REENTRY MYTH BUSTER!

A Product of the Federal Interagency Reentry Council

MYTH: Non-custodial parents who are incarcerated cannot have their child support orders reduced.

FACT: Half of all states have formalized processes for reducing child support orders during incarceration. Three-quarters of all states have laws that permit incarcerated parents to obtain a reduced or suspended support order.

Paying child support is an important responsibility for parents and orders usually reflect a support amount based on state guidelines that take into account parents' ability to pay. Debt accumulation is often associated with incarceration because parents have little or no ability to earn income while they are incarcerated. For non-custodial parents leaving prison, studies report child support arrearages in the range of $15,000 to $30,000.

Three-quarters of the States have the ability to suspend orders during periods of incarceration and 25 States have implemented formalized initiatives or processes to reduce orders during incarceration. However, the process is not automatic. In most states, incarcerated non-custodial parents have to initiate a request for a review of their order before any adjustment or modification can be made.

Examples of state processes to modify orders for incarcerated parents include:

- Orders set based on actual, not imputed, income during incarceration. (CT)
- If the child support agency is notified that a non-custodial parent is incarcerated, it must review the order to determine whether it is appropriate under the guidelines and may request a modification if warranted. (DC)
- Child support staff meet with inmates at intake, file a modification request, and suspend enforcement. After release, a court hearing reviews order. (MA)
- Order can be reduced to zero if the parent requests modification and is expected to be in prison for at least six more months and earns less than $200/month. (OR)

For More Information:

Repaying Debts
http://reentrypolicy.org/jc_publications/repaying_debts_full_report

Staying In Jobs and Out of the Underground
http://www.clasp.org/admin/site/publications/files/0349.pdf

Working with Incarcerated and Released Parents
http://www.acf.hhs.gov/programs/cse/pubs/2006/guides/working_with_incarcerated_resource_guide.pdf

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REENTRY MYTH BUSTER!

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MYTH: Eligibility for Social Security benefits cannot be reinstated when an individual is released from incarceration.

FACT: Social Security benefits are not payable if an individual is convicted of a criminal offense and confined. However, monthly benefits usually can be reinstated after a period of incarceration by contacting Social Security and providing proof of release.

By law, Social Security benefits are not payable to an individual who is convicted of a criminal offense and confined for more than 30 consecutive days. If an individual was getting Social Security benefits prior to confinement, benefits are suspended until he or she is released. Generally, there is no time limit on the period of suspension.

Upon release, benefits can be reinstated without filing a new claim. The individual must request reinstatement and provide proof of release to a Social Security office. Upon provision of the necessary proof, the Social Security office will reinstate benefits quickly.

Social Security cannot reinstate benefits after release if the individual was not receiving benefits before confinement. Instead, the individual must file a claim and be approved before benefits can be paid. For these individuals, Social Security offers a prerelease application procedure, which enables a claim to be filed several months before the scheduled release date. This process allows benefits to start shortly after the individual is released.

Social Security also administers the Supplemental Security Income (SSI) program for aged or disabled individuals who have limited income and resources. SSI benefits are suspended if the individual is incarcerated for a full calendar month or more. If the incarceration is 12 months or less, Social Security can reinstate SSI benefits quickly upon release. For incarceration periods greater than 12 months, SSI eligibility is terminated and a new claim must be filed to reestablish eligibility. The prerelease application procedure expedites the provision of SSI benefits after the individual is released.

For More Information:

Social Security's Website
http://ww.ssa.gov/

What Prisoners Need to Know
http://www.ssa.gov/pubs/10133.html

Entering the Community after Incarceration – How We Can Help
http://ssa.gov/pubs/10504.html#prerelease

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REENTRY MYTH BUSTER!

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MYTH: Child welfare agencies are required to terminate parental rights if a parent is incarcerated.

FACT: Important exceptions to the requirement to terminate parental rights provide child welfare agencies and states with the discretion to work with incarcerated parents, their children and the caregivers to preserve and strengthen family relationships.

