

LEGAL ACTION OF WISCONSIN

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TO: Board of Commissioners, Community Development Authority of the City of Madison
FROM: Attorney Heidi M. Wegleitner
DATE: June 11, 2026
RE: Comments on Proposed Revisions to Admissions and Continuing Occupancy Policies (ACOP), Chapter 3, and to the extent applicable, the Administrative Plan for the Section 8 Housing Choice Voucher Program (Admin Plan)

Legal Action of Wisconsin, Inc. (LAW) appreciates the opportunity to provide comments in response to the proposed revisions to the CDA's ACOP and Admin Plan. LAW is the state's largest nonprofit law firm providing free, high-quality legal aid to low-income Wisconsinites with civil legal problems. We serve all 72 counties, including Wisconsin's Tribal Nations, and serve clients in about 13,000 cases per year. We represent clients across a wide range of civil legal issues, including civil legal housing issues. We represent clients in matters concerning their federal housing rights, eviction defense proceedings, inhabitable conditions, repairs, and housing discrimination. LAW respectfully submits these comments informed by decades of experience representing CDA applicants to and participants in the public housing and section 8 rent assistance programs.

The CDA's proposed revisions seem aimed at reducing program admission barriers for low-income persons in need of safe and affordable housing, particularly people excluded due to criminal legal barriers which disproportionately impact communities of color. However, further changes would improve the experience of current program participants, make CDA properties more welcoming, and reduce discriminatory and inaccurate denial decisions. Further changes would also open more doors to these critical programs for people experiencing homelessness. While these comments specifically reference provisions in the ACOP, many of the concepts are applicable to similar provisions which exist in the Admin Plan

1. Changes to guest policies would provide positive benefits to tenants seeking and providing natural supports for their loved ones and stop unfair treatment of people without housing. (ACOP 3-10 – 3-11)

a. CDA's guest policies are exceedingly restrictive.

The CDA's ACOP and federal regulation define "guest" as someone temporarily staying in the unit with the consent of the tenant or someone authorized by the tenant to give consent. The ACOP also incorporates the federal regulation which requires the CDA to use leases which provide the tenant with exclusive use and occupancy of the leased unit, "including the reasonable accommodation of guests." 24 CFR § 966.4(d)(1). Courts have struck down PHA policies with excessive restrictions, including advance registration requirements for overnight guests and unfettered discretion to deny guests. *McKenna v. Peekskill Hous. Auth.*, 647 F.2d 332 (2d Cir. 1981); *Lancor v. Lebanon Hous. Auth.*, 760 F.2d 361 (1st Cir. 1985)

Despite this language, CDA's current guest policies require a resident family to notify the CDA whenever an overnight guests will be staying in the unit for more than 3 days and limit guest stays to 8 consecutive days and 14 cumulative days in any twelve-month period. Public housing tenants have a constitutional right of free association and right of privacy, but the CDA's restrictions on guests may be violating those rights. To address these concerns, the CDA could *consider increasing the numbers to 8 days for advance notice of overnight guests and 14-day limit on consecutive days and 56 days for cumulative days*. Under existing policy, a tenant could only have their non-household member significant other stay overnight once per month. Expanding cumulative nights would allow the tenant to have the significant other overnight once per week. Furthermore, increasing the overnight stays would also reduce the need for guests to pursue exceptions to the policies, which the CDA makes available.

b. CDA's guest stay limit exceptions are unfair to people who are unhoused.

CDA policies allow tenants to seek exceptions to the guest stay limits, but the terms for seeking those exceptions are problematic. First, in order to qualify for an exception, the tenant must be able to provide "verifiable documentation of the need and verifiable documentation of the residence to which the guest will return". Under this policy, someone wishing to care for their unhoused family member for a couple of weeks following their family member's discharge from the hospital to assist in their recovery would be denied an exception because they could not provide verifiable documentation of a residence to which their family member will return. While the exception policy lists an example of caring for a guest who is recovering from a medical procedure with a 20-day recovery period, it does not provide any other information about what might demonstrate a "need" for an exception. Would a guest traveling from Mexico for a 10-day visit qualify for an exception? Does it matter if it is for a funeral or a wedding? *In order to clarify the policy in the best interests of Legal Action's clients, the CDA could modify the stay limits as discussed above to enable longer stays to reduce the need for exceptions, and strike both the exception language requiring verifiable documentation of "the need" and the verifiable documentation of the residence to which the guest will return. Exceptions could then instead be available without requiring "verifiable documentation," while prohibiting the CDA from unreasonably denying exception requests.*

