

**Chapter 2**

**ELIGIBILITY FOR ADMISSION**

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

**(Revised October 2012)**

**(Revised October 2013)**

**INTRODUCTION**

This Chapter defines both HUD and the PHA's criteria for admission and denial of admission to the program. The policy of this PHA is to strive for objectivity and consistency in applying these criteria to evaluate the eligibility of families who apply. The PHA staff will review all information provided by the family carefully and without regard to factors other than those defined in this Chapter. 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 the PHA pertaining to their eligibility.

**A. FACTORS AFFECTING ADMISSION [982.201(b)]**

The PHA accepts applications only from families whose head or spouse is at least 18 years of age or emancipated minors under State law.

To be eligible for participation, an applicant must meet HUD's criteria, as well as any permissible additional criteria established by the PHA.

**HUD Factors:**

The HUD eligibility criteria are:

- An applicant must be a "family" at admission, as defined in Section B, "Definition of Family".
- An applicant family must be within the appropriate Income Limits.
- An applicant family must furnish Social Security Numbers for all family members.
- An applicant must furnish declaration of Citizenship or Eligible Immigrant Status and verification where required.
- At least one member of the applicant family must be either a U.S. citizen or have eligible immigration status before the PHA may provide any financial assistance.
- The PHA will permanently deny admission to sex offenders who are subject to a lifetime registration requirement under a state sex offender registration program.

**PHA Factors:**

The PHA will apply the following criteria, in addition to the HUD eligibility, as grounds for denial of admission to the program:

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- A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the PHA, including Form HUD-9886 and the 52675 form.
- The family must not have been terminated due to a violation of any family obligation during a previous participation in the Section 8 program for 3 years prior to final eligibility determination. The PHA will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.
- The family must pay any outstanding debt owed the PHA or another PHA as a result of prior participation in any federal housing program within 30 days of PHA notice to repay.
- The family must be in good standing regarding any current payment agreement made with another PHA for a previous debt incurred, before this PHA will allow participation in its Housing Choice Voucher Program. (Please see the glossary for a definition of “Good Standing.”)
- The PHA will deny participation in the program to applicants where the PHA determines there is a reasonable cause to believe that any family member is illegally using a controlled substance or engages in drug-related criminal activity. The same will apply if it is determined that any family member abuses alcohol in a way that may interfere with the health safety or peaceful enjoyment of the premises by other residents. This includes cases where the PHA determines that there is a pattern of illegal use of controlled substances or a pattern of alcohol abuse.
- If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).
- An applicant will be denied if any member of the family is on probation or parole for any of the following reasons:
  1. Drug-related criminal activity;
  2. Violent criminal activity;
  3. Other criminal activity which may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity; or
  4. Other criminal activity which may threaten the health or safety of the owner, property management staff, or PHA staff or contracted agent for the PHA.

If the PHA receives information from HUD or from another Housing Authority (for example from reports available through the EIV system) that a family owes money from a past participation or has violated any family obligations, the Housing Authority will deny assistance to the family. The PHA retains the discretion to consider mitigating circumstances in its

decisions to terminate or deny housing assistance (Please refer to the Glossary for a definition of “mitigating circumstances.”) The PHA will take into consideration the severity of the crime and the sentencing range table for drug offenses provided by the Johnson County Corrections Department and may refer to the appropriate corrections staff to gain criminal/drug offense insight in the decision making process. Additionally, all relevant circumstances will be considered on an individual basis up to and including at the time of the Informal Review and/or Informal Hearing.

The PHA will not consider any arrests or convictions that are over five years old provided no other criminal activity has taken place and they are not on probation or parole at the time they are selected from the waitlist.

If the family incurred a debt through JCHA or other PHA, and has the debt discharged through bankruptcy court, the PHA cannot require them to repay the debt. JCHA has the right to require the applicant to provide documentation of such discharge.

Reasons for denial of admission are addressed in the "Denial or Termination of Assistance", Chapter 15 of this Administrative Plan. These reasons for denial constitute additional admission criteria.

The Family’s final eligibility will be made in accordance with HUD and PHA eligibility factors.

Evidence of Citizenship/Eligible Immigration Status will not be verified until the family is selected from the waiting list for final eligibility processing for issuance of a Voucher, unless The PHA determines that such eligibility is in question, whether or not the family is at or near the top of the waiting list.

