

**5804 TERMINATION OF PARTICIPATION AND ASSISTANCE
FOR CRIMINAL ACTIVITY**

5804.1 DCHA shall terminate participation of a Family if:

- (a) DCHA determines that any adult member of the household has ever been convicted of drug related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing; or
- (b) Any member of the household is subject to a lifetime registration requirement under a state or District of Columbia sex offender program.

5804.2 DCHA may terminate participation of a Family if:

- (a) Any adult Family member is currently engaged in any illegal use of a drug at or in the proximity of the assisted unit, that causes a nuisance or a disturbance at or in the proximity of the assisted unit or surrounding neighborhood or, threatens the health or safety of neighbors at or in the proximity of the assisted unit or surrounding neighborhood; or
- (b) Any Family member has engaged in any felonious drug related criminal activity in the preceding two (2) years from the date of a notice of recommendation for termination for drug related criminal activity.

5804.3 As used in this section only, “currently engaged” shall mean one or more offenses that occurred no more than nine months prior to the date a notice of recommendation for termination for drug related criminal activity is issued by DCHA.

5804.4 DCHA has the burden of proving that a Family violated one or more of its obligations by a preponderance of the evidence.

5804.5 The following types of evidence of drug related activity are relevant to show that a family member has violated the family obligation prohibiting such activity:

- (a) Conviction or the arrest for any crime described in Title 48, Subtitle III, Chapter 9, Subchapter IV of the D.C. Official Code;
- (b) Police report listing drug related criminal activity by household member or at or near the assisted property;
- (c) Report by other law enforcement agencies or offices or DCHA investigative or compliance staff;

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- (d) Credible evidence provided by persons with knowledge of the alleged activity; or
- (e) Search warrant return for the property listing drugs, or drug paraphernalia.

5804.6 DCHA may terminate participation of a Family if:

- (a) Any adult Family member has engaged in any violent criminal activity in the preceding two (2) years from the date of a notice of recommendation for termination for violent criminal activity.
- (b) Any adult Family member has engaged in any violent criminal activity in the preceding two (2) years from the date of a notice of recommendation for termination for violent criminal activity.

5804.7 The following types of evidence of violent criminal activity are relevant to show that a Family member has violated their family obligation prohibiting such activity:

- (a) Conviction or arrest for any of the following criminal offenses listed in D.C. Official Code § 23-1331(4);
- (b) Police report listing violent criminal activity by a household member;
- (c) Report by other law enforcement agencies or offices or DCHA investigative or compliance staff;
- (d) Credible evidence provided by persons with knowledge of the alleged activity; or
- (e) Search warrant return for the property listing illegal weapon(s), illegal ammunition, or any legal weapon believed to be used in the act of violent criminal activity.

5804.8 In instances where DCHA has discretion to terminate assistance for the activities as described in § 5804.2 and § 5804.6, DCHA will consider evidence of or testimony about relevant mitigating circumstances, rehabilitation, and disabilities as enumerated at 24 C.F.R. § 982.552(c)(2).

5804.9 Prior to an Informal Hearing a Head of Household may present evidence of mitigating circumstances for consideration directly to the HCVP Director or an appointed designee prior to an Informal Hearing, but only if the person alleged to have committed the criminal activity is not the Head of Household.

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- 5804.10 After a Head of Household or Family member provides evidence of mitigating circumstances to DCHA, the HCVP Director or an appointed designee will notify the Family within ten (10) business days via first class mail whether the information provided was sufficient to rescind the recommendation for termination.
- 5804.11 DCHA shall not consider evidence of mitigating circumstances prior to the Informal Hearing when the person alleged to have committed the criminal activity is the Head of Household.
- 5804.12 A Family shall be notified of their rights under Chapter 89 of this title of the DCMR on the notice of termination.
- 5804.13 DCHA shall not terminate assistance for criminal activity pursuant to the factors enumerated at § 4907.5 if the Head of Household or immediate family member is the victim of an intra-family offense.

SOURCE: Final Rulemaking published at 59 DCR 7942, 7944 (June 29, 2012); as amended by Final Rulemaking published at 60 DCR 13167 (September 20, 2013).