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# **NYC Fair Chance Housing Law & State-Funded Housing in New York City**

**March 12, 2025**

# Disclaimer

**This presentation is for general information purposes only. The information in this presentation does not, and is not intended to, constitute legal advice. Please consult your attorney to obtain advice with respect to any particular legal matter and updates regarding changing legal interpretations. The information provided in this presentation may not represent the most up-to-date legal interpretations of the law.**

# NYC Fair Chance Housing Law

- **Went into effect on January 1, 2025**
- Applies to New York City only
- Prohibits housing discrimination on the basis of criminal history, with limited exceptions.
- Landlords, owners, brokers, and other covered entities (including co-ops & condos) located in New York City may not consider an applicant's criminal record until **after** determining a housing applicant's other qualifications
- HCR projects are not required to conduct criminal background checks. However, if they do, NYC Fair Chance Housing Law and HCR applicant assessment policies apply.

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# Who Does the NYC Fair Chance Housing Law Apply to?

- All brokers, licensed salespeople, housing owners, property managers, and all individuals with the authority to approve or deny the rental or sale of housing, as well as their agents and employees. This also includes co-op and condo boards that make housing decisions.
- Exemptions:
  1. Housing provider-occupied properties with 2 or fewer units
  2. State or federally funded housing providers, including public housing authorities, that are required or authorized to take specific actions related to criminal history (e.g. Section 8)

# NYS HCR Policy Guidance and Worksheets

- More information is available here: <https://hcr.ny.gov/marketing-plans-policies#credit-and-justice-involvement--assessment-policies>
  - Worksheet for Assessing an Applicant's Criminal Legal System History for State-Funded Housing in New York City
  - Know Your Rights! Applying to State-Funded Housing in New York City When You Have a History of Criminal Legal System Involvement
  - 10-Business Day Additional Information Request Letter Sample
- **NOTE:** State-financed affordable housing projects located outside of New York City must still comply with NYSHCR's Criminal Legal System Involvement Policy.

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



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# What Types of Convictions Can Now be Reviewed?

- ✓ Misdemeanor convictions that occurred within 1 year prior to the consideration of the application for a unit;
- ✓ Felony convictions that occurred within 5 years prior to the consideration of the application for a unit;
- ✓ Release from incarceration that occurred within 1 year prior to the consideration of the application for a unit; and
- ✓ Any conviction registered on the New York sex offense registry, the federal sex offense registry, or on a register in any other jurisdiction for which an individual is required to register as a sex offender.

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# What Types of Convictions Cannot be Reviewed?

- × Convictions that do not involve physical danger or violence to persons or property or that do not adversely affect the health, safety, and welfare of other people;
- × The following 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) convictions that are sealed, expunged, otherwise vacated, subject to an executive pardon, the subject of relief from disabilities, (e) a conviction of a violation, or the equivalent of (a)-(e) from another jurisdiction;
- × Convictions for offenses that occurred before the applicant turned 18;

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## What Types of Convictions Cannot be Reviewed (cont'd)?

- × Convictions that occurred 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, (b) having engaged in “legally protected health activity” as defined in NYS Criminal Procedure Law §570.17; or (c) possession of cannabis that would not constitute a felony in the state of New York; and
- × Any pending arrests that have not resulted in conviction

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# When and How Can NYC Housing Providers Conduct a Criminal Background Check?

## *Before running a criminal background check,*

1. Provide notice that the owner/managing agent will perform such criminal background check (notice in the application for the housing suffices);
2. Conduct all other eligibility screening (i.e., the applicant's ability to meet the terms of the program and lease);
3. Conditional Offer: Provide 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 in NYSHCR's policy, 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; and
4. Provide a written copy of both NYSHCR's Know Your Rights ([hcr.ny.gov/NYCKYRCrim](http://hcr.ny.gov/NYCKYRCrim)) and the NYC's Fair Chance Housing Notice (<https://www.nyc.gov/assets/cchr/downloads/pdf/publications/FairChanceHousing-Notice.pdf>) summarizing the rights available regarding criminal background checks

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# When and How Can NYC Housing Providers Conduct a Criminal Background Check (cont'd)?

***Before revoking a conditional offer (rejecting the applicant) based on criminal legal system history:***

- Owners/Managing Agents must provide the following to the applicant:
  1. An “Additional Information Request Notice” informing the applicant 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 available here: <https://hcr.ny.gov/feho-justice-involved-information-request>); and
  2. Copies of any information or records about the applicant’s history of criminal legal system involvement for the applicant to review; and
  3. NYSHCR’s Know Your Rights document for NYC ([hcr.ny.gov/NYCKYRCrim](https://hcr.ny.gov/NYCKYRCrim))
- Owners/Managing Agents must have conducted an individualized assessment examining factors like the length of time since conviction and evidence of rehabilitation, per NYSHCR’s published Worksheet ([hcr.ny.gov/NYCCrimWorksheet](https://hcr.ny.gov/NYCCrimWorksheet))

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# Required Individual Assessment