### **B. FAMILY COMPOSITION [24 CFR 982.201(c)]**

#### **Definition of Family (at application)**

All applicants must qualify as a Family. A family may be a single person or a group of persons. Discrimination on the basis of familial status is prohibited, and a group of persons may not be denied solely on the basis that blood, marriage or operation of law does not relate them. For occupancy standards purposes, the applicant may claim a spousal relationship. See “Subsidy Standards”, Chapter 5 of this Administrative Plan.

The PHA defines a family of persons as two or more persons who intend to share residency, whose income and resources are available to meet the family’s needs, and who will live together in PHA housing. The PHA determines if any other groups of persons qualify as a “family”.

A single person family may be:

- An elderly family
- A displaced family

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- A person with a disability (Individuals may not be considered disabled for eligibility purposes solely on the basis of drug or alcohol dependence.)
- A single person who is not elderly, disabled, or a person with disabilities, or the remaining member of a participant family

A family also includes:

- Two or more persons who intend to share residency whose income and resources are available to meet the family's needs.
- Two or more elderly or disabled persons living together, or one or more elderly or near elderly or disabled persons living with one or more live-in aides is a family;
- A child who is temporarily away from home because of placement in foster care is considered a member of the family. This provision only pertains to the foster child's temporary absence from the home, and is not intended to artificially enlarge the space available for other family members.

### **Head of Household**

The head of household is the adult member of the household who is designated by the family as head, is wholly or partly responsible for paying the rent, and has the legal capacity to enter into a lease under State/local law. Emancipated minors who qualify under State law will be recognized as head of household.

### **Spouse of Head**

Spouse means the husband or wife of the head.

For proper application of the Non-citizens Rule, the definition of “spouse” is: the marriage partner who, in order to dissolve the relationship, and would have to be divorced. It includes the partner in a common law marriage. The term "spouse" does not apply to boyfriends, girlfriends, partner/significant others, or co-heads.

### **Co-Head**

The co-head is an individual in the household, who is equally responsible for the lease with the head of household. A family may have a spouse or co-head, but not both. A co-head never qualifies as a dependent.

When a prospect lists a co-head on the application, at the time of the application process, JCHA will ask the prospect to define the relationship with the co-head. If the co-head is a spouse or a partner, the co-head will be treated the same as a spouse and will not be counted in the bedroom size. If they are anything other than in a spousal relationship, staff will include the co-head in the rest of the bedroom size calculation.

### **Live-in Attendants**

A Family may include a live-in aide provided that such live-in aide:

- Is determined by the PHA to be essential to the care and well being of an elderly person, a near-elderly person, or a person with disabilities,
- Is not obligated for the support of the person(s), and
- Would not be living in the unit except to provide care for the person(s).

A live-in aide is treated differently than family members:

Income of the live-in aide will not be counted for purposes of determining eligibility or level of benefits.

Live-in aides are not subject to Non-Citizen Rule requirements.

Live-in aides may not be considered as a remaining member of the tenant family.

Relatives are not automatically excluded from being live-in aides, but they must meet all of the elements in the live-in aide definition described above.

A Live in Aide may only reside in the unit with the approval of the PHA. Written verification will be required from a reliable, knowledgeable professional, such as a doctor, social worker, or case worker. The verification provider must certify that a live-in aide is needed for the care of the family member who is elderly, near-elderly (50-61) or disabled.

The PHA will approve a live-in aide if needed as a reasonable accommodation to make the program accessible to and usable by the family member with a disability. Approval of a live-in aide for reasonable accommodation will be in accordance with CFR 24 Part 8 and the reasonable accommodations section in Chapter 1 of this administrative plan.

Verification must include the hours the care will be provided.

[24 CFR 982.316] At any time, the PHA will refuse to approve a particular person as a live-in aide or may withdraw such approval if:

\*The person commits fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program;

\*The person commits drug-related criminal activity or violent criminal activity; or

\*The person currently owes rent or other amounts to the PHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Act.

### **Split Households Prior to Voucher Issuance**

When a family on the waiting list splits into two otherwise eligible families due to divorce or legal separation, and the new families both claim the same placement on the waiting list, and there is no court determination, the PHA will make the decision taking into consideration the following factors:

- \* Which family member applied as head of household.
- \* Which family unit retains the children or any disabled or elderly members.
- \* Restrictions that were in place at the time the family applied.
- \* Role of domestic violence in the split.
- \* Recommendations of social service agencies or qualified professionals such as children's protective services.

Documentation of these factors is the responsibility of the applicant families. If either or both of the families do not provide the documentation, they may be denied placement on the waiting list for failure to supply information requested by the PHA.

