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# BERKELEY SCREENING CRITERIA GUIDANCE

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This document is intended as guidance for creating and using screening criteria when you are seeking new tenants. Suggested screening criteria can be found on the BPOA website by logging into your Member Compass© account. Our screening criteria documents are provided in Word format, so you may modify them according to your needs and preferred screening criteria.

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## BASIC COMPONENTS OF A RENTAL APPLICATION

You'll want to include these basic components in any rental application. All persons 18 and over should fill out an application:

- **Applicant Identification Information** (i.e., social security number, driver's license number, email, cell number, etc.)
- **Current & Prior Residential Information.**
- **Employment Information & Proof of Income.**
- **Signature Confirmation.** Explicitly authorizing you to process the rental application.

*Note:* you cannot inquire into a renter's race, color, nationality, religion, sex, familial status, and/or disability as a part of the Federal Fair Housing Act of 1968.

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## APPLICATION FEES

California sets a maximum rental application fee based on the consumer price index and adjusts for inflation. In 2024, the maximum amount a landlord can charge for an application is \$63.70. Additionally, owners may not charge more than what it costs them to process the rental application.

This fee cannot be charged if there are no rental units available at the time of application (or within a "reasonable" amount of time forthcoming), and it must be returned if it is not used to pay for a credit report and/or the purposes authorized by the applicant on the form. Applicants also have a right to copies of all reports a landlord used to determine whether or not to accept them as a renter.

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## BERKELEY ORDINANCES THAT MAY IMPACT YOUR SCREENING CRITERIA

### *Fair Chance Housing Ordinance*

Certain units in Berkeley may be subject to the Fair Chance Housing Ordinance, which prohibits asking for or considering a tenant's criminal background. Please visit our Fair Chance Housing Ordinance webpage to determine whether your unit is subject to this ordinance.

Our rental application and screening product by Intellirent offers an application that meets the ordinance requirements. To learn more about the rental application and screening capabilities of Intellirent, check out the [Intellirent webpage](#).

### ***Source of Income Discrimination Ordinance (aka No Section 8 Prohibition)***

All units (except for rentals in which the owner shares a kitchen and/or bathroom with the tenant) are prohibited from automatically denying Section 8 or other subsidized income sources. You must consider these income sources just like any other income source. You must also only apply your gross income criteria to the portion of the rent the tenant is responsible for paying. Beware of housing discrimination testers! If a prospective tenant asks you if you accept Section 8, you will say, “We gladly accept all qualified applicants.” All prospective tenants, including subsidized housing applicants, must meet your rental criteria to be considered for the unit. Note: as of January 1, 2024, it is illegal to discriminate on a prospective tenant’s credit score (if they are receiving a subsidized housing voucher) without offering them reasonable opportunity to provide other proof of ability to pay.

### ***Emotional Support Animals***

While you may have a “no pet” policy, state law prohibits you from discriminating against or denying applicants if they have a service or an Emotional Support Animal (ESA). While there is specific documentation a person with an ESA must provide, you cannot deny an animal just because they are an ESA or Service Animal. Beware of housing discrimination testers! If you have a no-pets policy and a prospective tenant asks if you accept pets, you can say, “We do not accept pets; however, we follow all state laws as it relates to certain animals.”

### ***American with Disabilities Act (ADA)***

The term disability in fair housing law is quite broad and does include “invisible” disabilities (those disabilities that may not be obvious). Therefore, it is important always to remain aware that anyone could have a disability, whether they initially reveal it or not. While you may not inquire about the specifics of their disability, you may inquire about what special accommodations they may need because of their disability (e.g., ground floor apartment, access to an elevator, etc.) Help prospective tenants who may have a disability better understand more about your property and the unit for rent. Provide helpful descriptions in your advertising so they can make an informed decision. If someone asks you whether it is accessible, ask them what kind of accommodations they may need rather than just saying “yes” or “no.” Be welcoming to the idea of making reasonable accommodations as they are paid for by the tenant, and there are many resources to help finance the tenant’s needs. Remember, you cannot deny someone the opportunity to qualify for your unit just because of a disability.

### ***Familial Status***

Fair Housing law prohibits discrimination against prospective tenants due to their familial status. It’s important not to steer a prospective tenant away just because you believe the property is not ideal for kids. Let them view the property and make that determination for themselves.

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## HOW TO USE THE SCREENING CRITERIA

Screening is the first step in pre-qualifying a prospective tenant. It is up to you at what point you verify that they qualify in the process. Our screening criteria clearly outline all required documentation a tenant must provide to qualify. Some owners require certain levels of proof of qualification before showing a unit.

Your rental criteria should be clearly communicated to all prospective tenants. This helps ensure that all tenants are subject to the same parameters. Where you publish and share the criteria is up to you. Owners with websites may opt to post their criteria and documentation requirements on their websites so they are accessible to prospective tenants. Others may refer to the criteria in their advertising listings. Others may share a copy with a prospective renter via email.

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## CHOOSING YOUR RENTAL CRITERIA

The suggested rental criteria are based on best practices and appropriate legal guidance. Rental criteria help set a standard for all prospective tenants, thus protecting you from discrimination claims. Our rental criteria seek to set a standard that best indicates a tenant's ability to meet their financial obligations. Use our [Resident Screening Criteria](#) and [Cosigner Screening Criteria](#) documents to produce your screening criteria. These are available in the Rental Applications & Criteria section of the Rental Housing Forms library.

You may change your criteria whenever you see fit as long as you use it moving forward. However, do not change the policy midstream, as current interested prospective tenants may see that as discriminatory and file a claim against you. It is better to wait and change it in preparation for your next vacancy.

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## COSIGNERS/GUARANTORS

It is up to you whether you will permit a cosigner or a guarantor) if the tenant does not meet your financial criteria (income and/or credit score). Many young people, especially students, do not have credit histories. Suppose your property is located in an area most desirable to students. In that case, you may need to consider allowing an applicant to qualify with a cosigner in order to find the right or most appropriate tenant.