



Know Your Rights! Applying to State-Funded Housing in New York City When You Have a History of Criminal Legal System Involvement

If you are applying for state-funded housing located in New York City and have a history of criminal legal system involvement, you have rights and protections. If you are not located in New York City, please review the Know Your Rights for State-Funded Housing generally, available here: <https://hcr.ny.gov/info-justice-involvement>

Before running a criminal background check, landlords/owners must notify you that they are doing so (you may see this in the application for housing) and must **first** consider your general eligibility (i.e., your ability to meet the terms of the program and lease). The landlord/owner must then offer you a unit conditioned on the background check and/or any new or misleading information that comes up.

If, landlords/owners conduct a background check, they must send you a copy of the print-out showing the criminal background and give you 10 business days to provide additional information. This includes, but is not limited to, evidence of rehabilitation, such as volunteering or employment, rehabilitation, letters from your employer or clergy, or evidence of errors in the report. (Please see below for additional guidance)

Landlords/Owners must conduct an individualized assessment prior to rejecting an applicant on the basis of a history of criminal legal system involvement. The individualized assessment takes into account any reviewable convictions, along with all of the additional information you have timely submitted.

Landlord/Owners can only consider certain convictions (and no pending arrests). These convictions are:

1. Misdemeanor convictions that occurred within 1 year prior to the consideration of the application for a unit;
2. Felony convictions that occurred within 5 years prior to the consideration of the application for a unit;
3. A conviction that resulted in incarceration where the applicant's release from incarceration occurred within one year prior to the consideration of the application for a unit; and
4. 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.

Landlords/Owners Cannot Take These Into Consideration When Reviewing Your Application.

1. All pending arrests (including those with adjournments in contemplation of dismissal (ACOD));
2. Prior arrests or criminal accusations that have been resolved in your favor;
3. Youthful offender adjudications;
4. Convictions for offenses committed before you turned 18 years old;
5. Convictions that were sealed, excused by pardon, overturned on appeal, vacated, subject to an executive pardon, or otherwise expunged, nullified or legally vacated;
6. Convictions that are the subject of a certificate of relief from disabilities;
7. A conviction of a violation, or the equivalent of (1)-(6) from another jurisdiction;
8. Any pending arrests that have not resulted in conviction;
9. Convictions that did not involve physical violence or danger to persons or property, or did not affect the health, safety, and welfare of others; and
10. 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 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.

Landlords/Owners must consider any information you have timely submitted identifying errors in your criminal background information and any supplemental or mitigating information in support of your application, including

evidence of rehabilitation and good conduct. Evidence of rehabilitation and good conduct can include, but is not limited to:

1. Participation in drug or alcohol rehabilitation;
2. Participation in and completion of other types of rehabilitative programming;
3. A Certificate of Good Conduct or any other documentation of good conduct during your incarceration;
4. You have sought and maintained employment after your conviction or release from incarceration;
5. History of good tenancy (please note, you may elect to provide positive references from past landlords or housing providers, but you may not be penalized if you do not);
6. If you had difficulty finding employment, evidence that you have been productively spending you time (please include examples, including any community engagement or volunteer work);
7. Letters of recommendation from members of the community;
8. 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;
9. Any other factors that speak to your rehabilitative efforts and lifestyle that may be relevant; and
10. Evidence of any errors in the criminal legal system records that were obtained by the owner/managing agent.

If you are rejected because of your criminal legal system background, you must be given (1) A copy of the fully completed NYSHCR Worksheet for Assessing an Applicant's Criminal Legal System History for State-Funded Housing in New York City containing a written explanation of how the conviction affects the legitimate business interest of the landlord/owner and how the additional information you provided was/was not taken into account into that determination, (2) a copy of information reviewed, (3) 10 business days to appeal the determination, and (4) [NYC's Fair Chance Housing Notice](#).

If you feel the landlord/owner did not properly evaluate your application and wrongfully denied you housing, contact New York State Homes and Community Renewal's Fair and Equitable Housing Office at feho@hcr.ny.gov for assistance. More information is available here: <https://hcr.ny.gov/marketing-plans-policies#credit-and-justice-involvement--assessment-policies>