



A Housing First Approach to Property Management: Frequently Asked Questions

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California as a Housing First State

In 2016, the California Legislature passed and the Governor signed Senate Bill 1380 (Mitchell), which required State agencies to reform existing housing, homeless, and housing-based services programs to comply with “core components” of Housing First. These core components require developers, property managers, and service providers receiving State funding to do the following:

- “Screen in” vulnerable populations by—
 - Accepting referrals from coordinated entry systems or other entities serving people experiencing homelessness, and
 - Eliminating policies excluding applicants based on poor credit history or evictions, criminal justice involvement, use of drugs or alcohol, or completion or participation in treatment.
- Emphasize tenant-driven services plans to provide flexible, voluntary services, and abolish policies that condition tenancy on program compliance or failure to participate in services.
- Provide tenants with leases and rights and responsibilities of tenancy under law in non-time-limited housing (except in some housing for homeless youth).
- Allow tenants to use alcohol or drugs in their own apartments, without evicting based on use, so long as the tenant does not violate lease terms.

Screening In Vulnerable Applicants, Rather than Screening Out

What does HUD require public housing agencies to restrict in providing federally-funded housing subsidies?

Federal “one strike” laws prohibit housing authorities from providing tenant-based or project-based federally-funded rental subsidies to the following households:

- Households with a member required to register as a sex offender on a lifetime basis under state law,¹ and

- Households evicted for manufacturing, selling, or using methamphetamines in public housing or federally-subsidized housing within three years of the application date.² Housing authorities may impose further restrictions, but are not required to do so.³

These restrictions apply to project- or tenant-based rental subsidies funded through the Housing Choice Voucher program, public housing, Section 202 and 811, and rural rental

¹ 24 CFR § 5.856.

² 24 CFR §§ 5.854, 5.100.

³ 24 CFR § 5.585.

assistance programs.⁴ They do not apply to tax credits or other capital funding, and they do not apply to operating subsidies funded through Continuum of Care programs.⁵

When can property managers house sex offenders?

“Jessica’s Law,” which California voters passed in 2006, prohibited sex offenders from living within 2,000 feet of a school or “any place where children gather.”⁶ However, the California Supreme Court struck down the law as unconstitutional in 2015.⁷ Since then, the California Department of Corrections & Rehabilitation stated that they will not enforce Jessica’s Law for parolees, meaning parole officers will not restrict where parolees who are sex offenders can live.

While multiple cities have passed local ordinances that prohibit registered sex offenders from living within 2,000 feet of a school or park, legal advocates are successfully overturning these laws through lawsuits, and city after city have been repealing these restrictive ordinances on their own.

If a housing project is located within 2,000 feet of a school or park within a city that restricts residency, the property manager must exclude registered sex offenders from residing in that project.

In cases where these laws do not exist, managers should avoid screening out any applicant based on blanket criminal arrests or convictions for a sex offense. However, a manager could exclude a sex offender if that applicant’s specific case reveals a compelling reason for doing so, such as an applicant with a record of an offense involving children in a project serving families with children.

⁴ 24 CFR § 5.100.

⁵ *See* chart below this section for a list of programs subject to federal “one-strike” laws and exclusions.

⁶ Proposition 83 (2006), the Sexual Predator Punishment & Control Act.

⁷ *In re William Taylor*, California Supreme Court (2015).

Federal “one strike” laws forbid housing authorities from providing federally assisted housing, such as projects receiving project-based Housing Choice Vouchers, to people subject to lifetime sex offender registration.⁸ The housing authority may restrict admission to federally-assisted housing further in their Administrative Plan. In these cases, service providers could request a reasonable accommodation from the administering housing authority, to admit an applicant with a disability who is a registered sex offender, particularly in cases where the offense was minor, such as urinating in public while homeless.

Even though “screening out” highly vulnerable populations, like sex offenders, is inconsistent with the Housing First core principles, managers may be required to exclude an applicant if the individual does not qualify for federally assisted housing, like a Housing Choice Voucher, when that assistance is the source of funding paying for the operating costs of the project.

