



NEPTUNE CITY HOUSING
AUTHORITY
NCHA

NJ Fair Chance Housing Disclosure

On Juneteenth 2021, Governor Murphy signed the Fair Chance in Housing Act (FCHA), which bars housing providers from asking about criminal history on housing applications in most instances. The FCHA is the first state law of its kind in the country and is intended to ensure people with past criminal histories have a fair shot at accessing safe and affordable housing.

The following Model Disclosure Statement has been drafted by the New Jersey Division on Civil Rights (DCR) to reflect housing protections set forth in the Fair Chance in Housing Act, N.J.S.A. 46:8-52 to 64, (FCHA) and the accompanying rules, N.J.A.C. 13:5. This Model Disclosure Statement can be used by housing providers as a resource in creating their own materials.

Model Disclosure Statement:

New Jersey's Fair Chance in Housing Act, N.J.S.A. 46:8-52 to 64 (FCHA), limits a housing provider's ability to consider a person's criminal history in deciding whether to extend an offer or whether to rent a home after extending an offer. With some exceptions, the FCHA makes it unlawful for a housing provider to ask an applicant if they have a criminal history on their initial application materials, in an interview, or in any other way before making an offer. It is also unlawful for a housing provider to publish any advertisement prohibiting applicants with criminal histories from applying for a unit.

There are two exceptions that housing providers may ask about on initial application materials:

- Whether an applicant has ever been convicted of drug-related criminal activity for the manufacture or production of methamphetamine on the premises of federally assisted housing; or,
- Whether the applicant is subject to a lifetime registration requirement on a state sex offender registry.

Criminal History Information that can Never be Considered:

A housing provider can never, either before or after the issuance of an offer, ask about the following types of criminal records or rely upon the following types of criminal records in rejecting an applicant (whether the information is obtained from an applicant or from a third-party vendor or other outside person/entity):

1. arrests or charges that have not resulted in a criminal conviction;
2. expunged convictions;
3. convictions erased through executive pardon;
4. vacated and otherwise legally nullified convictions;
5. juvenile adjudications of delinquency; and
6. records that have been sealed.

The law also prohibits housing providers from requiring drug or alcohol testing; from disseminating or distributing an applicant's record in any way not authorized under the FCHA; and from retaliating against anyone for exercising their rights to [file a complaint](#) under the law.

If a housing provider chooses to evaluate criminal history, it may do so only after a conditional housing offer has been made. Before considering the applicant's criminal history, it must provide a [Disclosure Statement](#) informing the applicant that the eligibility criteria for the unit includes the applicant's criminal history, and appraising the applicant of

Fair Housing Act

42 U.S.C. §§ 3601-19

Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, prohibits discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, because of race, color, religion, sex (including gender identity and sexual orientation), familial status, national origin, and disability. It also requires that all federal programs relating to housing and urban development be administered in a manner that affirmatively furthers fair housing.



their right to demonstrate mitigating factors, i.e. inaccuracies in their criminal record or evidence of rehabilitation. After a conditional offer, a housing provider can only consider the following types of criminal records (see below for further information on interpreting relevant criminal offenses)

- A conviction for murder, aggravated sexual assault, kidnapping, arson, human trafficking, sexual assault, endangering the welfare of a child in violation of N.J.S.2C:24-4(b)(3);
- A conviction for any crime that requires lifetime state sex offender registration;
- Any conviction for a [1st degree indictable offense](#), or release from prison for that offense, within the past 6 years;
- Any conviction for a [2nd or 3rd degree indictable offense](#), or release from prison for that offense, within the past 4 years; and
- Any conviction for a [4th degree indictable offense](#), or release from prison for that offense, within the past 1 year.

Withdrawal Process:

If a housing provider finds such an offense(s) in an applicant's record, the housing provider may withdraw the conditional offer only if withdrawal is necessary to fulfill a substantial, legitimate, and non-discriminatory interest. In so doing, the housing provider must perform an individualized assessment based on the following factors:

- Nature and severity of the offense(s);
- Applicant's age at the time of the offense(s);
- How recently the offense(s) occurred;
- Any information the applicant provided in their favor since the offense(s);
- If the offense(s) happened again in the future, whether that would impact the safety of other tenants or property; and
- Whether the offense(s) happened on, or was connected to, property that the applicant rented or leased.

The housing provider must also provide a [Notice of Withdrawal](#) form indicating the specific reasons for the withdrawal, and notifying the applicant of their right to appeal the denial of their application. The applicant can then request a copy of all the information the housing provider relied upon in making the withdrawal within 30 days of receiving the Notice, and the housing provider must provide the information free of charge within 10 days after receipt of a timely request.

Appealing a Withdrawal:

The housing applicant may then use that information to appeal to the housing provider, claiming that the housing provider violated the FCHA, and provide additional information in support of a violation. A housing provider must consider and provide a determination based on that new information within 30 days.

NCHA may withdraw a conditional offer based on your criminal record only if NCHA determines, by a preponderance of the evidence, that the withdrawal is necessary to fulfill a substantial, legitimate, and nondiscriminatory interest.

If NCHA utilizes any vendor or outside person/entity to conduct a criminal record check on their behalf, NCHA will take reasonable steps to ensure that the vendor or outside person/entity conducts the criminal record check consistent with the requirements of the FCHA and rules. Specifically, if Neptune City Housing Authority receives a criminal history inquiry conducted by a vendor or outside person or entity that is conducted in violation of the FCHA in that it reveals a

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record that is not permitted to be considered under the FCHA, NCHA must show that it did not rely on that information in making a determination about your tenancy.

If you are subjected to the withdrawal of a conditional offer of housing due to criminal history, you have the right to request and receive the materials relied upon by Neptune City Housing Authority in making this determination.

You have the right to dispute, within ten (10) days of receiving this statement, the relevance and accuracy of any criminal record, and to offer evidence of any mitigating facts or circumstances, including but not limited to your rehabilitation and good conduct since the criminal offense. You may also provide evidence demonstrating inaccuracies within aspects of your criminal record which may be considered under the FCHA, or evidence of rehabilitation or other mitigating factors to NCHA at any time, including after the ten days.

Any action taken by NCHA in violation of the process laid out in this statement may constitute a violation of the FCHA. If you believe that any owner, agent, employee, or designee of NCHA has violated any of the above requirements, you may contact the New Jersey Division on Civil Rights at www.NJCivilRights.gov 1-866-405-3050). A complaint must be filed with DCR within 180 days of the alleged discriminatory conduct. You cannot be subjected to retaliation for filing a complaint or for attempting to exercise your rights under the FCHA.

Or you may reach out our contract administrator:

Ms. Laura Hallam
Contract Administrator | Asset Management Division
NJ Housing and Mortgage Finance Agency
637 S Clinton Avenue | Trenton, NJ 08611
609.278.7569
LHallam@njhmfa.gov

Prospective Tenant Signature

Date

Housing Provider Signature

Date

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