



COME TOGETHER & THRIVE

“SOURCE OF INCOME” FAIR HOUSING LAWS Q&A

South Euclid (and our neighboring community, University Heights) enacted laws prohibiting “source of income” discrimination in our communities. This means that landlords cannot discriminate against people who hold Housing Choice Vouchers (HCV), formerly called Section 8, and other sources of income.

The following Q&A is intended as a general overview of South Euclid’s Fair Housing Law pertaining to Source of Income and the acceptance of Housing Choice Vouchers. The following information provides information and general guidance for landlords doing business in the community.

What are Housing Choice Vouchers?

The Housing Choice Voucher Program (commonly referred to as Section 8) is a federal program assisting very-low-income families, seniors, and people with disabilities to afford decent, safe, and sanitary housing in the private market. HCVs provide a rental subsidy on behalf of the assisted family or individual allowing participants select housing of their choice in the community, including single-family homes, townhouses and apartments.

People who receive vouchers find their own rental housing and use the vouchers they receive from their housing agency to help pay the rent. The Federal Government, through the Public Housing Agency (PHA) that issues the voucher, will pay the established portion of the rent beyond what the participant household can afford.

Ultimately, it is the voucher holder's decision whether or not to rent your property. Of course, as the landlord, you would screen the Section 8 voucher holder just as you would any other prospective tenant.

Rental units must meet minimum standards of health and safety, referred to as “Housing Quality Standards”, as determined by the federal government. A housing subsidy is paid to the landlord directly by the PHA on behalf of the participating family. The family pays the difference between the actual rent charged by the landlord and the amount subsidized by the program.

What are my obligations as a Landlord under the program?

The role of the landlord in the voucher program is to provide decent, safe, and sanitary housing to a tenant at a reasonable rent. The dwelling unit must pass the program's housing quality standards and be maintained up to those standards as long as the owner receives housing assistance payments. In addition, the landlord is expected to provide the services agreed to as part of the lease signed with the tenant and the contract signed with CMHA or another public housing agency.

Can a housing provider refuse to take a voucher because they object to dealing with a third party (such as the Public Housing Authority that issues it) or object to the added burdens of participating in the program (i.e., annual Housing Quality Standards inspections, or an orientation session)?

No. Permitting housing providers to opt out of participation in the program is at odds with the fair housing objective of adding source of income protections.

What is the difference between a Rapid Re-Housing Voucher and a Housing Choice Voucher? Does this ordinance cover both?

Housing Choice Vouchers, formerly known as Section 8 vouchers, assist low-income individuals and families in maintaining stable housing by providing long-term rental assistance as long as the family remains eligible. Housing Choice Vouchers are issued by Public Housing Authorities, or PHAs. There are 3 PHAs in Cuyahoga County including Cuyahoga Metropolitan Housing Authority, EDEN Inc, and Parma Public Housing Agency. Families with vouchers from these PHAs may use them anywhere throughout Cuyahoga County.

Rapid Re-Housing Vouchers provide short-term, rental assistance, currently up to 1 year, for families experiencing homelessness. EDEN, Inc. administers Rapid Re-Housing Vouchers to families and individuals currently in a homeless shelter in Cuyahoga County. These vouchers assist individuals and families in accessing permanent housing and provide the necessary short-term assistance to help them get back on their feet. Rapid Re-Housing Vouchers may be used anywhere throughout Cuyahoga County. South Euclid's ordinance applies to both Housing Choice Vouchers and Rapid Re-Housing Vouchers.

Must I participate in a CMHA or PHA sponsored Landlord Training?

Yes. A short landlord training (90 minutes) is required for all new landlords prior to signing a Housing Choice Voucher Program Contract and the training will provide information and resources to develop a better understanding of the program. Topics include advertising, screening applicants, understanding landlord/tenant processing information, security

deposits, inspection process, rent reasonableness and the responsibilities of landlords and tenants. CMHA Trainings are held several times a month. More information about trainings can be found at www.cmha.net.

Does my rental property need to be inspected to participate in the HCVP program?

Yes. All units must pass a Housing Quality Standards (HQS) Inspection prior to going under contract with the program. Basic requirements include working smoke detectors, hazardous gas hook-ups, no water, no electricity, no heat, sewer issues and basic security measure. Please go to www.cmha.net for more information.

While the inspection is based on minimum standards established by the Federal Government, all of South Euclid's rental housing laws, including yearly registration and inspection apply.

Can landlords reject prospective housing voucher tenants based on their credit history or score?

The short answer is yes, as long as their consideration of the credit history is reasonable and a consistent practice for all prospective tenants, including those without vouchers.

In *T.K. v. Landmark West*, 353 N.J. Super. 353, 802 A.2d 609 (N.J. Super. Ct. App. Div. 2001) at 360 the court found that creditworthiness only relates to the housing provider's "legitimate concern that a prospective tenant has a reliable and steady source of income to fund rent payments and satisfy the other financial requirements of a lease."

If a housing provider reviewed an applicant's credit and noted entries for unpaid rent and utilities which accrued while the applicant had their voucher, that might be a reasonable grounds for credit-based denial as opposed to a denial for similar debts incurred while the family did not have their subsidy. See [this document from the National Housing Law Project](#) for additional detail.