When can a property manager house someone who has been convicted of manufacturing methamphetamines?

Federal “one strike” laws prohibit housing authorities from providing specific types of federal subsidies to households who have been evicted for manufacturing, selling, or using methamphetamines *in public or federally-subsidized housing within the last three years*.

Even if a household has been evicted in the past three years for methamphetamine manufacture, the household could be eligible for the subsidy if the offending household member completed an approved supervised rehabilitation program, or the circumstances leading to eviction no longer exist (i.e., the household member evicted for the offense is no longer living with the other

⁸ 24 CFR § 5.585.

members of the household applying for the subsidy).⁹

Housing authorities may choose to add barriers to accessing federal subsidies.¹⁰ If a housing authority adds restrictions that screen out applicants who have used meth, a service provider or property manager could request a reasonable accommodation to allow an applicant to receive the subsidy, particularly if the applicant's disability (i.e., a mental illness or past substance use disorder) led to the applicant's arrest or conviction, and the applicant has since sought treatment or is receiving treatment for a substance use disorder.

A property manager may deny housing to an applicant if the applicant is ineligible for the funding source paying for the housing subsidy, if the housing authority rejects the reasonable accommodation request.

How should a property manager balance Housing First screening requirements with a housing authority's restrictions?

Under federal "one strike" laws, housing authorities may exclude applicants from certain types of federal project-based or tenant-based operating subsidies for a variety of reasons, typically based on parole or probation status, experience with incarceration, or drug use. Service providers can assist applicants in requesting reasonable accommodation from a housing authority.

If the housing authority denies an applicant's reasonable accommodation request, the property manager may be required to find the applicant ineligible for the subsidy, and therefore ineligible for the project.

⁹ 24 CFR § 5.854.

¹⁰ 24 CFR § 5.855.

Considering the same standards must apply to apply affordable and supportive housing advocates, we do criminal background and credit checks at our properties for everyone. How could we implement Housing First in integrated affordable and supportive housing projects, given the need to follow our tenant selection processes?

Under Housing First, a property manager cannot reject an applicant based on poor credit or financial history, poor or lack of rental history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of "housing readiness." It does not prohibit a property manager from doing a criminal background check or credit check, but screening people out should be based on that individual's or household's ability to be successful tenants. A credit check, therefore, would produce results unrelated to supportive housing tenancy in most cases, since applicants must generally be homeless and are likely to have poor credit. A criminal background check may show that an applicant has a history of incarceration, but incarceration for drug use or drunk driving, for example, should have no impact on the ability of that individual to be a good tenant in housing. Blanket bans, therefore, on people with experience with convictions or arrests, would be inconsistent with Housing First. Criteria included in the background check and subsequent exclusion must be specifically related to tenancy.

Programs Subject to/Not Subject to Federal “One-Strike” Laws

Federal Programs <u>Subject</u> to One Strike Provisions	Federal Programs <u>Not Subject</u> to One-Strike Provisions
Housing Choice Vouchers (Section 8)	McKinney-Vento Homeless Assistance Grants/Continuum of Care Program
Public Housing	Low-Income Housing Tax Credits
Section 811 for People with Disabilities	Community Development Block Grant Program
Section 202 for Seniors	HOME Investment Partnership Program
Section 221(d)(3) & (5) of the National Housing Act, providing mortgage insurance for multifamily housing	National Housing Trust Fund
Rental Housing Assistance Program (Section 236)	State or Local Funding Programs
Farm Labor Housing Direct Loans & Grants (Section 514 of Housing Act)	
Rural Rental Housing Program (Section 515 of Housing Act)	

Tenant-Driven Voluntary Services

Do restrictions in implementing Housing First exist in federal or state funding, including tax credit funding?

The Tax Credit Allocation Committee recently released proposed regulations that would transform TCAC’s allocation of federal and state tax credits to adopt core principles of Housing First for their homeless assistance projects. For example, they are proposing disallowing housing providers from conditioning housing on participation in services.¹¹ Other state funding sources are similarly adopting the “core components” of Housing First, in compliance with Senate Bill 1380.