In cases where domestic violence played a role, the standard used for verification will be the same as that required for the "domestic violence" preference.

The PHA will require evidence that the family has been displaced as a result of fleeing violence in the home. Families are also eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to or victimized by violence in the home (See "Establishing Preferences and Maintaining the Waiting List" chapter).

### **Multiple Families in the Same Household**

When families apply which consist of two families living together, (such as a mother and father, and a daughter with her own husband or children), if they apply as a family unit, they will be treated as a family unit.

### **Joint Custody of Children**

Children who are subject to a joint custody agreement but live with one parent at least 51% of the time will be considered members of the household. "Fifty-One Percent (51%) of the time" is defined as 183 days of the year, which do not have to run consecutively.

There will be a self-certification required of families who claim joint custody or temporary guardianship.

When both parents are on the Waiting List and both are trying to claim the child, the parent whose address is listed in the school records will be allowed to claim the school-age child as a dependent.

**Applicants with Non-Biological Minor Children**

An applicant or participant household who wishes to include a non-biological child(ren) must provide documentation they are authorized to act as a guardian to the child(ren). Documentation may include:

- 1) A notice from the Department of Family Services verifying the child is in the home of the applicant/participant;
- 2) A letter of placement from a foster care or adoption agency; or
- 3) A notarized letter from the parent of the child stating the applicant/participant has been granted custody of the child; and a letter from each school aged child's school verifying the address at which the child is registered and the person who is listed as the guardian.
- 4) A court order guardianship order.

If JCHA receives information contradicting documentation provided by applicant/participant or other parties related to the custody of the child(ren), JCHA may refuse to add the child(ren) to the household until it receives conclusive evidence of guardianship such as letters of guardianship from the courts or a letter from an agency known to provide verification, such as the Department of Family Services.

**C. INCOME LIMITATIONS [24 CFR 982.201(b), 982.353]**

To be eligible for assistance, an applicant must:

- Have an annual income at the time of admission that does not exceed the low-income limits for occupancy established by HUD.

To be income eligible, the applicant must be a family in any of the following categories:

- An Extremely Low/Very Low income family.
- An Extremely Low/Very Low-Income family that is 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. Programs include any housing federally assisted under the 1937 Housing Act.
- An Extremely Low/Very Low Income family physically displaced by rental rehabilitation activity under 24 CFR part 511.

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- A low-income family or moderate income 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.
- A low-income family that qualifies for Voucher assistance as a non-purchasing family residing in a project subject to a resident home ownership program.

In accordance with the PHA Plan, the PHA's criteria for admitting Low Income families, in addition to those required under the regulations and identified above, is to admit families who have one or more of JCHA preferences:

- Are victims of domestic violence
- Are elderly or disabled
- Are residents of or are employed in Johnson County, KS

To determine if the family is income-eligible, the PHA compares the HUD established annual income guidelines to the applicable income limit for the family's size.

Families whose annual income exceeds the established income limit will be denied admission and offered an informal review.

### Portability:

For initial lease-up at admission, families who exercise portability must be within the applicable income limit for the jurisdiction of the receiving PHA in which they want to live.

### **D. MANDATORY SOCIAL SECURITY NUMBERS [24 CFR 5.216, 5.218]**

All applicants and persons who are later added to the household are required to disclose his/her social security number, with the exception of the following individuals:

- a. Those individuals who do not contend to have eligible immigration status (individuals who may be unlawfully present in the United States). These individuals in most instances would not be eligible for a SSN.
  - 1) A family which consists of a single household member (including a pregnant individual) who does not have eligible immigration status is not eligible for housing assistance and cannot be housed.
  - 2) A family that consist of two or more household members and at least one household member that has eligible immigration status, is classified as a mixed family, and is eligible for prorated assistance in accordance with 24 CFR 5.520. The PHA may not deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend to have eligible immigration status.

Failure to furnish verification of social security numbers is grounds for denial or termination of assistance.

Persons who have not been issued a Social Security Number must sign a certification that they have never been issued a Social Security Number.

Persons who disclose their Social Security Number but cannot provide verification must sign a certification and provide verification within 60 days. Elderly persons must provide verification within 120 days

### **SSN Documentation:**

Acceptable evidence of the SSN consists of:

- a. An original SSN card issued by SSA;
- b. An original SSA-issued document, which contains the name and SSN of the individual;  
or
- c. An original document issued by a federal, state, or local government agency, which contains the name and SSN of the individual

Individuals without an assigned SSN:

Some individuals do not have a SSA-assigned SSN. Below is a listing of such individuals, which is not all-inclusive:

- a. Newborn children (these individuals will be issued a SSN upon SSA confirmation of a birth)
- b. Noncitizens lawfully present in the U.S. (these individuals will be issued a SSN upon SSA confirmation of the individual's DHS documentation or confirmation that the individual is required by law to provide a Social Security number to receive general assistance benefits that they already have qualified for).
- c. Noncitizens unlawfully present in the U.S. (these individuals cannot be assigned a SSN).

