

# Walker River Paiute Tribe Housing Department Background Check Policy

The Background Policy for the WRPT Housing Department was developed by the Director, staff, and reviewed by the Housing Attorney. It was adopted by the Walker River Paiute Tribal Council by Resolution #WR - 44 - 2016 on May 5, 2016 and goes into effect on May 5, 2016.

## **A. Purpose**

The purpose of the Walker River Housing Department (“WRHD”) Background Policy is to screen applicants who are eligible for Rental or Homeownership homes for services and to ensure safe housing communities. The general purpose of this policy is to serve as a guide for WRHD in determining eligibility and admission of applicants, selection criteria, and occupancy standards for the Rental and Homeownership Program in accordance with the Eligibility, Admission, Payment and Occupancy Policy. This policy is to provide consistent, equitable, and uniform treatment of tenants; a basis for decision making for the WRHD.

## **B. Receiving Background Information on Adult Applicants or Tenants**

As required by Section 208 of the Native American Housing Assistance and Self-Determination Act (“NAHASDA”)(codified at 25 U.S.C. § 4138), the National Crime Information Center, police departments, other law enforcement agencies or a third party certified to provide background checks shall provide criminal conviction information to Indian Tribes and tribally designated housing entities (TDHEs) upon request. Information regarding juveniles shall only be released to the extent such release is authorized by applicable federal, state or tribal law. For purposes of this Policy, the term “tenant” includes individuals who may be eligible to participate in WRHD's low income rental program and/or homebuyers who are purchasing a home pursuant to a lease purchase or similar agreement.

## **C. Use of Background Information**

WRHD has adopted a zero tolerance approach to ensure safe and healthy communities for certain types of criminal activity, which are stated in the WRHD’s occupancy policies. The information received from a background check shall only be disclosed to those authorized officers, employees, or representatives of WRHD. The information will be used to determine eligibility of an applicant and the selection procedure and requirements applicable.

## **D. State Lifetime Sex Offender Registration**

The Walker River Paiute Tribal Council adopted the Eligibility, Admission, Payment, and Occupancy Policy for the Rental and Homeownership Program that would establish a zero tolerance approach to prevent lifetime sex offenders from receiving WRHD housing assistance.

*No person regardless of age who have been convicted by a tribal, federal, or any other court of jurisdiction of a sexual offense against another person in any venue shall be considered as eligible to apply for or reside in a WRHD rental unit unless specifically deemed eligible by the Walker River Paiute Tribal Council.*

Pursuant to the U.S. Department of Housing and Urban Development's ("HUD") Notice PIH 2012-28. The purpose of this Notice is to reiterate current regulatory requirements and strongly encourage the establishment of standards and processes with a zero tolerance approach to prevent lifetime sex offenders from receiving federal housing assistance.

## **E. Background Checks**

In accordance with the NAHASDA Statute, Section 208 (codified U.S.C. § 4138), WRHD shall perform criminal history background checks to determine if an applicant, or a member of an applicant's household, is subject to a lifetime registration requirement under a State or Tribal sex offender registration program. WRHD must also perform criminal history background checks during the annual recertification/reexamination process to determine if a tenant, or a member of a tenant's household is subject to a lifetime registration requirement under a State or Tribal sex offender registration program. The background checks may also be utilized to determine if an applicant/tenant or member of an applicant's/tenant's household has been convicted of a felony or other crime addressed by a WRHD policy or the applicable lease/rental agreement. These checks must be carried out with respect to the State of Nevada and with respect to states or tribes where the applicant/tenant and members of the applicant's/tenant's household are known to have resided.

## **F. Applications and Annual Recertification**

Applications and annual recertification/re-examination documents must include a question asking whether the applicant/tenant or any member of the applicant's/tenant's household is subject to a lifetime state sex offender registration program, or has been convicted of any felony in any state or by any tribe or by the Federal government, or has been convicted of any crime addressed in the applicable program's eligibility and occupancy policy (for example but not limited to sexual offenses, drug-related crimes, physically violent crimes or other criminal acts that may endanger other tenants).

## **G. Violations of Policy or Applicable Agreements**

1. If these processes reveal that an applicant/tenant or a member of an applicant's/tenant's household is (a) a lifetime registered sex offender, (b) has been convicted of any crime relevant to a WRHD policy or relevant to the applicable lease/rental agreement (for example but not limited to sexual offenses, drug-related crimes, physically violent crimes or other criminal acts that may endanger other tenants), or (c) if the applicant/tenant withholds or falsifies information on the application or recertification documents, the WRHD must deny admission to the program, or WRHD shall pursue eviction or termination of tenancy to the extent allowed by the applicable lease or rental agreement, and applicable law.
2. Before admission can be denied and/or prior to initiating an eviction or lease/rental agreement enforcement, the applicant must be notified of the right to dispute the accuracy and relevance of the background check information. The applicant/tenant must provide written notice to the WRHD's Director of his/her intent to dispute the information within two weeks of receiving the notice. In that event, the applicant/tenant shall have no more than ten calendar days from receiving the notice to provide documentation disputing the information obtained from the background check. The WRHD shall have then determine if the information provided by the applicant/tenant satisfactorily refutes the information obtained from the background check.
3. Notwithstanding the above, if the tenant or member of the tenant's household, regardless of when they were admitted, is convicted of any criminal activity while living in federally assisted housing (or otherwise breaches the tenant's housing agreement), the WRHD shall pursue eviction or termination of tenancy to the extent allowed by their homeownership agreement or rental agreement. The information shall be disclosed only to those authorized officers, employees, or representatives of WRHD.

## **H. Confidentiality**

1. Information received by WRHD under this Policy may be used only for the purposes provided in this Policy and such information may not be disclosed to any person who is not an authorized representative of the Walker River Paiute Tribe, and who has a job related need to have access to the information for the purposes under this Policy. For judicial eviction proceedings, disclosures may be made to the extent necessary.
2. WRHD will keep all the criminal conviction record information in files separate from all other housing records. All background information will be kept under lock and key and in the custody and control of the WRHD Director or designee.

3. The records shall be destroyed once the purpose for which they were obtained have been accomplished, including expiration of the period for filing a challenge to any WRHD action resulting from obtaining the records and final disposition of any litigation.
4. All background information shall only be accessed with the written permission of WRHD's Director or his or her designee and is only to be used for the purposes stated in Section 208 of NAHASDA and this Policy.
5. Applicants may submit a written request for a copy of their personal background report with a signed release of information, in person or with a notarized statement. Spouses or other family members may not request a copy of any other family member's personal background report.
6. The records management requirements stated in this Policy do not apply to information that is public information.