Generally, considering credit history may be permissible in assessing a voucher household's ability to pay; however, setting a minimum credit score may be discriminatory. Many voucher holders may struggle with poor credit, especially true for new voucher holders, because they, by condition of their eligibility for the program have low incomes limiting their ability to pay market rates for housing or other expenses while waiting to receive the needed rental subsidy. Given the shortage of affordable housing and insufficient supply of rental subsidies, many families will only be able to start rebuilding their credit after they enter into the program and are able to afford their housing.

Can landlords reject prospective housing voucher tenants based on their court records for civil and/or criminal actions?

Yes. However, it is critical that all housing providers be aware that criminal background screening has potential fair housing implications as well. Whether screening a household with a voucher or without, all housing providers must, according to [2016 guidance from HUD's Office of the General Counsel on the Application of the Fair Housing Act Standards to the Use of Criminal Records by Providers of Housing and Real Estate-Related Transactions](#) be able to show that any basis upon which they deny an applicant is "necessary to serve a 'substantial, legitimate, nondiscriminatory interest'" and that the policy "accurately distinguishes between criminal conduct that indicates a demonstrable risk to resident safety and/or property and criminal conduct that does not."

This guidance also indicates that "blanket bans" (i.e., "No felonies." Or "No criminal records in the past 20 years.") will violate the Fair Housing Act because they will disproportionately impact Black and Latinx applicants for housing and because there is a less discriminatory alternative. One such alternative called for in the guidance includes a more nuanced policy paired with an "individualized assessment" in which the housing provider only screens for a limited scope of prior criminal convictions (not arrests) that relate directly to demonstrable safety concerns and, in the event one or more such prior convictions within the specified timeframe of the inquiry are identified, invites the applicant to provide mitigating information for the housing provider's consideration before a final determination is made.

Of note on this topic are two recent research reports and a fair housing case settlement with what is being promoted as a model policy and which was developed in reliance on the data from the first report below.

- Wilder Research Foundation, Cael Warren, Success in Housing: How Much Does Criminal Background Matter? ([Abstract](#), [Full Report](#))
- Heartland Alliance, [Win-Win: Equipping Housing Providers to Open Doors to Housing for People with Criminal Records](#)
- Housing Opportunities Made Equal of Virginia v. Wisely Properties LLC, 3:19-cv-00413 (Eastern District of Virginia) ([Press Release](#), [Settlement with Model Policy](#))

Can landlords reject prospective housing voucher applicants if they've been evicted and/or sued by a prior landlord?

Again, the short answer is likely yes. However, if a prior housing provider evicted or sued the applicant before they had a housing subsidy that may be less reliable evidence of the household's successful tenancy with one. Also, evictions or lawsuits for reasons other than non-payment such as damage to the property, repeated noise violations, or other material breach of the lease may be reasonable considerations.

Can a housing provider reject an applicant with a voucher because they do not meet their minimum income requirement?

No. This would not be appropriate. Some housing providers require applicants to make 2 or 3 times the monthly rent amount. Applying this standard to households with a housing voucher would not be appropriate because a voucher holder's portion of the rent (referred to as the Total Tenant Payment, or TTP) is calculated as an affordable portion of their monthly income, at approximately 30%. In this way households with vouchers may be more stable tenants than households without them. If a voucher holder's hours are cut, or if they get laid off from work, their TTP will be adjusted accordingly so that their portion of the rent remains affordable for them and the portion of rent being paid by the voucher-provider (referred to as the Housing Assistance Payment, or HAP) will increase ensuring that the housing provider always receives the full rent payment.

Can a housing provider refuse to rent to a household with a voucher if they (the applicant and voucher provider combined) will not cover the full rent amount?

Yes. Housing providers will violate the ordinance if they try to charge higher rents to applicants with vouchers; however, they do not have to rent to a voucher household if the total contract rent offered is less than the rent amount the property is listed/advertised for.

Can I advertise "No Section 8" or "No Housing Vouchers" when promoting my property for rent?

No. It is against the City's non-discrimination code to use these and other types of discriminatory language when promoting property for rent.

What laws govern the Source of Income protections?

Renting property is a business, and landlords must abide by all laws pertaining to the business of renting property in the City's code. This also means obtaining PHA approvals and following their guidelines to accept housing choice vouchers.

In South Euclid Fair Housing Laws are now governed under a comprehensive non-discrimination law (Chapter 552) approved by City Council in 2018. Section 552.02 covers Prohibited Acts of Discrimination Relating to Housing and Real Estate Transactions. Whoever violates the provisions of the code may be guilty of a misdemeanor of the third degree.

Who can I contact if I have any questions?

- For information about annual rental registration and property inspections, contact Housing Programs Coordinator Stephen Karr at housingprograms@seuclid.com or 216.691.4206.
- For information about South Euclid's non-discrimination ordinance, Civil Rights Review Board process and Diversity Training information, contact Director of Community Services Keith Benjamin at kbenjamin@seculid.com or 216.691.4234.
- To schedule an inspection from CMHA or attend their required landlord briefing please visit: www.cmha.net or call 216.348.5000.

*Please note that this Q&A is intended to only provide preliminary guidance and is not to be taken as legal advice provided by the City, staff or any members of the South Euclid government.
Please consult your own attorney when seeking legal advice.*

Thank you to the Fair Housing Center for Rights & Research for their assistance with this Q&A!