c. CDA's ban policies provide the CDA with too much discretion to ban guests and visitors for alleged behavior unconnected to the CDA property and the need to ensure resident and staff safety and peaceful enjoyment. (ACOP 3-10, 3-11, 3-26, 3-27)

The ACOP provides broad discretion for the CDA to ban guests, including for criminal for the same reasons it may deny admission to applicants for public housing tenancy for certain types of criminal activity (in 3-IIIB and 3-IIIC), including:

- The guest has engaged in certain types of criminal activity for which the CDA has authority to deny an application for public housing tenancy, including:
 - has been evicted from federally assisted housing in the past years for drug related criminal activity,
 - is currently engaged in the use of illegal drugs (proposed CDA definition is having misdemeanor or felony drug conviction within the last 12 months where use could affect

health or safety of other residents),

- has a pattern of use of drugs or abuse of alcohol which may threaten the health or safety or
 - right to peaceful enjoyment of the premises by other residents (proposed CDA definition is for one or more incident on or off the premises within the last 24 months);
- If any member of the guest's household was ever convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing; or
 - If any member of the guest's household is subject to a lifetime registration requirement under a state sex offender registration program.

The ACOP also allows bans for guests who engaged in or threatened violent or abusive behavior toward CDA personnel, CDA contractors, or CDA residents on or off the property. The current authority does not limit the time frame for these bans and incorporates unworkable language that provides for denial of households for the lifetime sex offender status or methamphetamine manufacturing or production conviction of one of their household members. Applying the household standard does not make sense for a guest and it is not required because they are not being screened for admission to the program, but are only visiting the unit. This type of screening is excessive, and ignores the distinction between reviewing an application for tenancy and a guest. *The policy would be more reasonable for Legal Action clients if it banned guests only for activity that specifically relates to the guest's actions at the rental premises which threaten the health and safety of residents and CDA staff and contractors. Further, the CDA could limit bans to periods of time that take into account severity of offenses on the CDA property.*

d. The policy unjustly restricts former residents who were evicted from being overnight guests, even though many evictions are unrelated to criminal activity.

The ACOP also, inexplicably, prohibits former residents who have been evicted from being overnight guests. Tenants get evicted for a variety of reasons that do not relate to the criminal activity that the CDA enumerates as grounds for banning a guest. One of the most common reasons for being evicted is the failure to pay rent. The ability to meet a financial obligation to a landlord is unrelated to whether one may be a suitable guest. The CDA's prohibition on overnight guests for former residents who were evicted is overly broad because it includes no time limit and it does not require any connection to behavior of the formerly evicted resident that would create a health or safety risk to other tenants or CDA staff or contractors. *Striking this provision from the ACOP would be helpful to LAW clients. There is no reason former CDA residents, whether evicted or not, should be treated differently from other guests, unless their actions at the CDA premises threaten the health and safety of CDA residents, staff, and contractors.*

e. Unauthorized occupancy determinations may include where mail is received, but this is not reliable evidence, as many Legal Action clients receive mail at a different address than where they live.

