

Background Screening Process

Template and Guidance

Purpose of this template:

This template is a resource for housing providers and property managers to use as they implement a background screening process that reduces bias and lowers barriers for people who have historically been excluded from housing opportunities.

The template can be used as is or adjusted to suit the needs of the community.

If your property does opt to utilize a background screening, use this template to institute a process that aims to reduce bias as much as possible, recognizing that [the most equitable and efficient process for filling your units would be to eliminate the background check entirely, or utilize a policy no more restrictive than funding requires.](#)



Prior to using this template, it is important for housing providers to consider what screening, if any, is **actually necessary** to determine suitability for tenancy. Consider the following questions:

1. Why are we conducting a background screening? Do our financing sources require us to screen for conviction history?
2. What evidence do we have that a background screening is necessary? What fears are we trying to overcome?
3. Does our background screening have consequences for certain groups of applicants over others, or does it discriminate against any group of people?

Template: Background Screening Process for Applicants

[COMPANY NAME] is committed to upholding fair housing principles and ensuring equal access to housing regardless of applicants' backgrounds. In determining whether to approve an applicant to live in the community, [COMPANY NAME] will conduct the following three-step process:

1. Income Eligibility Screening
2. Limited Screening for Conviction History
3. Individualized Assessment

Income Eligibility Screening:

- ▶ Applicants will be assessed for eligibility based upon income or special population status, according to the requirements of the property (for example: maximum income for affordable units, ability to make tenant portion of rental payments, disability or age status related to requirements of property)
- ▶ Any source of lawful income (for example: wages, SSI, housing vouchers, etc.) will be considered and no preference will be given based upon source of income, in accordance with Federal and State Fair Housing Laws.
- ▶ If the applicant meets the income and population criteria, a conditional offer of acceptance will be made.

Limited Screening for Conviction History:

- ▶ After a conditional offer of acceptance has been made, [PROPERTY NAME] will conduct a **limited screening for conviction history** only for the applicant and household members who are 18 years of age or older.
- ▶ [PROPERTY NAME] will apply the screening criteria uniformly to all applicants to prevent discrimination and avoid fair housing violations.
- ▶ Terms of the limited conviction history screening:
 - The screening will ONLY consider convictions, and NOT arrests, charges, expunged convictions, convictions reversed on appeal, vacated convictions, offenses where adjudication was withheld or deferred, pardoned convictions, or sealed juvenile records.
 - The screening will NOT consider an applicant's probation or parole status.
 - The screening will ONLY consider **felonies** within the past **3** years that fall within the following categories:
 - Offenses including the sale, manufacture or distribution of any controlled substance as defined in Chapter 7, Title 18.2 of the Virginia Code

- Offenses involving fraud, including identity theft, use of stolen checks, counterfeiting, and forgery
 - Property offenses, including larceny, burglary, arson, and other intentional criminal damage to property
 - Violent offenses against a person, including assault, battery, and homicide
 - Sex offenses, including rape, sexual assault, and taking indecent liberties with a minor. Prostitution, solicitation, and related convictions are NOT included.
- Applicants may submit supplementary materials with a completed application to explain, justify, or negate the relevance of potentially negative information that may be revealed by screening and that the applicant believes to be relevant to their predicted performance as a tenant.

Individualized Assessment:

- If a screening reveals a felony conviction from the 3 years prior to the application date, from within one of the categories specified above, [PROPERTY NAME] will conduct an **individualized assessment** before deciding whether to withdraw the conditional offer. **The purpose of this assessment is to determine whether the applicant is able to fulfill the obligations of tenancy at the property.**
- [PROPERTY NAME] will send a written notice to the applicant identifying specific items of note from the screening report and invite the applicant to provide additional information within fourteen (14) days for consideration. Examples of additional information include letters from case workers, parole officers, counselors, family members, community organizations, and/or information regarding the context of the conviction. If applicable, the applicant will also be notified of their right to request reasonable accommodation and the process of how those requests will be considered. The individualized assessment will take into account the following considerations:
 - Nature and severity of the offense(s) and circumstances surrounding them
 - Applicant's age at the time of the offense(s)
 - How recently the offense(s) occurred
 - Evidence of good tenant or employment history either before or after the offense(s) and evidence of rehabilitation efforts
 - Whether the offense(s) happened on, or was connected to, property that the applicant rented or leased
 - Whether a potential re-offense would impact the safety of the other tenants or property

- Whether the criminal conduct arose from the applicant's status as a survivor of domestic violence, sexual assault, stalking or dating violence, or from the applicant's disability, including mental illness.
 - **If the evidence above indicates that the applicant will be able to fulfill the obligations of tenancy, the applicant will be approved.**
 - After the Individualized Assessment, if [PROPERTY NAME] still believes there is sufficient evidence that the applicant would pose a significant risk to other tenants and/or the property, [PROPERTY NAME] will withdraw the conditional offer. The applicant will receive a notice in writing that includes the following:
 - Clear and specific reason(s) for the rejection
 - The applicant's right to respond to the owner/agent in writing or request a meeting within 14 days to dispute the rejection
 - That people with disabilities have the right to request reasonable accommodations to participate in the informal hearing process
 - If using 3rd party screening service, [PROPERTY NAME] will request a full report from the 3rd party service and make the full report available to the applicant, clearly stating the reason for denial.
 - Any applicants concerned about Fair Housing violations can learn more and file complaints at: <https://www.hud.gov/fairhousing/fileacomplaint>

This template was created using insight from several different pieces of legislation and regulatory guidance including, but not limited to:

- Tenant Selection Plan Guidance, Virginia Housing (2022)
- Model Policy for Tenant Screening, Virginia Office of the Attorney General (2021)
- Just Housing Amendment, Cook County, IL and materials provided by the Cook County Commission on Human Rights (2019)
- HUD Guidance (2016, 2021, 2022)
- Fair Chance Housing Act, State of New Jersey (2019)

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This document is not intended as legal advice and does not provide a legal opinion as to the matters stated. It is recommended that all parties consult with an attorney that is well versed in fair housing law and local regulations when making decisions regarding tenant selection.