The Adoption and Safe Families Act (ASFA) requires state child welfare agencies to initiate termination of parental rights if a child is in foster care for 15 out of the previous 22 months, unless one of several exceptions apply. The ASFA exceptions to the mandatory filing rule that are most relevant to incarcerated parents include:

- at the option of the State, the child is being cared for by a relative; and
- the State agency has documented in the case plan… a compelling reason for determining that filing such a petition would not be in the best interests of the child.

These exceptions provide child welfare agencies with flexibility to work within the requirements imposed by ASFA by recruiting relatives as caregivers for children and by developing carefully written case plans that document, as circumstances warrant, that the severance of the parent-child relationship would be contrary to the child's best interests.

Because they are in federal statute, the exceptions provided in the law are available to every state, though not all use them in practice. Some states and the District of Columbia repeat the exceptions in their state statutes, emphasizing their applicability. These states include (as of February, 2010): Alabama, Alaska, California, Colorado, Connecticut, Florida, Illinois, Indiana, Iowa, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Oregon, Tennessee, Utah, Vermont, Washington, West Virginia, and Wyoming.

For More Information:

Child Welfare State Policies
http://www.childwelfare.gov/systemwide/laws_policies/state/

Child Welfare Statutes
http://www.childwelfare.gov/systemwide/laws_policies/statutes/groundtermin.cfm

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REENTRY MYTH BUSTER!

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MYTH: Businesses and employers have no way to protect themselves from potential property and monetary losses should an individual they hire prove to be dishonest.

FACT: Through the Federal Bonding Program (FBP), funded and administered by the U.S. Department of Labor (DOL), fidelity insurance bonds are available to indemnify employers for loss of money or property sustained through the dishonest acts of their employees (i.e., theft, forgery, larceny, and embezzlement).

Job seekers who have in the past committed a fraudulent or dishonest act, or who have demonstrated other past behavior casting doubt upon their credibility or honesty, very often are rejected for employment due to their personal backgrounds.

The FBP is an employer hiring incentive that guarantees the job honesty of at-risk job seekers, including ex-offenders. The DOL provides state workforce agencies with a package of promotional bonds to provide a base and incentive to employers and others to participate. Beyond the promotional bonds, additional bonds may be purchased from the bonding agent by states, localities, and other organizations providing reentry services.

- Employers receive bonded employees free-of-charge which serves as an incentive to hire hard-to-place job applicants.
- The FBP bond insurance was designed to reimburse the employer for any loss due to employee theft of money or property with no employer deductible.
- This tool has proven to be extremely successful with only 1% of the bonds ever issued resulting in a claim.

For More Information:

Federal Bonding Program Homepage
http://www.bonds4jobs.com/index.html

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REENTRY MYTH BUSTER!

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MYTH: A parent with a felony conviction cannot receive TANF/welfare.

FACT: The 1996 Welfare ban applies only to convicted drug felons, and only eleven states have kept the ban in place in its entirety. Most states have modified or eliminated the ban.

Section 115 of P.L. 104-193 (Personal Responsibility and Work Opportunity Reconciliation Act of 1996) imposed a lifetime ban on Temporary Assistance for Needy Families (known as TANF or cash/public assistance) benefits for people with felony drug convictions after August 22, 1996, unless their state passes legislation to opt out of the ban. States in which you currently cannot receive TANF if you have a felony drug conviction are Alabama, Alaska, Delaware, Georgia, Illinois, Mississippi, Nebraska, South Carolina, South Dakota, Texas, and West Virginia. All other states have modified the ban or eliminated it entirely.

Thirteen states have enacted laws that allow people with drug felony convictions to receive TANF: Kansas, Maine, Michigan, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Vermont, & Wyoming.

Nine states (California, Hawaii, Iowa, Kentucky, Maryland, Nevada, Oregon, Tennessee, and Utah) have amended the ban to allow individuals who are receiving or have completed drug or alcohol treatment to receive benefits.