The PHA will require citizens and lawfully present noncitizens who state that they have not been assigned a SSN by the SSA, to sign a written declaration of such a status under the penalty of perjury to the PHA. The PHA should maintain the declaration in the tenant file.

The PHA will use the Alternate ID (ALTD ID) generator within the Public and Indian Housing Information Center (PIC) to generate a unique identifier for those individuals who do not have or unable to disclose a SSN.

Once an individual discloses a SSN, the PHA will delete the ALT ID, enter the SSN on line 3n of the form HUD-50058, and transmit the form HUD-50058 to HUD within 30 calendar days of receipt of the SSN.

### **Rejection of Social Security Number Documentation:**

The PHA may reject documentation of the SSN provided by the applicant or participant for only the following reasons:

- a. The document is not an original document; or
- b. The original document has been altered, mutilated, or not legible; or
- c. The document appears to be a forged document (i.e. does not appear to be authentic).

The PHA will explain to the applicant or participant, the reason(s) the document is not acceptable and request the individual to obtain acceptable documentation of the SSN and submit it to the PHA within a specific time frame.

### **Addition of a New Household Member:**

When a participant requests to add a new household member, who is at least six years of age or under the age of six and has an assigned SSN, to the family, the participant must disclose the assigned SSN and provide the PHA with the documentation at the time of such request, or at the time of processing the interim or annual reexamination of the family income and/or composition. If the family is unable to provide the required documentation of the SSN, the PHA may not add the new household member until the family provides such documentation.

When a participant requests to add a new household member, who is under the age of six and does not have an assigned SSN, the participant must disclose the assigned SSN and provide the PHA with the documentation within 90 calendar days of the child being added to the household.

If the family is unable to disclose and provide evidence of the SSN within 90 calendar days, the PHA will grant the family an additional 90 day period to comply with the SSN disclosure and documentation requirement, if the PHA determines the family was unable to with the requirements due to circumstances that could not have reasonably been foreseen and were outside the control of the family. Examples include but are not limited to: delayed processing of SSN application by SSA, natural disaster, fire, death in the family, etc.

The child is to be included as part of the assisted household and entitled to all the benefits of being a household member during the allotted time for the family to comply with the SSN disclosure and documentation requirements. The PHA should generate an ALT ID as referenced under **SSN Documentation** section of this policy. Upon expiration of the provided time period, if the family has not complied with the SSN disclosure and documentation requirements, the PHA must terminate the family's assistance.

### **Penalties for Failure to Disclose and/or Provide Documentation of the SSN:**

The following penalties apply for non-compliance with the SSN disclosure and documentation requirements:

- a. Applicants. The PHA must deny the eligibility of an assistant applicant if s/he (including each member of the household required to disclose his/her SSN) does not disclose a SSN and/or provide documentation of such SSN, within 90 days.

- b. Participants. The PHA will terminate the housing assistance of the entire household if each member of the household required to disclose his/her SSN does not disclose his/her SSN and provide the required documentation.

However, if the family is otherwise eligible for continued assistance, the PHA, at its discretion, may defer the family's termination and provide the family an opportunity to comply with the requirement within a period **not to exceed** 90 calendar days from the date the PHA determined the family was noncompliant with the SSN disclosure and documentation requirement, if the PHA determines:

1. The failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside the control of the family; and
2. There is a reasonable likelihood that the family will be able to disclose the SSN and provide such documentation of the SSN by the deadline.

If the family is unable to comply with the requirements by the specified deadline, the PHA must terminate the housing assistance of the entire family.

**E. CITIZENSHIP/ELIGIBLE IMMIGRATION STATUS [24 CFR Part 5, Subpart E]**

In order to receive assistance, a family member must be a U.S. citizen or eligible immigrant. Individuals who are neither may elect not to contend their status. Eligible immigrants are persons who are in one of the immigrant categories as specified by HUD.

**Citizenship/Eligible Immigration Requirement**

The citizen or immigration status of each member of the family is considered individually before the family's status is defined.