In relevant part, the ACOP states “[g]uests who represent the unit address as their residence address for receipt of benefits or other purposes will be considered unauthorized occupants.” It is difficult to fathom the CDA making a determination that “a guest represented the unit address” on something other than uncorroborated hearsay evidence. In Legal Action's experience, this comes up based on delivery of mail, a review of online Wisconsin Court Access records, or police reports, not personal observations of an individual representing the address as their residence to another party, like the police, other government agency, or the postal service. Furthermore, it is not appropriate to assume that someone receiving mail at an address is the same as living at the address. It is common for people in transition to receive mail at the residence of a family or friend who they trust when they do not have another suitable alternative for mail

delivery. *The current policy on unauthorized occupancy allows for reliance on personal knowledge, like witness observations, of unauthorized occupancy, which opens up CDA determinations of unauthorized occupancy to be based on unreliable hearsay evidence.* Uncorroborated hearsay evidence is not sufficient evidence to sustain a public housing agency's decision. *Williams. v. Hous. Auth. City of Milw.*, 2010 WI App 14, ¶ 13, 323 Wis.2d 179, 779 N.W.2d 185.

2. CDA's absent family members policy allows someone to lose their home simply because they are in pretrial detention because they can't afford bail and those detained on probation holds. (ACOP 3-15)

Under CDA policy, generally a household member is temporarily absent if they are absent from the household less than 90 days and permanently absent for more than 90 days. The CDA makes an exception, however, for absence due to incarceration. If a sole household member is incarcerated for more than 30 consecutive days, they will be considered permanently absent and if any other member of a household is incarcerated for 30 consecutive days, they will be considered permanently absent. This will result in people losing their public housing even though they have not been convicted of a crime and require housing to be released on jail diversion. Consider the person who is sitting in jail pretrial because they cannot afford to pay bail¹. A low-income person would likely have to choose between paying bail to get released pretrial or paying their rent. People sometimes sit in trial for several months because they cannot afford bail or because they are on a probation hold being investigated for possible revocation, but after 30 days they will lose their public housing. Losing their housing means losing their eligibility to get out on jail diversion. CDA policies already allow for termination or exclusion for certain types of criminal activity, so creating an additional exclusion solely based on absence from incarceration is unnecessary and creates additional barriers for people who are criminal justice system involved. *Eliminating the 30-day permanent absence rule for incarceration would mitigate harm from racially disproportionate incarceration rates, particularly for people who have not been convicted of a crime or are sitting in jail for violating a rule of supervision.*

3. Changes to live-in-aide policies would promote compliance with fair housing laws and reinforce the family's right to grieve denials. (ACOP 3-15)

The ACOP requires a tenant to make a written request for a written live-in-aide, but the Fair Housing Act does not require that a request for a reasonable accommodation be in writing.²The CDA would be aligned with the Fair Housing Act if it modified its language to "encourage," but not require, a live-in-aide request to be made in writing. Sometimes, the need for a live-in-aide is apparent, in which case additional verification would be unnecessarily burdensome on the applicant. *The following modification would be helpful to LAW clients who have need a live-in-aide: "The CDA encourages the family's request for a live-in aide to be made in writing, but if a family makes an unwritten request, the CDA will reduce the request to writing. If the family's need for a live-in-aide is not apparent, the CDA may request verification from a*

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1. On June 10, 2026, 321 of the 601 residents physically in the jail are held pretrial. <https://cjc.danecounty.gov/Data-and-Dashboards/Jail-Snapshot> (last accessed June 11, 2026), the average length of stay of those physically in the jail is 92 days and the median is 48 days. One of the key findings from the *Analysis of Cash Bail and Signature Bonds in Dane County* is that cases involving Black defendants had lower signature bond rates. <https://cjc.danecounty.gov/Data-and-Dashboards/Signature-Bonds-and-Cash-Bail> (last accessed June 11, 2026)
 2. Joint Statement of the Department of Housing and Urban Development and the Department of Justice, *Reasonable Accommodations Under the Fair Housing Act*, (May 17, 2004), available at https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf, last accessed June 10, 2026.

reliable, knowledgeable healthcare provider that the live-in aide is essential for the care and well-being of the elderly, near-elderly, or disabled family member.”

The ACOP provides for written notice of a decision to approve or deny a particular person as a live-in-aide, but states that “[l]ive-in aides or their family members are not entitled to the CDA’s grievance hearing process.” *The tenant household seeking the live-in-aide, however, should be able to grieve this decision, and LAW recommends adding the following language regarding the notice of approval or denial: “the notice shall inform the family of its right to grieve the CDA’s decision on the request to approve a person as a live-in-aide.”*

4. CDA has authority to define terms in a way that minimizes adverse impacts of HUD mandated denials related to criminal activity.

