



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF THE SECRETARY
WASHINGTON, DC 20410-0001

April 12, 2022

MEMORANDUM FOR: Principal Staff

FROM: Secretary Marcia L. Fudge *Marcia L. Fudge*

SUBJECT: Eliminating Barriers That May Unnecessarily Prevent Individuals with Criminal Histories from Participating in HUD Programs

Each April, we commemorate Fair Housing Month, a time when we highlight the Department's work to ensure that everyone has access to safe, accessible housing regardless of race, color, religion, national origin, sex, familial status, or disability. In addition, the President has proclaimed this April as Second Chance Month, a time to lift up those who are committed to rejoining society and making meaningful contributions in their communities. It is both vital and timely that we respond to the call for justice inherent in both of these recognitions.

At HUD, we recognize that individuals with criminal histories too often face daunting and unnecessary barriers to obtaining and maintaining housing, including public housing, HUD-assisted housing, and HUD-insured housing, which are often the only types of housing they can afford. I take the health and safety of our communities seriously. This must include providing opportunities for all Americans, including those who have been involved in the criminal justice system. Too often, criminal histories are used to screen out or evict individuals who pose no actual threat to the health and safety of their neighbors. And this makes our communities less safe because providing returning citizens with housing helps them reintegrate and makes them less likely to reoffend.

We also cannot ignore the fact that persons who have been involved with the justice system are disproportionately racial minorities or persons with disabilities. We must understand the potential discriminatory impact exclusions based on criminal history can have on protected classes. As part of our ongoing effort to make HUD programs more equitable, we must do all that we can to prevent unfair and potentially discriminatory exclusions from our programs.

Accordingly, through this memorandum, I am instituting a HUD-wide effort to review our programs and put forth changes that ensure that our funding recipients are as inclusive as possible of individuals with criminal histories. I am directing all relevant HUD program offices to, within 6 months of the date of this memorandum, identify all existing HUD regulations, guidance documents and other policies and sub-regulatory documents (including model leases and other agreements) that may pose barriers to housing for persons with criminal histories or

their families and propose updates and amendments consistent with this directive to make our programs as inclusive as possible.¹ This review should include an assessment for each of these regulations or documents as to whether it is legally permissible and practically feasible (as informed by available data, feedback from listening sessions, and other relevant evidence) to make such policies more inclusive for persons with criminal histories and their families. Each office shall submit their analysis, findings, and proposed updates to Richard Cho (Richard.S.Cho@hud.gov) on or before October 14, 2022, in accordance with a recommended format that the Office of the Secretary will provide to you. In the meantime, any policy or document currently under development should be implemented in a way that supports persons with criminal histories and their families, consistent with this directive as well as existing rules and requirements.

Our efforts on this front are in keeping with previously issued HUD directives and guidance,² which rely upon the same principles of justice and fairness that underlie this review and provide important principles for this effort. In particular, 2016 guidance from the Office of General Counsel sets out best practices for all landlords, including avoiding exclusions based on arrest records only; ensuring that any reliance on conviction history is based on evidence showing that it will actually promote safety; and ensuring that any exclusion based in part on conviction history also takes into account mitigating circumstances such as time that has passed since the conviction and evidence of rehabilitation or good tenant history in the more recent past. Put simply, it calls on landlords to treat people as individuals rather than reducing them to their criminal histories. Some public housing authorities, owners, and other HUD-assisted housing providers have taken steps consistent with this guidance towards being inclusive of individuals with criminal histories. However, too many continue to exclude people from desperately needed housing opportunities based on events that have little or no relevance to fitness to be a tenant.

As we seek to implement an equity agenda, it is incumbent upon all of us to ensure that, to the full extent permitted by law, we are administering HUD programs in an inclusive way and that we are requiring and encouraging our program partners to be similarly inclusive. By ensuring that our regulatory language and guidance documents about when and how criminal records may and should be used—or not used—to select or terminate tenants are as inclusive as possible, we are informing our funding recipients about best practices for complying with all relevant laws, including civil rights laws, and ensuring a more equitable future for the beneficiaries of HUD programs.

Thank you for your commitment and dedication to ensuring that all members of society are able to secure safe, affordable, accessible, and stable housing.

¹ This includes, but is not limited to public housing, voucher programs, housing created through the Rental Assistance Demonstration, Multifamily housing programs, housing assisted by HOME Investment Partnerships program, Community Development Block Grants, and Homeless Assistance Grants.

² See “[Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions](https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF), available at https://www.hud.gov/sites/documents/HUD_OGCGUIDAPPFHASTANDCR.PDF; PIH Notice 2015-19, available at <https://www.hud.gov/sites/documents/15-10HSGN.PDF>; https://www.usich.gov/resources/uploads/asset_library/Rentrv_letter_from_Donovan_to_PHIAs_6-17-11.pdf.