Similarly, federal HUD programs designed to address the needs of people experiencing homelessness promote voluntary services for tenants with experience of homelessness. The exception is the Veterans Affairs Supportive Housing Program (HUD-VASH). The Department of Veterans Affairs requires tenants

to participate in services as a condition of tenancy, contrary to both federal and state-identified principles of Housing First.

State law, SB 1380, requires adoption of Housing First, except in cases where federal law requires otherwise. If a project receives HUD-VASH, the project may have to require tenants to participate in services in the HUD-VASH-funded apartments.

Tax credits are not subject to federal “one strike” rules or to restrictions or standards on housing people using drugs or with experience with incarceration.

What practices should be in place for property management to coordinate with service providers?

Communication is the most important tool to help ensure tenant success in supportive housing. Regular meetings between service providers and property management staff provide a forum to discuss specific tenants facing challenges, like lease violations, unpaid rent, or health concerns. Regular meetings

¹¹<https://www.treasurer.ca.gov/ctcac/programreg/2018/20180904/notice-of-public-hearing.pdf>.

should have a consistent agenda and appropriate and equal numbers of staff should attend. Practices should also be in place for property management to share lease violations, three-day notices, and other communication with tenants. Ideally, managers and service providers will document settled practices in contracts or Memoranda of Understanding, and review these practices regularly. Informal communication can include phone calls, emails, or in-person communication to check in on a tenant's progress.

What are the roles and responsibilities of property managers and service providers in supportive housing?

Both property managers and service providers have the shared goal of keeping tenants housed. The property manager's role is to enforce the lease, collect rent, and ensure the safety of all tenants. The service provider's role is to offer voluntary services that may include case management, employment and financial literacy training, medication management, peer support, and other activities. While service providers can help reinforce messages around paying rent timely and following the lease, it is the responsibility of property management to deliver these messages.

Property management staff can coordinate with service providers in engaging tenants to want to participate in services, but services should not be a condition of tenancy. Cross training can be helpful for property managers and service providers to better understand each other's roles and responsibilities.¹²

¹² For further information on collaboration between service provider and property management, see, "Coordination of Property Management & Supportive Services in Permanent Supportive Housing." https://www.csh.org/wp-content/uploads/2011/12/Tool_CoordinationAssessment.pdf.

What kind of information should be shared between service providers and property managers?

Property managers should ask tenants to sign a Release of Information (ROI), with counter signatures from the service provider and property manager. Tenants may also sign ROIs with the housing authority, other service providers, corrections agencies, and other partners.

Service providers engaging in medical or behavioral health treatment or care coordination must comply with HIPAA requirements. Property managers should share tenant communication with the tenant's service provider, including formal notices, as well as observed behavior that raises concerns and/or could jeopardize housing (e.g. increase in mental health symptoms, frequent guests, or housekeeping issues). Service providers should share with property managers relevant information about challenges a tenant may face due to lived experience of homelessness or due to his or her disability.

However, service providers and property managers would rarely need to share detailed information about a tenant's medical or behavioral health history, even if the tenant signs an ROI. Service providers should protect confidentiality and only share the minimum information necessary about their clients. If a tenant elects not to sign an ROI, the service provider cannot share any health information, unless the service provider believes the tenant to be at imminent risk.

What should a property manager do if a tenant is sharing information that would be more appropriate to share with the service provider?

Tenants in supportive housing have a choice to disclose health or personal information to property management staff, but staff should

refer tenants back to their service provider to offer needed support. In cases where a tenant is choosing not to engage with their regular service provider, property management staff can refer the tenant to other community resources. While tenants may feel comfortable sharing private information with property management staff, staff should maintain professional boundaries.

Both service provider and property management staff working in supportive housing can experience burnout and secondary trauma. Property management leadership should ensure staff have access to resources for self-care.

What steps should property managers take to avoid evictions?

At a minimum, property management should provide written notices to the tenant and service

provider about any issues that could lead to eviction. Tenants should also have an opportunity to meet with property management staff and the service provider to discuss why their housing may be in jeopardy. Property managers should provide clear timelines and deliverables for tenants, and service providers can support tenants who want to maintain their housing to address issues that could lead to eviction. If a tenant is not able to maintain housing, property managers should give them the option to provide a 30-day notice and leave voluntarily to prevent an eviction on their record.