**Mixed Families**

A family is eligible for assistance as long as at least one member is a citizen or eligible immigrant. Families that include eligible and ineligible individuals are called "mixed." Such applicant families will be given notice that their assistance will be pro-rated and that they may request a hearing if they contest this determination.

**No Eligible Members**

Applicant families that include no eligible members are ineligible for assistance. Such families will be denied admission and offered an opportunity for a hearing.

**Non-citizen students**

As defined by HUD in the Non-Citizen regulations, non-citizen students are not eligible for assistance. Appeals regarding disputes of citizenship/eligible immigration status are the only type for which the applicant is entitled to a hearing exactly like those provided for participants.

**Verification of Status Before Admission**

The PHA will not provide assistance to families prior to the verification of eligibility for the individual or at least one member of the family pursuant to this section.

**F. OTHER CRITERIA FOR ADMISSIONS [24 CFR 982.552(b)]**

A family will not be admitted to the program if any member of the family has been evicted from federally assisted housing for serious violation of the lease within the past **3** years. The exception is for violations of non-payment of rent, a family will not be admitted if violation occurred within the past 1 year.

A family will be denied admission to the program if any member of the family fails to sign and submit consent forms for obtaining information required by the PHA, including Form HUD-9886.

The PHA will apply the following criteria, in addition to the HUD eligibility criteria, as grounds for denial of admission to the program:

- \* The family must not have violated any family obligation during a previous participation in the Section 8 program for 3 years prior to final eligibility determination.
- \* The PHA will make an exception, if the family member who violated the family obligation is not a current member of the household on the application.
- \* The family must pay any outstanding debt owed the PHA or another PHA as a result of prior participation in any federal housing program within 30 days of PHA notice to repay.
- \*The family must be in good standing regarding any current payment agreement made with another PHA for a previous debt incurred, before this PHA will allow participation in its Section 8 program.
- \* The PHA will check criminal history for all adults in the household to determine whether any member of the family has violated any of the prohibited behaviors as referenced in the section on screening and terminations policy in the "Denial or Termination of Assistance" chapter.
- \* If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum).
- \* If any applicant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may deny assistance and may refer the family file/record to the proper authorities for appropriate disposition.

**G. TENANT SCREENING [24 CFR 982.307)]**

The PHA will take into consideration any of the criteria for admission described in the "Denial or Termination of Assistance" chapter.

The PHA will not screen family behavior or suitability for tenancy. The PHA will not be liable or responsible to the owner or other persons for the family's behavior or the family's conduct in tenancy.

The owner is responsible for screening and selection of the family to occupy the owner's unit. At or before PHA approval of the tenancy, the PHA will inform the owner that screening and selection for tenancy is the responsibility of the owner.

The owner is responsible for screening families based on their tenancy histories, including such factors as:[24 CFR 982.307(a)(3)]

- Payment of rent and utility bills
- Caring for a unit and premises
- Respecting the rights of other residents to the peaceful enjoyment of their housing
- Drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others; and
- Compliance with other essential conditions of tenancy.

The PHA will give the owner:

- The family's current and prior address as shown in the PHA's records; and
- The name and address (if known by the PHA) of the landlord at the family's current and prior address.

The PHA will offer the owner other information in the PHA's possession concerning the family, including:

- Information about drug-trafficking by family member (The PHA will do criminal background checks to determine whether families are eligible to participate in the program.)

The same types of information will be supplied to all owners.

The PHA will advise families how to file a complaint if they have been discriminated against by an owner. The PHA will advise the family to make a Fair Housing complaint. The PHA may also report the owner to HUD (Fair Housing/Equal Opportunity) or the local Fair Housing Organization.

**H. CHANGES IN ELIGIBILITY PRIOR TO EFFECTIVE DATE OF THE 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. (Tenant Payment).

**I. INELIGIBLE FAMILIES**

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, or an informal hearing if they were denied due to noncitizen status. (See “Complaints and Appeals: Chapter 18 for additional information about reviews and hearings).

**J. PROHIBITED ADMISSIONS CRITERIA [982.202(b)]**

Admission to the program may not be based on where the family lives before admission to the program.

Admission to the program may not be based on:

- Where the family will live with assistance under the program (Portability Policy Applies).
- Discrimination because members of the family are unwed parents, recipients of public assistance, or children born out of wedlock.
- Discrimination because a family includes children.
- Whether a family decides to participate in a family self sufficiency program; or
- Other reasons as listed in the "Statement of Policies and Objectives" chapter under the Fair Housing and Reasonable Accommodations sections.