Other examples of state modifications to the ban include:

- Providing assistance to individuals who have been convicted of drug possession, while banning those convicted of manufacturing, selling, or trafficking drugs (Arkansas, Florida, and North Dakota).
- Restoring an individual's eligibility after a certain time period if they do not violate the terms of their supervision or become convicted of a new crime (Louisiana and North Carolina).
- Imposing successful completion of drug-testing requirements as a condition of eligibility (Minnesota, Virginia, and Wisconsin).

For More Information

Opting Out of Federal Ban on Food Stamps and TANF
http://www.lac.org/toolkits/TANF/TANF.htm

"State TANF Options—Drug Felon Ban"
http://bit.ly/HIRE_TANF

After Prison: Roadblocks to Reentry
http://www.lac.org/roadblocks-to-reentry/

This information was provided by the Legal Action Center based on the *After Prison: Roadblocks to Reentry* report funded by Open Society Institute and a 2010 state survey funded by the Public Welfare Foundation.

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REENTRY MYTH BUSTER!

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MYTH: A person with a criminal record is not eligible to receive federal student financial aid.

FACT: Individuals who are currently incarcerated in a federal, state, or local correctional institution have some limited eligibility for federal student aid. In general, restrictions on federal student aid eligibility are removed for formerly incarcerated individuals, including those on probation, on parole, or residing in a halfway house.

- An individual incarcerated in a federal or state institution is ineligible to receive a Federal Pell Grant or federal student loans. Although an individual incarcerated in a federal or state prison is eligible to receive a Federal Supplemental Educational Opportunity Grant (FSEOG) and Federal Work-Study (FWS), he or she is unlikely to receive either FSEOG or FWS due to the FSEOG award priority, which is that the grant must be given to those students who also will receive a Federal Pell Grant, and due to the logistical difficulties of performing an FWS job while incarcerated.
- Those incarcerated in correctional institutions other than federal or state institutions are eligible for a Federal Pell Grant, FSEOG, and FWS but not for federal student loans. Also, it is unlikely that incarcerated individuals in correctional institutions other than federal or state institutions will receive FSEOG or FWS due to school funding limitations and to the logistical difficulties of performing an FWS job while incarcerated.
- Incarcerated individuals may not receive federal consolidation loans.
- Upon release, most eligibility limitations (other than those noted below) will be removed. In addition, you may apply for aid in anticipation of being released so that your aid is processed in time for you to start school.
- You may be able to have your federal student loans deferred while you are incarcerated, but you must apply for a deferment and meet its eligibility requirements. To apply for deferment, contact the servicer of your loan(s). To find out what kind(s) of loan(s) you have, and/or to find contact information for your loan servicer, call 1-800-4-FED-AID (1-800-433-3243) or visit www.nslds.ed.gov.
- If your incarceration was for a drug-related offense or if you are subject to an involuntary civil commitment for a sexual offense, your eligibility may be limited as indicated in the two bullets below.
- A student convicted for the possession or sale of illegal drugs may have eligibility suspended if the offense occurred while the student was receiving federal student aid (grants, loans, or work-study). When you complete the *Free Application for Federal Student Aid* (FAFSA[SM]), you will be asked whether you had a drug conviction for an offense that occurred while you were receiving federal student aid. If the answer is yes, you will be provided a special worksheet to help you determine whether your conviction affects your eligibility for federal student aid. You may preview the worksheet in the FAFSA Information section at www.studentaid.ed.gov/pubs.
- If you have been convicted of a forcible or nonforcible sexual offense, and you are subject to an involuntary civil commitment upon completion of a period of incarceration for that offense, you are ineligible to receive a Federal Pell Grant.

For More Information:

To learn about applying for federal student aid, visit www.studentaid.ed.gov.
For details on whether the drug conviction(s) of a particular individual would limit aid eligibility, visit www.studentaid.ed.gov/pubs **and view the "FAFSA Question 23 Student Aid Eligibility Worksheet" to establish if or when a conviction limits eligibility.**

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REENTRY MYTH BUSTER!

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MYTH: Individuals convicted of a felony can never receive Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program) benefits.

