

## **Section 9.0 GROUNDS FOR TERMINATING ASSISTANCE**

### **9.01 Terminating for Alcohol Abuse or Criminal Drug Activity**

The members of the household may **not** engage in:

- drug-related criminal activity, or
- violent criminal activity, or
- other criminal activity that threatens the health, safety, or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises.

Pursuant to the procedures outlined in Section 14.0, “Informal Hearing Procedures for Participants,” the LA may terminate assistance if the following occurs:

- The LA finds that a member of the household has demonstrated a pattern of drug or alcohol abuse that threatens the health, safety or right to peaceful enjoyment of other residents and/or persons in the immediate vicinity of the premises.

The LA will permit the participant family to continue receiving assistance, provided that household members determined to have engaged in the proscribed activities will not reside in the unit. If the violating member is a minor, the LA will consider individual circumstances with the advice of Juvenile Court officials.

The LA will waive the decision to terminate assistance if:

- the person responsible for the prohibited action demonstrates successful completion of a credible rehabilitation program approved by the LA; or
- the circumstances leading to the violation no longer exist because the person who engaged in prohibited drug-related or alcohol-related activity is no longer in the household due to death or incarceration.

### **9.02 Termination of Assistance to Sex Offenders**

Pursuant to the procedures outlined in Section 14.0, “*Informal Hearing Procedures for Participants*”, assistance for participants or members of a participant family in the Statewide Section 8 Voucher Program admitted to the Program after June 25, 2001 and who are subject to a lifetime registration as a sex offender will be terminated in accordance with HUD Notice PIH 2012-28 issued on June 11, 2012.

Assistance will be terminated if the sex offender is subject to a lifetime registration requirement, and it is determined that:

1. the participant was admitted to the program after June 25, 2001, and at the time of admission was subject to such lifetime registration requirement but was erroneously admitted to the program, or;
2. recertification screening reveals a failure to disclose on their application and/or recertification forms that they were subject to a lifetime registration requirement, or;
3. recertification screening reveals they falsified information on the application and/or recertification forms regarding their criminal history.

### **9.03 Other Reasons for Terminating Assistance**

The LA will also terminate assistance to participants who:

1. have a family member who has been convicted of manufacturing or producing methamphetamine on the premises of a federally assisted housing;
2. have a history of criminal activity by any household member involving crimes of physical violence against persons or property, or any other criminal activity, including drug-related criminal activity, that would adversely affect the health, safety or well being of other participants or staff, or cause damage to the property. The LA may only consider criminal convictions or pending arrests and may not consider arrests and/or accusations that did not result in a conviction. Even where convictions exist, those convictions cannot be an automatic bar to the applicant being granted assistance unless they are one of the two automatic bars discussed in 1.9 above. If they are not one of the two automatic bars, the LA must take into consideration all relevant individual circumstances provided by applicant family before terminating assistance.
3. have committed fraud, bribery, or any other corruption in connection with any Federal housing assistance program, including the intentional misrepresentation of information related to their housing application or benefits derived there from;
4. have a family member who is currently involved in drug-related criminal activity including but not limited to the illegal manufacture, sale, distribution or possession with the intent to manufacture, sell or distribute a controlled substance as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802;
5. have a family member who is illegally using a controlled substance or abuses alcohol in a way that may interfere with the health, safety, or right to peaceful enjoyment of the premises by other residents. The LA will waive this requirement if:
  - the person demonstrates to the LA's satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;

- the person has successfully completed a supervised drug or alcohol rehabilitation program;
  - the person has otherwise been rehabilitated successfully; or
  - the person is participating in a supervised drug or alcohol rehabilitation program.
6. have engaged in or threatened abusive or violent behavior towards any LA staff member;
7. The LA may also terminate assistance to participants who do not supply information or documentation that is required for continued program assistance or who fail to comply with any other program obligations.

If assistance is to be terminated as outlined in this Section, the termination will be based upon either of the following:

- Preponderance of Evidence - 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.
- Credible Evidence - defined as evidence provided by police and court systems such as drug raids, drugs found in the dwelling unit, evidence which is tied to the activity, warrants issued, arrests made, etc.

In considering whether to terminate assistance because of action or failure to act by the members of the family, the LA must look at relevant circumstances such as the seriousness of the case the extent of participation or culpability of the individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial on the other family members who were not involved in the action or failure.