

# Criminal Background Checks

**Don't risk it: ensure your background check meets FHA standards**



The Fair Housing Act (FHA) prohibits intentionally or inadvertently making it more difficult for minorities to find housing. Review your policies regarding residents' criminal histories to ensure they do not have a disparate impact on deserving minority home seekers. Complying with FHA requirements not only ensures that everyone has equal opportunities but also opens your doors to a diverse community.



## PROTECTIONS CHECKLIST

Review the criteria below to help keep your community compliant and inclusive.

✓ **Share Policy With All Applicants**

Make the criminal background check policy readily available to all applicants in writing. Ensure that all prospective residents are aware of the policy before they submit their application.

✓ **Do Not Exclude Applicants Based on Arrests Without Conviction**

A policy should not deny residency or otherwise discriminate against an applicant or resident based solely on an arrest record. An arrest is not the same as a conviction. However, a criminal conviction may be used as a screening criterion because it offers sufficient evidence that someone engaged in criminal conduct.

✓ **Avoid Algorithm Bias**

The U.S. Department of Housing and Urban Development (HUD) cautions companies to choose third-party screening companies carefully. Disparate impact caused by biased algorithms is illegal under the FHA.

✓ **Do Not Automatically Exclude Individuals With a Criminal Conviction**

Your criminal background check policy should consider factors such as the nature and severity of the crime and how long ago the crime was committed. The applicant should have a chance to correct inaccuracies before denying an application.

✓ **Communicate With the Applicant Before Taking Adverse Action**

Before rejecting an application due to criminal history, let the applicant know which part of their record could cause an adverse action so they have a chance to correct inaccurate information or explain the circumstances.

✓ **Distinguish Between the Risks Associated With Different Types of Criminal Conduct**

If an applicant is denied housing because of a criminal history, you should be able to explain how the criminal conduct affects your ability to protect residents' safety and property.

✓ **Be Consistent With All Applicants**

If you make an exception to your standard policy for one prospective or current resident, you must offer the same exception to other applicants in similar situations.



It's important to understand how your criminal background check policies relate to the FHA. Create a safe and welcoming community by ensuring your property management teams consistently apply your company's criminal history policies.

**Need help ensuring your policies align with FHA standards?**

**Talk to our multifamily experts today!**