One best practice is an Eviction Prevention Process, where the property manager and service provider review cases where tenants face potential evictions, and develop a strategy for the tenant to remain stably housed.

Leases, Rights & Responsibilities of Tenancy

Do tenants in supportive housing have different responsibilities than tenants in non-supportive units?

No, all tenants have the same responsibilities to pay rent timely, abide by the lease, and communicate any problems with the apartment to property management. Service providers can help support tenants in carrying out these responsibilities, if they need assistance. The service provider's level of support will depend on the tenant's needs. For example, if the property manager needs to inspect an apartment, the property manager may need to ask a service provider to attend the inspection to address the tenant's anxiety about a manager entering their apartment.

How does the reasonable accommodation process work for applicants for supportive housing units?

A reasonable accommodation is a change in a rule, policy, practice, or service to allow a person with a disability an equal opportunity to use and enjoy a dwelling. Examples of reasonable accommodations include—

- Changing the rent due date to accommodate receipt of public benefits,
- Per a tenant's request, transferring the tenant to an available quieter apartment because noise aggravates his or her disability,
- Approval of an applicant for housing, even though the applicant has a history that would otherwise disqualify him or her from living in the apartment, or from eligibility for federal housing subsidies, because that applicant's disability led to the disqualifying behavior.

To request a reasonable accommodation, some property managers require the applicant to obtain verification, in writing, from a licensed physician, physical therapist, psychiatrist, social worker, caseworker, or counselor on her or his disability and the need for the accommodation.

How do you provide reasonable accommodation to supportive housing tenants, while addressing other tenants' concerns over unequal treatment in the application of property management rules?

Property managers should provide all applicants, not just supportive housing or homeless applicants, with reasonable accommodation information when applicants

complete applications for tenancy and/or operating subsidies and the unit. Supportive housing tenants may be more likely to provide the documentation necessary to obtain an accommodation, as supportive housing tenants are more likely to experience documented disabilities than other tenants in the project, but property managers should follow the same reasonable accommodation procedures for every applicant and tenant.

However, should applicants or tenants in supportive housing need accommodation, property managers should connect residents with the applicant's/tenant's service provider to assist with completing required paperwork and documentation.

Evictions Following Housing First Principles

Under what circumstances can you evict a participant and still be compliant with Housing First?

Under a Housing First paradigm, evictions should be a last resort. However, if a tenant continually engages in lease violations, such as failure to pay rent, or behaviors that interfere with other tenants' rights of peaceful enjoyment of their apartments or common space, despite repeated attempts to work with the tenant and service provider to address the lease violations, property managers may evict. To evict tenants, property management should document interventions that highlight efforts to prevent eviction (i.e., case notes, notices, interventions attempted, etc.). Property managers should also offer the tenant an option to leave voluntarily with a 30- or 60-day notice, to prevent an eviction from appearing on the tenant's record.

Property managers must follow California law in providing adequate formal notice of eviction,

and file an unlawful detainer, should the tenant remain in the unit beyond the notice period.

Doesn't federal law require a property manager to evict a tenant from a federally-subsidized apartment, including a tax credit-subsidized apartment, for use of illegal drugs?

Federal "one-strike" laws and regulations require *housing authorities* to establish standards for prohibiting admission of a household if the housing authority determines that a member of the household is currently using illegal drugs.¹³ It does not require *property managers* to take any action, set standards, notify the housing authority, or evict a tenant based on drug use. Housing authorities set standards in their Administrative Plan for eligibility of federal tenant-based and project-based rental subsidies,¹⁴ but typically do not impose any requirements on property managers

¹³ 24 CFR § 5.854.

¹⁴ 24 CFR § 5.100.

to evict a tenant based on drug use within the tenant's apartment.

The "one-strike" provisions discussed above *do not* apply to tax credits, other federal capital

funding, any state funding, or Continuum of Care programs. A property manager in a project that received tax credit funding is not required to evict a tenant for using illegal substances in their own unit.

