



How Does a Criminal Record Affect Your Housing Rights? Public Housing and Section 8 Vouchers in Alameda County

Note: In Alameda County, three main public housing authorities (PHAs) oversee public housing and vouchers - Oakland Housing Authority (OHA), Berkeley Housing Authority (BHA), and the Housing Authority of Alameda County (HACA). Each PHA is independent and keeps its own wait lists. Due to the large demand for affordable housing, the wait lists are often closed. You can check with each PHA to find out when its wait lists will open. (See contact information below).

1. Will the PHA reject me if I have a criminal record?

It depends. PHAs do a criminal background check on each adult applicant for public housing or vouchers.

You **WILL** be rejected if...

- You must register as a lifetime sex offender in any state;
- You have ever been convicted of manufacturing methamphetamine in federally assisted housing; or
- You have been evicted from federally assisted housing for drug-related criminal activity within the past 3 or 5 years UNLESS you have completed a drug treatment program approved by the PHA. The ban is 3 years for BHA and HACA vouchers. It is 5 years for OHA vouchers and for BHA, HACA, and OHA public housing.

You **MIGHT** be rejected if the background check reveals...

- Drug-related crimes;
- Violent crimes; or
- Other crimes that could threaten the health, safety, or right to peaceful enjoyment of the building by other residents or PHA employees.

The PHA will look at arrests and convictions that occurred within the past 5 years.


2. What if my convictions have been dismissed/expunged?

- The PHA might look at dismissed convictions.
- If asked, you should reveal the convictions, but explain that the convictions have been dismissed pursuant to Penal Code section 1203.4 or 1203.4a.
- It is important to remember that the PHA can reject you if you lie during the application process.

3. Will the PHA consider my individual circumstances?

The PHA will consider a number of “mitigating” circumstances. “Mitigating” circumstances are facts that put your criminal record in context and show that you will not commit crimes in the future.

- For example...
 - You have made positive changes since your arrests or convictions;
 - You have a job, attend a job training program or school, or participate in a treatment program;
 - You are a survivor of domestic violence, and acts of domestic violence against you led to your arrests or convictions; or
 - Your convictions have been dismissed/expunged.
- It is your job to present “mitigating” circumstances to the PHA at the time of the background check. (See question 4 below).



Note: The PHA will **NOT** consider your individual circumstances if: (1) you must register as a lifetime sex offender in any state or (2) you have been convicted of manufacturing or producing methamphetamine in federally assisted housing.

4. How do I present “mitigating” circumstances to the PHA?


- Letters of support are important to show the PHA that you will be a good tenant and will not commit crimes in the future.
- You should gather letters from your parole or probation officer, teacher, employer, treatment program, social worker, neighbor, or current or prior landlord. The letters should show that you are respectful and responsible.
- The PHA will not give much credit to letters from a friend or family member.
- Once you reach the top of the wait list, the PHA will ask you to sign a release form so that it can do a background check. You can submit letters of support at that point. You can also bring letters to the informal hearing. (See question 6 below).

5. What if my criminal record is related to a mental or physical disability?

- You should ask the PHA to waive its admission criteria as a reasonable accommodation. A reasonable accommodation is a change in policy or practice that is needed to allow a person with a disability to access housing.
- You should show the PHA that...
 - You have a disability;
 - The disability is related to your criminal record; and
 - You are doing everything you can to manage the disability.
- It is important to remember that past substance abuse can be a disability if you are in recovery.

6. The PHA told me that I do not qualify. What can I do?

- The PHA must send you a notice in writing, and the notice must explain the reasons that you are not eligible.
- In addition, the PHA must give you a copy of the criminal background check it relied on. You should check to make sure that the information in the background check is accurate.
- The notice is **NOT** the final word. You have a right to challenge the decision at an informal hearing. Follow the instructions in the notice about how to request an informal hearing.
- The informal hearing is a chance for you to prove to the PHA that you will be a good tenant and not commit crimes in the future. You can present letters of support and have witnesses speak about the positive changes that you have made since your arrests or convictions.
- You have a right to bring an attorney or advocate to the informal hearing.



Note: Even if you are given a voucher, it could be hard to find a private landlord that will overlook your criminal record. A private landlord may run its own background check and may be stricter than the PHA.

Oakland Housing Authority - www.oakha.org, 1619 Harrison Street, Oakland, CA, (510) 874-1500
Berkeley Housing Authority - www.ci.berkeley.ca.us/BHA, 1901 Fairview Street, Berkeley, CA, (510) 981-5470
Housing Authority of Alameda County - www.haca.net, 22941 Atherton Street, Hayward, CA, (510) 538-8876