based Units

The screening criteria above apply to applicants for SHA's tenant-based Housing Choice Voucher Program. Criminal history standards for the Project-Based Program are described in Chapter 5.

H. Changes in Eligibility Prior to Effective Date of Contract

Changes that occur during the period between issuance of a voucher and lease up may affect the family's eligibility or share of the rental payment.

I. Notification of Denial

Families who are determined to be ineligible will be notified in writing of the reason for denial and given an opportunity to request an informal review, as described in Chapter 20.

J. Prohibited Admissions Criteria [982.202(b)]

Eligibility for admission to the program may not be based on:

1. Where a family lives prior to admission to the program;
2. Where the family will live with assistance under the program;
3. Whether members of the family are unwed parents, recipients of public assistance, or children born out of wedlock;
4. Whether a family includes children;
5. Whether a family decides to participate in a family self-sufficiency program; or
6. Whether a family can claim one of the local preferences identified in Chapter 4. Local preferences shall be used for the purpose of structuring the order in which applications are considered, not whether applicants meet basic eligibility requirements for admission to the program.