Even though HUD requires denials to admission for certain types of criminal activity, the CDA has authority to define terms in its policies to minimize the adverse impacts. CDA could exercise that authority to further reduce housing barriers for people in recovery. Housing stability is a key component for successful reentry and reducing recidivism.

- a. “Currently engaged in” the use of illegal drugs definition does not currently acknowledge lengthy duration of criminal case proceedings, nor does it look back to offense date for drug related convictions affecting health and safety.**

For example, HUD rules require the CDA to deny admission if it determines that any household member is currently engaged in the use of illegal drugs, but CDA determines what “currently engaged in” the use of illegal drugs means. The CDA’s proposed definition of “currently engaged in” is, “a drug-related misdemeanor or felony conviction within the last 12 months where the behavior could affect health and safety of other residents. CDA will also consider evidence from treatment programs.” (ACOP 3-27)

Certainly, a criminal conviction is much more reliable evidence of criminal conduct than arrest records or police reports or other hearsay statements. However, the lookback period is too long when you consider the length of time it takes for a criminal case to be adjudicated. The 12-month look back period is more reasonable if it connects back to the offense date rather than the conviction date, as that is the date of the alleged drug related criminal activity affecting health and safety. *Instead, the language could define “currently engaged in” as a drug-related misdemeanor or felony conviction where the behavior could affect health and safety of other residents with an offense date within the last twelve months.*

- b. “Pattern of use of drugs or abuse of alcohol” that may threaten the health, safety or right to peaceful enjoyment of the premises by other residents is currently overbroad, and could impact people with evictions unrelated to the use of illegal drugs or the abuse of alcohol where the behavior affects health and safety of other residents.**

The proposed CDA policy requiring at least two convictions or evictions related to the use of illegal drugs or abuse of alcohol within the last 24 months is an improvement over the existing language, but the proposed policy could go further in reducing denials based on unreliable evidence and unconnected to behavior at their residency. LAW is concerned that the policy

allows the use of evictions as evidence of the use of drugs or abuse of alcohol. First the civil burden of proof in an eviction action is much lower than the criminal burden of proof of beyond a reasonable doubt. Moreover, many eviction judgments are entered without a trial on the merits and without the landlord having to prove up the criminal activity because the tenant fails to appear for a variety of reasons (including lack of transportation, child care, job responsibilities). Tenants are often evicted without any hearing based on an alleged default of an eviction stipulation. The policy allows an eviction judgment from publicly or privately owned housing as a result of the specified criminal activity within the past two years (ACOP 3-32), but it is not clear when an eviction judgment is “as result of the specified criminal activity.” Importantly, the policy does not require any findings of fact by a judge or jury in an eviction a case of the alleged criminal activity. There are additional factors that weigh against the CDA considering evictions as evidence of criminal activity. As previously mentioned, even if there was a judgment following a trial on the underlying criminal issues, the civil burden is much lower than that in a criminal case. A tenant in a civil case who fails to testify can be subject to an adverse inference based on the failure to testify. Hearsay is admissible in small claims eviction cases and an eviction defendant could be evicted without being able to confront their accuser. Furthermore, there is no right to a lawyer in a civil case and the vast majority of eviction defendants lack access to legal representation because they can’t afford a lawyer. *For these reasons, it is inappropriate to allow eviction judgments to be used as evidence of criminal activity related to the illegal use of drugs and abuse of alcohol. The CDA’ policy could be further tailored by limiting denials to convictions for criminal activity related to illegal drugs or abuse of alcohol on the premises as opposed to the “on and off” the premises. Finally, reducing the lookback period from 24 months to a shorter time period like 12 months would increase access for people who need housing stability.*

5. The CDA could further reduce discretionary denials based on criminal legal records to further fair housing and reduce racially disparate denials. (ACOP 3-30 - 3-33)

