

or *permit* you to take action to deny admission to applicants under certain circumstances in accordance with established standards, as described in this subpart. The provisions of this subpart do not constrain your authority to screen out applicants who you determined are unsuitable under your standards for admission.

(b) *Terminating tenancy.* You are authorized to terminate tenancy of tenants, in accordance with your leases and landlord-tenant law for the programs covered by this part. The provisions of this subpart implement statutory directives that either require or permit you to terminate tenancy under certain circumstances, as provided in 42 U.S.C. 1437f, 1437n, and 13662, in accordance with established standards, as described in this subpart. You retain authority to terminate tenancy on any basis that is otherwise authorized.

§ 5.852 What discretion do I have in screening and eviction actions?

(a) *General.* If the law and regulation permit you to take an action but do not require action to be taken, you may take or not take the action in accordance with your standards for admission and eviction. Consistent with the application of your admission and eviction standards, you may consider all of the circumstances relevant to a particular admission or eviction case, such as:

- (1) The seriousness of the offending action;
- (2) The effect on the community of denial or termination or the failure of the responsible entity to take such action;
- (3) The extent of participation by the leaseholder in the offending action;
- (4) The effect of denial of admission or termination of tenancy on household members not involved in the offending action;
- (5) The demand for assisted housing by families who will adhere to lease responsibilities;
- (6) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and

(7) The effect of the responsible entity's action on the integrity of the program.

(b) *Exclusion of culpable household member.* You may require an applicant (or tenant) to exclude a household member in order to be admitted to the housing program (or continue to reside in the assisted unit), where that household member has participated in or been culpable for action or failure to act that warrants denial (or termination).

(c) *Consideration of rehabilitation.* (1) In determining whether to deny admission or terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, you may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, you may require the applicant or tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(2) If rehabilitation is not an element of the eligibility determination (see § 5.854(a)(1) for the case where it must be considered), you may choose not to consider whether the person has been rehabilitated.

(d) *Length of period of mandatory prohibition on admission.* If a statute requires that you prohibit admission of persons for a prescribed period of time after some disqualifying behavior or event, you may apply that prohibition for a longer period of time.

(e) *Nondiscrimination limitation.* Your admission and eviction actions must be consistent with fair housing and equal opportunity provisions of § 5.105.

§ 5.853 Definitions.

(a) *Terms found elsewhere.* The following terms are defined in subpart A of this part: *1937 Act, covered person, drug, drug-related criminal activity, federally assisted housing, guest, household, HUD, other person under the tenant's control, premises, public housing, public*