

Summary of Proposed Changes to the Admissions & Continued Occupancy Policy (ACOP)

Section	Page(s)	Summary of Proposed Change
<p>Chapter 3 - Part 3 - Denial of Admission</p>	<p>Pages 36-44</p>	<p>Change: Changes the criminal background portion of the eligibility criteria. Rationale: <i>HACA conducted a study and determined a need to reduce redundancy, update language to reflect current criminal justice terminology, reduce administrative burden and update / reduce look-back periods for some categories. Specific detailed changes are listed below.</i></p>
	<p>Page 41</p>	<p>Change: Reduce "manslaughter" from a lifetime ban to a five year look back period. Rationale: <i>There is a lack of criminal intent with this offense. The difference between murder and manslaughter is the culpable mental state associated with the result of the defendant's conduct. Murder involves a defendant who intentionally or knowingly causes the death of another; manslaughter involves a defendant who recklessly causes the death of another -- manslaughter is, by definition, an accidental homicide, committed with recklessness.</i></p>
	<p>Page 41</p>	<p>Change: Changing the term "child molestation" to "child molestation / indecency with a child" and keeping it in the lifetime look back period. Rationale: <i>HACA added "indecency with a child" to the lifetime look back period. "Indecency with a child" is a specific offense under the TX Penal Code (Sec. 22.11). A person commits the offense of indecency with a child if, with a child younger than 17 years of age, whether the child is of the same or opposite sex and regardless of whether the person knows the age of the child at the time of the offense, the person:</i> <i>(1) engages in sexual contact with the child or causes the child to engage in sexual contact; or</i> <i>(2) with intent to arouse or gratify the sexual desire of any person:</i> <i>(A) exposes the person's anus or any part of the person's genitals, knowing the child is present; or</i> <i>(B) causes the child to expose the child's anus or any part of the child's genitals.</i> <i>With so many children at our properties, this change adds protection to our residents.</i></p>
	<p>Page 41</p>	<p>Change: Removal of the term "incest". Rationale: <i>This is redundant. It is already covered in "rape or crimes of a sexual nature."</i></p>

Section	Page(s)	Summary of Proposed Change
	Page 41	<p>Change: Change the term "gross lewdness" to "public lewdness" and move it to the four year look back period.</p> <p>Rationale: <i>The term "gross lewdness" is no longer used anywhere within the Texas penal code. However, the term "public lewdness" is a crime in the TX Penal Code. Public Lewdness involves a defendant engaging in any of the following acts in a public place or, if not in a public place, the person is reckless about whether another person is present who will be offended or alarmed by the person's: (1) act of sexual intercourse; (2) act of deviate sexual intercourse; or (3) act of sexual contact; Public Lewdness is a Class A Misdemeanor.</i></p>
	Page 41	<p>Change: Added "First degree felony injury to a child, elderly individual, or disabled individual" to the lifetime look back.</p> <p>Rationale: <i>For the crime to be a 1st degree felony, the conduct must be committed intentionally or knowingly and must cause serious bodily injury, or serious mental deficiency, impairment, or injury to a child, elderly individual, or disabled individual. This constitutes a violent crime against a child, an elderly individual or a disabled individual demonstrating that the person may be a threat to our residents.</i></p>
	Page 41	<p>Change: Added "crimes involving terrorism" and "crimes involving explosives."</p> <p>Rationale: <i>These reflect the modern world we live in. Both crimes are violent crimes that indicate the individual is a threat to our residents.</i></p>
	Page 41	<p>Change: Added "Criminally Negligent Homicide" as part of the five year look back.</p> <p>Rationale: <i>This crime also lacks criminal intent. A defendant commits the offense of criminally negligent homicide if the defendant causes the death of another by criminal negligence -- "criminal negligence" involves inattentive risk creation, that is, the defendant ought to be aware of the risk surrounding his conduct or the results thereof, but fails to perceive the risk. Including it with the five year look back keeps it consistent with manslaughter.</i></p>

Section	Page(s)	Summary of Proposed Change
	Page 41	<p>Change: Added "unlawful restraint (misdemeanor)" to the four year look back period.</p> <p>Rationale: <i>"Unlawful restraint" involves a defendant who intentionally or knowingly restrains another person. Per the Texas Penal Code:</i></p> <p><i>"Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty, by moving the person from one place to another or by confining the person.</i></p> <p><i>Restraint is "without consent" if it is accomplished by:</i></p> <p><i>(A) force, intimidation, or deception; or</i></p> <p><i>(B) any means, including acquiescence of the victim, if:</i></p> <p><i>(i) the victim is a child who is less than 14 years of age or an incompetent person and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement or confinement; or</i></p> <p><i>(ii) the victim is a child who is 14 years of age or older and younger than 17 years of age, the victim is taken outside of the state and outside a 120-mile radius from the victim's residence, and the parent, guardian, or person or institution acting in loco parentis has</i></p>
	Page 41	<p>Change: Removed "a pattern of abuse of alcohol."</p> <p>Rationale: <i>This was redundant as it was already included in the four year look back list.</i></p>
	Page 42	<p>Change: Removed "pattern of fraud committed against a governmental entity."</p> <p>Rationale: <i>This was redundant as it was already included on page 43.</i></p>
	Page 42	<p>Change: Added "a pattern of misdemeanor possession of marijuana (two ounces or less)"</p> <p>Rationale: <i>Denial would now require a recent pattern (3 or more) of this drug-related criminal activity, whereas currently a single incident of possession of marijuana may be reason for denial. In addition, the Austin Police Department is no longer arresting for this. They are only issuing criminal citations.</i></p>
	Page 42	<p>Change: Added "a pattern of misdemeanor harassment."</p> <p>Rationale: <i>A pattern of this behavior reflects an individual that can create significant problems on property for residents and staff.</i></p>
	Page 42	<p>Change: The definition of a pattern changes from "three or more incidences with at least one in the last three years", to "three or more incidences with a minimum of two incidences within the last three years."</p> <p>Rationale: <i>This is to ensure that the criminal activity is current/recent. A current pattern does constitute a danger to residents. However a past pattern with demonstrated improvement in behavior does not necessarily constitute a danger to safety.</i></p>

Section	Page(s)	Summary of Proposed Change
	Page 43	<p>Change: Added a four year look back period to the denials for fraud and violent / abusive behavior toward HACA staff.</p> <p>Rationale: <i>This made the fraud look back period more consistent with the debts owed look back. This also made this violent behavior (toward staff) consistent with the look back for all other violent behavior.</i></p>
<p>CHAPTER 13 - SECTION 1. POLICY</p>	Page 219-220	<p>Change: Revised and added language to match the HUD Smoke-Free Final Rule. For example, added water pipes (hookahs) as a prohibited item; revised the definition of "restricted areas" (i.e. areas where smoking is not allowed), including adding the requirement that the smoke-free policy extends to all outdoor areas up to 25 feet from PHA buildings and administrative office buildings.</p> <p>Rationale: <i>These are HUD requirements as part of the Smoke-Free Final Rule.</i></p>