At page 3-30 of the proposed ACOP changes document, the CDA makes a number of proposed changes that would be beneficial to low-income people seeking admission to public housing. Clearly articulating what items will not be used as a basis for discretionary criminal record denials is an important improvement to the CDA’s policies. Pursuant to 24 CFR § 960.203(c), the “CDA’s tenant selection criteria to be established and information to be considered **shall be reasonably related to individual attributes and behavior of an applicant and shall not be related to those which may be imputed to a particular group or category of persons of which an applicant may be a member.**” Given that the denials in this section are all permissive and not mandatory, the CDA should strongly consider whether to use them at all given the significant racially disparate impact of arrest and incarceration in the City of Madison and Dane County and nationwide. Should the CDA continue to use its permissive authority to deny people based on criminal history, a lookback period of 2 years would be an appropriate maximum.

a. Reduce criminal conviction lookback periods and consider a 2 year maximum lookback period and require denials to be connected to threatening criminal activity on the premises.

To the extent the CDA continues discretionary denials based on an applicant’s criminal history, under 24 CFR § 960.203(c), it could consider reducing all of the lookback periods and a maximum lookback for the most serious crimes to two years. *The following proposals and*

reduced lookback periods would provide more access to people currently excluded, disproportionately Black and Brown, under existing and proposed policies:

- *Drug related criminal activity - manufacture or distribution of a drug, within the last year for a felony conviction (contrast CDA proposed change of 2 years for a misdemeanor conviction and 10 years from a felony conviction);*
- *Violent criminal activity – defined by HUD as “any criminal activity that has as one of its elements the use, attempted use, of threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage [24 CFR 5.100 and 960.203©(3)*
 - *Within the last year for a misdemeanor conviction or two years for a felony conviction of a crime which has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage (contrast CDA proposal of 2 years for a misdemeanor conviction and 10 years for a felony conviction).*

Additional language confirming that the conviction must be for a criminal charge that meets the HUD definition of criminal activity would help ensure that CDA stops denying people based on information in police reports or criminal complaints that do not result in convictions for violent crime. In the past, the CDA has denied applicants based on information in criminal complaints and police reports alleging violent criminal activity, but where the defendant was not charged with criminal offenses that met the HUD definition of violent criminal activity because the offense did not contain as one of its elements “the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

- *Criminal activity on the premises where you reside that threatens the health, safety, or welfare of other tenants*
 - *within the last year for a misdemeanor conviction or 2 years for a felony conviction (contrast with CDA proposal which allows for denials where the criminal activity conviction is “on or off the premises where you reside and only “may threaten”, and the lookback period is 2 years for a misdemeanor conviction and five years for a felony conviction).*

Limiting these discretionary denials based on criminal activity to that which threatens (instead of “may threat”) health, safety and welfare of other tenants on the residential premises would be more narrowly tailored to the purpose of the tenant suitability screening. If the criminal activity occurred elsewhere, it did not threaten other tenants. The existing language “may threaten” is too broad and could screen out to many people based on speculation of the impact of the criminal activity.

- *Criminal activity on the premises where you reside that threatens the health, safety, or welfare of CDA staff, contractors, subcontractors, or agents of the CDA*

- *within the last year for a misdemeanor conviction or 2 years for a felony conviction (contrast with CDA proposal which allows for denials where the criminal activity conviction is “on or off the premises where you reside and only “may threaten”, and the lookback period is 2 years for a misdemeanor conviction and five years for a felony conviction).*
- o *Criminal sexual conduct, including but limited to sexual assault, incest, open and gross lewdness, or child abuse*
 - *Within the last 1 year for a misdemeanor conviction or two years for a felony conviction (contrast with CDA policy to deny 2 years for a misdemeanor conviction and five years for a felony conviction*

People who have criminal conviction records deserve a second chance and need housing when they are released from incarceration. Housing is a fundamental human need and a significant social determinant of health. It is the role of the criminal justice system, not the public housing agency, to ensure that people are held accountable for their crimes and that sentences are served in a way that promotes public safety.

