



Worksheet for Assessing an Applicant's Criminal Legal System History for State-Funded Housing in New York City

1. Applicant's Name	2. Date
3. Project Name and NYC Address	4. Reviewer's Name & Contact Information:

NOTE: For Non-NYC Projects, use the NYS Worksheet here: <https://hcr.ny.gov/feho-worksheet-criminal-convictions>

Instructions for NYC Worksheet

Use this worksheet to assess eligibility of applicants based on their criminal legal background for housing that is *located New York City* and financed by New York State Homes and Community Renewal (NYSHCR), unless federal, state or local rules, laws or regulations require different procedures.

NYSHCR does not require that housing providers conduct a background check or ask about criminal legal system history. If a housing provider elects to do so, it must follow New York State's Criminal Legal System Involvement policy, the New York State Human Rights Law Section 296(16), for New York City Projects, The Fair Chance for Housing Act (Local Law 24, N.Y.C. Admin. Code § 8-102a), policies and procedures set by NYSHCR and all other applicable laws and regulations. This worksheet must be used to determine an applicant's eligibility for state-funded housing based on their involvement with the criminal legal system. Please fill out the worksheet completely.

Note on Third-Party Background Check Companies: If an owner/managing agent uses a third party to conduct a consumer background check or criminal background check on their behalf, owner/managing agent shall take reasonable steps to ensure that such check is conducted consistent applicable laws and policies listed here.

All forms and materials can be found here: <https://hcr.ny.gov/marketing-plans-policies#credit-and-justice-involvement-assessment-policies>

Preliminary Process

<input type="checkbox"/> Confirmed	<p><u>Preliminary Eligibility Review and Notice</u>: Confirm by checking the box that <i>before running a criminal background check</i>, the owner/managing agent:</p> <ul style="list-style-type: none"> Conducted all other eligibility screening; Provided a notice to the applicant that they are otherwise eligible for the affordable housing program and that a unit is available to them conditioned only upon: (1) a criminal background check conducted in accordance with the process laid out here, or (2) an unrelated material omission, misrepresentation, or change in the qualifications for tenancy that was not known at the time of the conditional offer. Provided notice that the owner/managing agent will perform such criminal background check (notice in the application for the housing suffices), Provided a written copy of both NYSHCR's Know Your Rights (at link above) <u>and NYC's Fair Chance Housing Notice</u> summarizing the rights available regarding criminal background checks;
<p style="text-align: center;">OR</p> <input type="checkbox"/> N/A (Criminal background check or questions is not part of the application process)	

SECTION 1 – NATURE OF CRIMINAL LEGAL SYSTEM-INVOLVEMENT

1.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<p>Federal Section 8 or Public Housing Funding + Lifetime Sex Offense Registry: Is (a) the unit for which the applicant is being considered funded through federal Section 8 or federal public housing funds AND (b) is anybody in the applicant household legally required to be a lifetime registrant on the state sex offender registry?</p>
<p>If the answer to BOTH questions (a) and (b) above is YES, you may STOP completing the worksheet and DENY the application. Applicants that must register on the lifetime sex offense registry can be automatically barred from federal public housing. Skip to Section 4 to complete the review. If the answer to <i>either</i> question is NO, continue to the following questions.</p>			
2.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<p>No Rejection Upfront: Has criminal system background information been obtained by owner/managing agent AND applicant WILL NOT be rejected based on the results of these queries.</p>
<p>If YES, and applicant will not be rejected because of criminal legal system background, please SKIP to Section 4 (Final Determination). If NO, please continue with this Worksheet to determine eligibility based on criminal legal system background.</p>			
<p>Part A: Offenses/Incidents that Cannot be Considered as a Basis for Rejection</p>			
3.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<p>Are the incidents (a) prior arrests or criminal accusations that have been resolved in the applicant’s favor, (b) youthful offender adjudications, (c) pending arrests with adjournments in contemplation of dismissal, (d) sealed or expunged convictions, (e) convictions that are the subject of an executive pardon, (f) a conviction of a violation, or the equivalent of (a)-(f) from another jurisdiction?</p>
<p>If YES, please STOP: You may not inquire about these incidents and the applicant <u>cannot</u> be rejected based on these incidents. If NO, continue to the following questions.</p>			
4.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<p>Did the conviction occur in another state or jurisdiction, the conduct for which would have been lawful if the conduct had occurred in New York City, and involved (a) having sought, obtained, provided, or facilitated reproductive or gender affirming care as defined in section 10-184.1 of the NYC administrative code, (b) having engaged in “legally protected health activity” as defined in section 570.17 of the New York State criminal procedure law; or (c) possession of cannabis that would not constitute a felony in the state of New York</p>
<p>If YES, please STOP: You may not inquire about these incidents and the applicant <u>cannot</u> be rejected based on these incidents. If NO, continue to the following questions.</p>			
5.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<p>Are the incidents pending arrests (arrests that have not yet been resolved through the judicial process)?</p>
<p>If YES, please STOP: You may not inquire about these incidents and the applicant <u>cannot</u> be rejected based on pending arrests that have not resulted in conviction. If NO, continue to the following questions.</p>			
6.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<p>Does the applicant have a certificate of relief from disabilities or good conduct in relation to the specific offense?</p>

If YES, please **STOP**: The applicant cannot be rejected on the basis of their history. **If NO**, continue to the following questions.

7.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Was the applicant under the age of 18 at the time of the offense[s]?
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If YES, please **STOP**: The applicant cannot be rejected on the basis of their history. **If NO**, continue to the following questions.

Part B – Reviewable Convictions
These are the only convictions that can be reviewed as a potential basis for rejection.