- Factors in an individualized assessment can include, but are not limited to:
  - ✓ How much time has passed since the applicant's conviction;
  - ✓ The applicant's age at the time of conviction;
  - ✓ The seriousness of the applicant's offense;
  - ✓ Evidence of rehabilitation and good conduct; and
  - ✓ Any other certificates of good conduct

## When and How Can NYC Housing Providers Conduct a Criminal Background Check (cont'd)?

*If revoking the applicant's conditional offer (rejecting the applicant) based on criminal legal history, Owners/Managing Agents must provide to applicant:*

1. A copy of the fully completed NYSHCR Worksheet detailing the reason for the rejection ([hcr.ny.gov/NYCCrimWorksheet](http://hcr.ny.gov/NYCCrimWorksheet));
  - Reason for rejection = a legitimate business interest AND how the legitimate business interest is linked to the applicant's history of criminal legal system involvement
2. A copy of supporting documents that were reviewed;
3. A 10-business day period in which the applicant may appeal the determination; and
4. (a) The NYSHCR's Know Your Rights document for NYC ([hcr.ny.gov/NYCKYRCrim](http://hcr.ny.gov/NYCKYRCrim)) in the relevant language and (b) NYC's Fair Chance Housing Notice (<https://www.nyc.gov/assets/cchr/downloads/pdf/publications/FairChanceHousing-Notice.pdf>).

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# Legitimate Business Interest

- If rejecting, you must explain the link between your legitimate business interest and the applicant's history of criminal legal system involvement. This must be specific and objective. (See NYC's Fair Chance Housing Notice, <https://www.nyc.gov/assets/cchr/downloads/pdf/publications/FairChanceHousing-Notice.pdf>).
- Can include:
  - ✓ Compliance with a particular lease term
- Cannot include:
  - × Discriminatory motives, stigma, stereotypes, or assumptions
    - × "This is a family building"
    - × "My tenants don't want criminals"
    - × "My insurance rates will go up"
    - × "This will impact my property value"
  - × The existence of a conviction alone

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# Compliance Reviews

- On site visits, HCR Asset Managers will confirm that the Worksheet for Assessing an Applicant's Criminal Legal System History for State-Funded Housing in New York City is used to individually assess applicants.
- On a site visit, HCR Asset Managers will collect information pertaining to:
  - # of applicants;
  - # of applicants with a history of criminal legal system involvement/negative background check;
  - # who underwent the individualized criminal legal system involvement assessment and were accepted, denied and on waiting list.
- Asset managers will randomly select 5 rejections based on a history of criminal legal system involvement to review.
- Will also review for use of the 10-business day letters requesting additional information and the Know Your Rights document.

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# Record Keeping and Document Retention

- The following documentation must be maintained:
  - Copy of original application;
  - Copy of the conviction record and other material obtained in connection with evaluating the application;
  - Written notification to applicant that they have the right to provide additional information, as well as confirmation that the Know Your Rights sheet and NYC's Fair Chance Housing Notice were sent to the applicant;
  - Copy of any information provided by the applicant in response, or as evidence of rehabilitation;
  - Written evaluation detailing the analysis and decision of the housing provider;
  - Completed Worksheet;
  - A copy of the applicant's appeal, if applicable, including any material submitted by the applicant (including complaints about unsuccessful appeals)

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# NYC Worksheet



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# Worksheet Overview – Instructions & Preliminary Process



## 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 <i>located New York City</i> and financed by New York State Homes and Community Renewal (NYSHCR), unless federal, state or local rules, laws or regulations require different procedures.
NYSHCR <u>does not</u> 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 <u>must be used</u> 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: <a href="https://hcr.ny.gov/marketing-plans-policies#credit-and-justice-involvement-assessment-policies">https://hcr.ny.gov/marketing-plans-policies#credit-and-justice-involvement-assessment-policies</a>

Preliminary Process	
<input type="checkbox"/> Confirmed  OR  <input type="checkbox"/> N/A (Criminal background check or questions is not part of the application process)	<p><b>Preliminary Eligibility Review and Notice:</b> 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"> <li>• Conducted all other eligibility screening;</li> <li>• 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.</li> <li>• Provided notice that the owner/managing agent will perform such criminal background check (notice in the application for the housing suffices),</li> <li>• Provided a written copy of both NYSHCR's Know Your Rights (at link above) and <a href="#">NYC's Fair Chance Housing Notice</a> summarizing the rights available regarding criminal background checks;</li> </ul>



# Worksheet Overview – Nature of Criminal Legal System Involvement

SECTION 1 – NATURE OF CRIMINAL LEGAL SYSTEM INVOLVEMENT			
1.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<u>Federal Section 8 or Public Housing Funding + Lifetime Sex Offense Registry:</u> 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>If the answer to <b>BOTH</b> questions (a) and (b) above is <b>YES</b>, you may <b>STOP</b> completing the worksheet and <b>DENY</b> 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 <b>NO</b>, continue to the following questions.</p>			
2.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<u>No Rejection Upfront:</u> Has criminal system background information been obtained by owner/managing agent AND applicant <b>WILL NOT</b> be rejected based on the results of these queries.
<p>If <b>YES</b>, and applicant will not be rejected because of criminal legal system background, please <b>SKIP</b> to <b>Section 4</b> (Final Determination). If <b>NO</b>, please continue with this Worksheet to determine eligibility based on criminal legal system background.</p>			