c. Eviction records are not appropriate evidence of criminal activity and the policy inappropriately creates an additional category of crimes that do not exist in federal regulations. (ACOP 3-32)

As discussed earlier in this memo, eviction records are an unreliable source of evidence of criminal activity because of the lack of procedural fairness for eviction defendants, including but not limited to the lack of access to legal representation and the number of eviction judgments which are granted by default without any trial on the merits of the underlying allegations. *CDA could strike the use of eviction records as evidence of criminal activity from its ACOP at 3-32.*

The ACOP includes additional categories of criminal convictions for which it may deny applicants for a period more than two years from the date of conviction: “heinous crimes, gang or gun crimes, or sex offenders with less than lifetime registration requirements” The ACOP already contains a number of policies authorizing denial of admission to applicants who have been convicted of various forms of criminal activity, including violent criminal activity, drug related criminal activity, and criminal activity that threatens other tenants, CDA staff or contractors. There is no reason to create this additional category of crimes that do not exist in federal regulation as these types of crimes can be analyzed within the framework that allows denials for violent and threatening criminal activity, drug related criminal activity, and lifetime sex offender registration. *CDA could strike the section pertaining to criminal activity of an egregious and extreme nature.*

6. Tenant suitability screening could prevent denials based on prior housing cost burden and not create loopholes for criminal record screening. (ACOP 3-34)

a. Denials based on inability to pay unaffordable rent are not a good measure of an applicant’s ability to afford rent based on their income.

HUD regulations also provide the CDA with discretion to deny admission based on a family’s previous behavior and suitability for tenancy. *While LAW supports CDA’s proposal to limit the screening from a broader review of financial obligations to exclusively rent in the past two*

years, the CDA could go further to not deny people based on rent that they did not have the ability to pay. It would be helpful to add the following exception: unless the unsuitable past performance was due to cost burden (i.e. the family's rent obligation was more than 30% of their monthly household income.)"

b. Criminal activity denials should clarify consistency with other denial policies for criminal records. (ACOP 3-35)

CDA's tenant suitability screening criteria includes some additional bases for criminal activity beyond those cross-referenced in 3-IIIB and 3-IIIC that do not explicitly reference the earlier criminal activity denial policies, including "committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program" and "engaged in or threatened violent or abusive behavior toward CDA tenants, CDA personnel, or CDA contractors on or off CDA properties". The CDA should clarify that it will only be making these decisions based on criminal convictions for the described criminal activity and reduce lookback periods to no more than two years.

7. CDA applicants would benefit from increased transparency regarding screening practices and a meaningful opportunity to meet with the CDA to discuss the records before adverse decisions on their applications. (ACOP 3-36 – 3-37)

The CDA and its applicants share an interest in ensuring accuracy in screening records relied upon by the CDA in making its eligibility determinations. Due to the abundance of third party screening companies, the presence of aliases in criminal record reporting systems, mistakes of identity and identity theft, there is a significant risk to inaccurate records leading to criminal record based denials. *The CDA could mitigate this risk by adding transparency to its process and enduring a meaningful opportunity for an applicant to meet with the CDA to discuss concerns related to criminal record screening prior to any decision on their application.*

The CDA's policy states that it "will perform criminal background checks through national, state, multi-state, and local law enforcement background check systems for all adult household members. *It would be useful for the CDA to disclose which background check systems it uses so the Board and the public can understand which systems are being used and be aware of any particular issues that arise based on those systems.* For example, some systems include photographs which can be helpful in confirming identity. Some do not.

Existing CDA policy, as required by federal regulation, states that "[i]f the PHA proposes to deny admission based on a criminal record or on lifetime ex offender registration information, the PHA must notify the household of the proposed action and provide the subject of the record and the applicant a copy of the record and an opportunity to dispute the accuracy and relevance of the information prior to a denial of admission.[24 CFR 5.903(f) and 5.905(d)]." This federal protection is critical but the CDA has not been complying with this section. In light of this concerning practice, the CDA could add language at this section as follows.