8.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Did the crime[s] for which the applicant was convicted involve physical violence to persons or property, or adversely affect the health, safety, and welfare of other people?
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If YES, please use the space below to describe the offense, then continue to the next question. **If NO**, please **STOP**: The applicant cannot be rejected on the basis of their history.

List the conviction(s):

9.	Only the following convictions can be considered as a potential grounds for rejection. Please choose which one(s) apply.
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| | <input type="checkbox"/> | <u>Sex Offense Registry</u> : The conviction is registered on the New York sex offense registry maintained by the state division of criminal justice services pursuant to section 168b of the New York corrections law, on the federal sex offense registry created pursuant to section 20902 of title 34 of the United States code, or on a register in any other jurisdiction for which an individual is required to register as a sex offender. |
| | <input type="checkbox"/> | <u>Misdemeanor convictions within the last 1 year</u> : Misdemeanors where the date of conviction occurred within 1 year prior to the consideration of the application for a unit, OR |
| | <input type="checkbox"/> | <u>Felony convictions within the last 5 years</u> : Felonies where the date of conviction occurred with 5 years prior to the consideration of the application for a unit, OR |
| | <input type="checkbox"/> | <u>Incarceration within the last 1 year</u> : Where the applicant(s)' release from incarceration occurred within 1 year of consideration of the application for a unit. |

If at least one is chosen, the conviction is reviewable and you should proceed to Section 2 to conduct an individualized assessment. **IF NONE** are chosen, the applicant's criminal legal system background is not reviewable and the applicant cannot be rejected based on this background. Skip to Section 4 to complete the review.

SECTION 2 – Individualized Factors Regarding Reviewable Conviction(s)

1.	How much time has the applicant spent in the community after release from incarceration, if they were incarcerated as a result of the conviction(s)? Have they reoffended in that time?
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2.	What was the age of the applicant at the time of their conviction?
3.	What was the seriousness of the applicant's offense?
4.	Are there any other factors about the crime or circumstances that may be relevant?

SECTION 3 – Evidence Of Rehabilitation and Good Conduct

Before engaging in this part of the review, applicant must have been given 10 business days' notice, in the "Additional Information Request Notice," to submit any information identifying errors in the criminal history information, and any supplemental or mitigating information in support of their application.

<input type="checkbox"/> Confirmed OR <input type="checkbox"/> N/A (Applicant is not being rejected based on criminal system back-ground)	<p>Confirm by checking the box that <i>before considering a reviewable conviction as a basis for rejecting</i> an applicant based on criminal legal system history, all of the following occurred:</p> <ul style="list-style-type: none"> • An "Additional Information Request Notice" was provided to applicant informing them that they have 10 business days to submit any information identifying errors in the criminal history information, and any supplemental or mitigating information in support of their application (Sample and translations available at link above);and • The notice contained; <ul style="list-style-type: none"> ○ Copies of any information or records about the applicants' criminal legal system history for the applicant to review; and ○ NYSHCR's Know Your Rights document for NYC in relevant language (available at link above).
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Choose "Yes" for all of the following factors showing rehabilitation if they are applicable to the applicant and "No" if they are not. In either case, please provide an explanation for your choice.

1.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Has the applicant participated in drug or alcohol rehab? (If rehab or treatment was not necessary, write N/A)
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Explain:

2.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Has the applicant participated in and completed other types of rehabilitative programming? (If so, please indicate what type of programming.)
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Explain:			
3.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Does the applicant have a Certificate of Good Conduct or any other documentation of good conduct during their incarceration?
Explain:			
4.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Has the applicant sought and maintained employment after their conviction or release from incarceration?
Explain:			
5.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Does the applicant have a history of good tenancy? (The applicant may elect to provide positive references from past landlords or housing providers, but may not be penalized if they do not.)
Explain:			
6.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	If the applicant has had difficulty finding employment, have they been productively spending their time? (If so, please include examples, including any community engagement or volunteer work.)
Explain:			
7.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Does the applicant have any letters of recommendation from members of the community? (If so, please identify how many and the relation of the writers to the applicant.)
Explain:			
8.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Has the applicant provided a narrative or information explaining the circumstances under which the offense was committed, and what has occurred since then, that may mitigate the severity of the conviction?
Explain:			
9.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Are there any other factors that speak to the applicant's rehabilitative efforts and lifestyle that may be relevant?

Explain:			
10.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Has applicant described and substantiated with evidence any errors in the criminal legal system records that were obtained by the owner/managing agent?
Explain:			

Section 4 – Final Determination

Based upon a consideration of all the factors listed above, and independent of any other factors that may affect tenant, make a final determination on the applicant eligibility based on criminal legal system background.

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|--------------------------|---|
| <input type="checkbox"/> | Applicant WILL NOT be rejected on the basis of criminal legal system background.
[This form is now complete] |
| <input type="checkbox"/> | Applicant WILL be rejected on the basis of criminal legal system background. |

If Applicant is being rejected, describe: i) how the individual's reviewable criminal legal system history is relevant to a legitimate business interest of the property owner, (ii) how any information submitted in support of such individual's tenancy was/was not taken into account to mitigate or explain the incidents, and (iii) how the information was not sufficient to reasonably establish that the applicant is able to live peaceably alongside other tenants, and to respect the building, its grounds and the property of other tenants or visitors.

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|---|--|
| <input type="checkbox"/>
Confirmed | Confirm by checking the box that <i>when rejecting an applicant</i> based on their criminal legal system history, the owner/managing agent is providing to the applicant: |
| <input type="checkbox"/>
N/A
(Applicant not being rejected) | <ul style="list-style-type: none"> A copy of this fully completed Worksheet detailing the reason for the rejection; A copy of supporting documents that were reviewed; A 10-business day period in which to appeal the determination; and The HCR NYC Know Your Rights document in the relevant language AND NYC's Fair Chance Housing Notice. |