# Worksheet Overview – Incidents that Cannot be Considered

Part A: Offenses/Incidents that Cannot be Considered as a Basis for Rejection			
3.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	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?
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.			
4.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	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
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.			
5.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Are the incidents pending arrests (arrests that have not yet been resolved through the judicial process)?
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.			
6.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Does the applicant have a certificate of relief from disabilities or good conduct in relation to the specific offense?
If YES, please STOP: The applicant <u>cannot</u> 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]?
If YES, please STOP: The applicant <u>cannot</u> be rejected on the basis of their history. If NO, continue to the following questions.			

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# Worksheet Overview – Reviewable Convictions

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?
<p><b>If YES</b>, please use the space below to describe the offense, then continue to the next question. <b>If NO</b>, please <b>STOP</b>: The applicant <u>cannot</u> be rejected on the basis of their history.</p>			<p>List the conviction(s):</p>
9.	Only the following convictions can be considered as a potential grounds for rejection. Please choose which one(s) apply.		<input type="checkbox"/> <b>Sex Offense Registry:</b> 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"/> <b>Misdemeanor convictions within the last 1 year:</b> Misdemeanors where the date of conviction occurred within 1 year prior to the consideration of the application for a unit, OR
			<input type="checkbox"/> <b>Felony convictions within the last 5 years:</b> Felonies where the date of conviction occurred with 5 years prior to the consideration of the application for a unit, OR
			<input type="checkbox"/> <b>Incarceration within the last 1 year:</b> Where the applicant(s)' release from incarceration occurred within 1 year of consideration of the application for a unit.
<p><b>If at least one is chosen</b>, the conviction is reviewable and you should proceed to Section 2 to conduct an individualized assessment. <b>If NONE</b> are chosen, the applicant's criminal legal system background is <u>not reviewable</u> and the applicant <u>cannot be rejected</u> based on this background. Skip to Section 4 to complete the review.</p>			



# Worksheet Overview – Individualized Factors

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?

# Worksheet Overview – Evidence of Rehabilitation and Good Conduct

SECTION 3 – Evidence Of Rehabilitation and Good Conduct			
<p>Before engaging in this part of the review, applicant must have been given <u>10 business days' notice</u>, 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.</p>			
<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"> <li>• 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</li> <li>• The notice contained;                         <ul style="list-style-type: none"> <li>○ Copies of any information or records about the applicants' criminal legal system history for the applicant to review; and</li> <li>○ NYSHCR's Know Your Rights document for NYC in relevant language (available at link above).</li> </ul> </li> </ul>		
<p>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.</p>			
1.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	<p>Has the applicant participated in <u>drug or alcohol rehab?</u> (If rehab or treatment was not necessary, write N/A)</p>
<p>Explain:</p>			
2.	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	<p>Has the applicant participated in and completed other types of <u>rehabilitative programming?</u> (If so, please indicate what type of programming.)</p>



# Worksheet Overview – Evidence of Rehabilitation and Good Conduct (cont'd)

Explain:			
3.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Does the applicant have a <u>Certificate of Good Conduct</u> or any other documentation of good conduct <u>during their incarceration</u> ?
Explain:			
4.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Has the applicant sought and maintained <u>employment</u> after their conviction or release from incarceration?
Explain:			
5.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Does the applicant have a <u>history of good tenancy</u> ? (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 <u>productively spending their time</u> ? (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 <u>any letters of recommendation</u> 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 <u>mitigate the severity of the conviction</u> ?
Explain:			
9.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Are there any other factors that speak to the applicant's <u>rehabilitative efforts and lifestyle</u> that may be relevant?

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



# Worksheet Overview – Evidence of Rehabilitation and Good Conduct (cont'd)

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.	
<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.
<p>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.</p>	
<input type="checkbox"/>	Confirmed
<input type="checkbox"/>	N/A (Applicant not being rejected)
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: <ul style="list-style-type: none"> <li>A copy of this fully completed Worksheet detailing the reason for the rejection;</li> <li>A copy of supporting documents that were reviewed;</li> <li>A 10-business day period in which to appeal the determination; and</li> <li>The HCR NYC Know Your Rights document in the relevant language AND <a href="#">NYC's Fair Chance Housing Notice</a>.</li> </ul>	

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# Contact

## Fair and Equitable Housing Office

New York State Homes & Community Renewal

38-40 State St., Hampton Plaza, Albany, NY 12207

(518) 473-3089 | [www.hcr.ny.gov](http://www.hcr.ny.gov) | [feho@hcr.ny.gov](mailto:feho@hcr.ny.gov)

## NYC Commission on Human Rights

(212) 416-0197 | <https://www.nyc.gov/site/cchr/index.page> |

<https://www.nyc.gov/site/cchr/media/fair-chance-housing-campaign.page>