CDA Policy

If the CDA identifies concerns based on a criminal record or lifetime sex offender registration, the CDA will issue a notice of concern letter with a copy of the criminal record or lifetime sex offender registration and schedule a meeting with the household to provide them with an opportunity to dispute the accuracy and relevance of the information. The CDA will provide this notice and opportunity to meet and meet with the household prior to any denial decision and issuance of a notice of denial of admission.

8. CDA applicants would benefit from the opportunity to meet with the CDA to discuss application concerns before a denial and present evidence of relevant circumstances, disability related issues, and information related to VAWA protections. (3-42 – 3-47)

a. Providing opportunities for applicants to provide information on relevant and mitigating circumstances.

The CDA screening decisions are typically based entirely on written submissions, i.e. hearsay statements, from the applicant and other parties used for verification. Typically, the only opportunity that an applicant has to potentially discuss their application and provide explanations regarding their household and their public housing suitability is in the context of an denial review process which takes place *after* the applicant household has been denied. Unfortunately, many applicants do not appeal their denial because they do never got the notice of denial, they did not request the review within the tight deadline and/or they lack legal representation or support in pursuing the appeal. This typical screening process is not well-suited for the CDA to obtain evidence regarding relevant and mitigating circumstances related to the case that it should consider under its policies and federal regulations. 24 CFR 960.203©(3) and (d); (ACOP 3-42 and 3-43). These relevant circumstances include:

- The seriousness of the case, especially with respect to how it affect other residents;
- The effects that denial of admission may have on other members of the family who were not involved in the action or failure;
- The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities, or (ad discussed further in 3-III.F) a victim of domestic violence, dating violence, sexual assault, stalking or human trafficking;
- The length of time since the violation occurred, the family's recent history and the likelihood of favorable conduct in the future;
- Evidence of criminal conduct, in the form of a criminal conviction if it indicates a demonstrable risk to safety and/or property;
- Evidence of the applicant family's participation in or willingness to participate in social service or other appropriate counseling service programs;
- In the case of drug or alcohol abuse, whether the culpable household member has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully
 - The CDA will require the applicant to submit evidence of the household member's successful completion of a supervised drug or alcohol rehabilitation program, or evidence of otherwise having been rehabilitated successfully.

If the CDA is serious about considering these relevant factors in making its application decisions, it would provide an applicant with the opportunity to meet to discuss their application and provide information related to these factors in the context of any CDA concerns that create a risk of denial. Without having such a meeting, the CDA screening process does not gather sufficient information to consider these relevant circumstances prior to making a decision on the application.

b. The CDA could reinforce its duty to engage in the interactive process with modifications to its reasonable accommodation policies. (ACOP 3-44)

There are a couple of provisions in the Reasonable Accommodation section of this chapter that undermine the CDA's policy for consideration of all relevant and mitigating circumstances prior to denial decisions and CDA's obligation engage in the interactive process when presented with a reasonable accommodation request.³ These include the requirement that a family make a reasonable accommodation request within 10 business days of the date of the denial and the statement that the "CDA will only consider accommodations that can be reasonably be expected to address the behavior, action, or non-action that is the basis of the proposed denial of admission." These sentences could create a chilling effect on an applicant making a reasonable accommodation request. There may be a disability related reason as to why an applicant could not make a request within 10 days of the notice of denial. Furthermore, it could be difficult for the CDA to evaluate the reasonableness of the accommodation without having a conversation with the applicant about their disability and their need for an accommodation.

c. Short denial appeal periods could be mitigated by the opportunity for a pre-decision meeting. (3-48)

The CDA's proposed policy to extend the deadline for appealing an application denial from 10 days to 15 days will provide more denied applicants the opportunity to appeal, but 15 days is still a very short timeframe for appeal. This is especially true for people who do not have a residential mailing address because they are unhoused or people who might be detained in Dane County jail. Lengthening the time period for appeal would reduce barriers for the people who may need public housing the most. Additionally, providing a pre-decision meeting to discuss application issues could result in fewer denials of applications. A pre-decision meeting would also better prepare denied applicants for their exercising their right to appeal, if they are denied.

³ 3. See note 2.