Implementing Housing First Principles

Is a Housing First program effective? What does success look like?

Yes, study after study shows Housing First is an evidence-based intervention that allows tenants to live independently, stably, and successfully in permanent housing (housing without limit on length of stay). A recent study of a Los Angeles County program providing supportive housing following Housing-First core components found over 96% of participants remained stably housed after one year, inpatient stays and emergency room visits decreased substantially, tenants decreased their use of General Relief, and their number of arrests decreased. Overall, the participants were able to decrease their public costs significantly enough for the evaluators to find the housing and services resulted in 20% net cost avoidance, over and above the costs of the housing and services. This evaluation mirrors findings in multiple studies nationally and here in California.¹⁵

How could property management leadership deal with a potential staff concerns over Housing First?

Property managers should be trained on services provided for residents and the benefits of Housing First. Property managers should meet with service providers offering services to tenants in the project to build rapport and establish a communication plan. Through

regular communication with service providers, property management staff begin to develop an understanding of the benefits of the Housing First approach.

Do the Housing First requirements apply to existing properties when those units turnover, if the project received State funding prior to the effective date of the Housing First legislation?

No, the legislation does not require projects funded prior to passage of the Housing First bill to adopt Housing First core components, even for apartments that turn-over after the effective date of the legislation. However, if the project receives State funding to preserve the project, to pay for operating support, or to fund services, property managers would be required to implement core components of Housing First. If the State commits any funding after the effective date of Housing First implementing regulations, Housing First requirements would apply.

Can property managers use the reasonable accommodation process to meet housing first requirements?

No, property managers may not substitute the reasonable accommodation process for Housing First requirements. First, applicants for housing or existing tenants may fail to take advantage of the reasonable accommodation process, even when property managers appropriately advise the applicant or tenant of their right to request an accommodation. Applicants and tenants may

¹⁵ S. Hunter, M. Harvey, et. al. "Evaluation of Housing for Health Permanent Supportive Housing Program." RAND Corp. 2017.
https://www.rand.org/pubs/research_reports/RR1694.html.

feel intimidated about requesting an accommodation. Second, Housing First, as a philosophy, model, and set of practices, is best implemented when adopted comprehensively throughout the property management team. To implement Housing First principles well, all staff and leadership should embrace Housing First throughout the culture of the organization, rather than implementing on a request-only basis. Adopting Housing First as a reasonable accommodation provides the appearance of adopting core concepts only when a tenant requests an accommodation.

Resources are not available for tenants in my community for move-in related expenses (e.g. application fee, deposit, furniture, etc.). How can a property manager offer a Housing First approach if the tenant does not have any income or very limited income? How can they be successful in moving into housing?

The property manager and service provider can assist a tenant to set up a payment plan to help the tenant pay for move-in expenses, so long as the plan is financially feasible for tenants. A

tenant applicant must demonstrate their ability to pay their portion of the rent along with any other tenancy related expenses. A service provider should try every possible avenue of support with these expenses for a tenant applicant in order for them to qualify for tenancy.

Tenants pay their own utilities in our projects. What is available to tenants who have no income or insufficient income to pay utility costs?

Property managers should direct tenants to their service provider, who could assist the tenant with accessing financial resources related to utility costs. Service providers often contact local utility providers to offer tenants programs for reduced-cost utilities when the tenant has little to no income. In properties where the tenant pays directly for utilities, a tenant applicant must demonstrate their ability to pay for this expense. A service provider should try every possible avenue of support for utility expenses in order for them to qualify for tenancy.

Further Resources for Property Managers Implementing Housing First

Upcoming Training Series: The Corporation for Supportive Housing has produced guidance for property managers creating supportive housing using Housing First principles. CSH has courses offered in November and December 2018 for property managers working in supportive housing, entitled “Effectively Managing Housing with Services.” It can be found at the CSH Supportive Housing Training Center at https://csh.csod.com/catalog/CustomPage.aspx?id=20000566&tab_page_id=20000566.

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