FACT: This ban applies only to convicted drug felons, and most States have modified or eliminated the ban.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 prohibited States from providing Supplemental Nutrition Assistance Program (SNAP, formerly known as the Food Stamp Program) benefits to convicted drug felons. The law also allowed States to opt out of the ban in whole or in part. Thirty-seven States have chosen this option, passing legislation either modifying or eliminating the ban and extending SNAP benefits to these individuals.

Eighteen States and the District of Columbia have eliminated the ban entirely, allowing otherwise eligible individuals with past drug felony convictions to receive SNAP benefits: Iowa, Kansas, Maine, Massachusetts, Michigan, New Hampshire, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Washington and Wyoming.

Nineteen States have modified the ban, allowing some individuals to regain SNAP eligibility. Some of the common modifications include requiring individuals to complete drug/alcohol treatment or maintaining the ban only for those convicted of the sale or distribution of drugs, while extending eligibility to individuals with possession-related convictions. States with modified bans include: California, Colorado, Connecticut, Delaware, Hawaii, Idaho, Illinois, Kentucky, Louisiana, Maryland, Minnesota, Montana, Nebraska, Nevada, New Jersey, North Carolina, Tennessee, Virginia and Wisconsin.

Only 13 States have kept the ban entirely in place: Alabama, Alaska, Arizona, Arkansas, Florida, Georgia, Indiana, Mississippi, Missouri, North Dakota, South Carolina, Texas and West Virginia. While individuals with drug felony convictions in these States cannot qualify for benefits, other members of the household may be eligible for SNAP. If the non-eligible individual is the head of household, he or she may apply on behalf of his or her spouse or children.

For More Information:

See the SNAP State Options Report, 8th Edition, available at: http://www.fns.usda.gov/snap/rules/Memo/Support/State_Options/8-State_Options.pdf

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MYTH: People with criminal records are automatically barred from employment.

FACT: An arrest or conviction record will NOT automatically bar individuals from employment.

Title VII of the Civil Rights Act of 1964 makes it unlawful to discriminate in employment based on race, color, national origin, religion, or sex. This law does not prohibit an employer from requiring applicants to provide information about arrests, convictions or incarceration. But, employers may not treat people with the same criminal records differently because of their race or national origin. In addition, in the vast majority of cases, employers may not automatically bar everyone with an arrest or conviction record from employment. This is because an automatic bar to hiring everyone with a criminal record is likely to limit the employment opportunities of applicants or workers because of their race or ethnicity.

If an employer is aware of a conviction or incarceration, that information should only bar someone from employment when the conviction is closely related to the job, after considering:

- The nature of the job,
- The nature and seriousness of the offense, and
- The length of time since it occurred.

Since an arrest alone does not necessarily mean that someone has committed a crime, an employer should not assume that someone who has been arrested, but not convicted, did in fact commit the offense. Instead, the employer should allow the person to explain the circumstances of the arrest. If it appears that he or she engaged in the alleged unlawful conduct, the employer should assess whether the conduct is closely enough related to the job to justify denial of employment.

These rules apply to all employers that have 15 or more employees, including private sector employers, the federal government and federal contractors.

For More Information:

EEOC Policy Guidance and Statements on Arrest and Conviction Records

http://www.eeoc.gov/policy/docs/convict1.html

http://www.eeoc.gov/policy/docs/arrest_records.html

http://www.eeoc.gov/policy/docs/race-color.html#VIB2conviction

FTC Guidance on the Use of Arrest and Conviction Records Under the Fair Credit Reporting Act (FCRA).

The FCRA imposes a number of requirements on employers who wish to use criminal background checks to screen applicants and/or employees. For more information about these requirements, please visit the following websites:

http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre36.shtm

http://business.ftc.gov/documents/bus08-using-consumer-reports-what-employers-need-know

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MYTH: The Federal Government's hiring policies prohibit employment of people with criminal records.

FACT: The Federal Government does not have a policy that precludes employment of people with criminal records from all positions.

The Federal Government employs people with criminal records with the requisite knowledge, skills and abilities.

Consistent with Merit System Principles, agencies are required to consider people with criminal records when filling positions if they are the best candidates and can comply with requirements.

Individuals seeking admission to the civil service must undergo an investigation to establish suitability or fitness for employment. The principal issues for agencies as they consider hiring people with criminal records involve making determinations related to:

- An individual's character traits and conduct to determine whether employment would or would not protect the integrity and promote the efficiency of the service.
- Whether employment of the individual in the department or agency is consistent with the interests of national security.
- The nature, seriousness, and circumstances of the individual's criminal activity, and whether there has been rehabilitation or efforts toward rehabilitation.

People with criminal records are eligible to work in the vast majority of federal jobs. For a few positions, they may not be deemed suitable or fit for the job, depending on the crime committed.

- A handful of federal laws, like those prohibiting treason, carry with them a lifetime ban on federal employment.
- Others, like the criminal statute for inciting a riot, prohibit federal employment for a certain number of years.
- Previous criminal conduct could potentially render an individual incompatible with the core duties of the job.
- Previous criminal conduct may also affect an individual's eligibility for a security clearance, depending on the level of clearance being sought and the nature of the conviction.

Excepted (Schedule A) Appointing Authority permits employment of individuals in work-release programs when a local recruiting shortage exists.

- Allows agencies, with OPM approval, to employ inmates of federal and state correctional institutions.
- Appointments limited to one year.

For More Information:

Regarding Federal Regulations, visit: www.gpo.gov/fdsys

For Suitability Determinations Criteria, search under 5 CFR 731.202

For Excepted Service Disqualifying Factors, search under 5 CFR 302.203

Regarding the Bond Amendment, visit:
http://www.dss.mil/about_dss/press_room/2009/bond_amendment.pdf

Regarding Federal Background Investigations, visit:
http://www.opm.gov/investigate/

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MYTH: An individual cannot apply for Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program) benefits without a valid State-issued identification card.

FACT: A person can get SNAP benefits even if he or she does not have a valid State ID.

Supplemental Nutrition Assistance Program (SNAP) regulations require an applicant to verify his or her identity in order to receive program benefits. A valid State-issued ID is a common document used to prove an applicant's identity, but it is not the only acceptable form of proof. SNAP regulations require that local SNAP offices offer applicants flexibility about the type of documents they can provide to verify their information. A local office is required to accept any document that reasonably establishes the applicant's identity and cannot accept only one type of verification. Other examples of acceptable documents that verify an applicant's identity are:

- A birth certificate
- An ID card for health benefits or another assistance program
- A school or work ID card
- Wage stubs containing the applicant's name

If an applicant cannot obtain sufficient verification on his or her own, the local office is required to provide assistance. If sufficient proof of identity cannot be obtained, the local office can accept a statement from a collateral contact who can confirm the applicant's identity. A collateral contact is a person who is knowledgeable about the applicant's situation and can corroborate information given on the application. Possible collateral contacts include current or former employers, landlords, probation officers or staff members from other social service agencies.

For More Information:

Visit the SNAP website at www.fns.usda.gov/snap for information on application and eligibility requirements.

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MYTH: An individual cannot apply for Supplemental Nutrition Assistance Program (SNAP, formerly the Food Stamp Program) benefits without a mailing address.

FACT: A person can get SNAP benefits even if he or she does not have a mailing address.

The Supplemental Nutrition Assistance Program (SNAP) application process requires applicants to provide an address where they can receive case related notices. Some common documents that clients receive by mail include:

- Electronic Benefit Card (EBT) that clients use to access their benefits at authorized stores
- Reapplication forms
- Eligibility interview appointment information

Individuals and families who do not have a mailing address can still receive SNAP benefits. Applicants without a fixed address should notify an eligibility worker at their local SNAP office about their situation to find out how they can receive program-related correspondence. Some common ways local offices ensure that clients without a mailing address receive notices include:

- Holding correspondence at the local office for pick up;
- Using the address of a local shelter (with the shelter's permission);
- Use the address of a trusted friend or family member (with resident's permission);
- Send correspondence to a local post office as general delivery mail.

Establishing a procedure for applicants without a fixed address to receive timely correspondence helps to ensure that they continue to receive all the SNAP benefits for which they are eligible.

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REENTRY MYTH BUSTER!

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MYTH: Veterans cannot request to have their VA benefits resumed until they are officially released from incarceration.

FACT: Veterans may inform VA to have their benefits resumed within 30 days or less of their anticipated release date based on evidence from a parole board or other official prison source showing the Veteran's scheduled release date.

The Veterans Administration (VA) is proactive with ensuring Veterans are receiving their full entitlement of benefits once released from incarceration.

If the evidence is dated no more than 30 days before the anticipated release from incarceration, VA may resume disability benefits prospectively from the anticipated date of release based on evidence received from a parole board or other official prison source showing the Veteran's scheduled release date.

If the release does not occur on the scheduled date, VA will inform the Veteran that benefits will be discontinued or reduced effective from the date of increase without advance notice.

VA staff conduct outreach in correctional facilities across the nation to share this information with Veterans and prison staff in preparation for release.

For More Information:

VA website
www.va.gov

eBenefits
www.ebenefits.va.gov

VA Benefits
1-800-827-1000

Homeless Hotline
1-877-4AID-VET

What is a REENTRY MYTH BUSTER?

This Myth Buster is one in a series of fact sheets intended to clarify existing federal policies that affect formerly incarcerated individuals and their families. Each year, more than 700,000 individuals are released from state and federal prisons. Another 9 million cycle through local jails. When reentry fails, the social and economic costs are high -- more crime, more victims, more family distress, and more pressure on already-strained federal, state, and municipal budgets.

Because reentry intersects with health and housing, education and employment, family, faith, and community well-being, many federal agencies are focusing on initiatives for the reentry population. Under the auspices of the Cabinet-level interagency Reentry Council, federal agencies are working together to enhance community safety and well-being, assist those returning from prison and jail in becoming productive citizens, and save taxpayer dollars by lowering the direct and collateral costs of incarceration.

For more information about the Reentry Council, go to:
www.nationalreentryresourcecenter.org/reentry-council

REENTRY MYTH BUSTER!

A Product of the Federal Interagency Reentry Council

MYTH: Individuals who have been convicted of a crime are "banned" from public housing.

FACT: Public Housing Authorities have great discretion in determining their admissions and occupancy policies for ex-offenders. While PHAs can choose to ban ex-offenders from participating in public housing and Section 8 programs, it is not HUD policy to do so. In fact, in many circumstances, formerly incarcerated people should not be denied access.

On January 5, 2011, during an Interagency Reentry Council Meeting, HUD Secretary Shaun Donovan reminded council members that "this is an Administration that believes in the importance of second chances." He further stated, "And at HUD, part of that support means helping ex-offenders gain access to one of the most fundamental building blocks of a stable life – a place to live."

Fact: There are only two convictions for which a PHA MUST prohibit admission – those are:

- If any member of the household is subject to a lifetime registration requirement under a State sex offender registration program; and,
- If any household member has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.

Additionally, PHAs must prohibit admission of an applicant for three years from the date of eviction if a household member has been evicted from federally assisted housing for drug- related criminal activity. PHAs must also establish standards which prohibit admission if the PHA determines that any household member is currently engaged in illegal use of a drug or the PHA determines that it has reasonable cause to believe that a household member's illegal drug use or a pattern of illegal drug use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents. In these cases, however, PHAs retain their discretion to consider the circumstances and may admit households if the PHA determines that the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program, such as those supervised by drug courts, or that the circumstances leading to eviction no longer exist (24 CFR 5.854).

PHAs must also formally allow all applicants to appeal a denial for housing giving the applicant an opportunity to present evidence of positive change since the time of incarceration.

Working within the parameters and flexibilities of the above regulations, many PHAs have established admissions and occupancy policies that have promoted reuniting families in supportive communities and using stable housing as a platform for improving the quality of life.

For More Information:

See 24 CFR 960.204 for Public Housing, and 24 CFR 982.553 for the Housing Choice Voucher program

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