

Frequently Asked Questions Source of Income Protection

Answers to these Frequently Asked Questions about the proposed Source of Income Protection ordinance are posted on the informational website at: sourceofincome.tucsonaz.gov/pages/faq.

Will I be required to lower my rent?

No. Landlords will not be required to lower rents.

Can I charge a higher rent for voucher holders?

Landlords can set their rent based on various factors; however, charging a higher rent solely based on the income of the applicant (i.e. those with vouchers or any other form of lawful payment) is a discriminatory practice and would violate the fair housing ordinance.

Will I be required to take Housing Choice Vouchers?

Property owners/managers set the applicant screening policies. If an applicant meets the screening criteria and has a voucher, the landlord would be expected to accept the voucher.

Can a landlord refuse to rent to a voucher holding applicant if the applicant's portion and the voucher provided combined do not cover the full amount of rent?

The landlord would not be put in a situation where the Housing Authority and tenant portion does not meet the full amount of rent. The process is that a landlord would submit, to the Housing Authority, the proposed rent for the unit. If the rent is higher than what the voucher can support, the landlord will be provided with a counteroffer which the applicant qualifies for. If the landlord does not accept a lower rental amount, the applicant will have to find a different unit.

Will I be able to deny a tenant with a Housing Choice Voucher for other reasons?

Landlords may continue to use other legal screening criteria, including relevant criminal background or other rental and credit history. The City encourages landlords to consider revising policies that have historically disadvantaged persons of color and those who come from backgrounds of poverty, such as by providing second chances to persons who have nonviolent drug convictions related to substance use and those who have served time in jail/prison. The City needs landlords ready to help these Tucsonans who are ready to rebuild their lives.

What are signs of possible source of income discrimination?

Example of comments that may be evidence of discrimination include:

- "No housing vouchers."
- "No Section 8."
- "There is a waitlist for people with vouchers."
- "Your income doesn't cover three times the rent, so you don't meet the minimum income requirement."
- Requiring a criminal history check only for voucher holders.

Frequently Asked Questions

Source of Income Protection

How are rental payments made to a landlord and when are they made?

Rental payments are made by direct deposit on the first business day of the month.

How many Housing Choice Vouchers has the City issued?

We currently have over 5,000 households in the program. The City regularly issues vouchers to new participants or to those who have to move from their current unit. There can be anywhere between 300 to 600 households searching for a unit on any given month.

What is the average wait time for a voucher holder to find housing?

The voucher holders are given up to 120 days to find a unit and it depends on the voucher holder's ability to find a unit within the parameters of the program and ability to pass a landlord screening criteria. It varies by participant how long it takes them to find a unit. Currently the average search time is approximately 120 days.

Does the source of income ordinance apply to me?

Yes, if you own or have any partial interest in dwellings sold or rented in the City, unless:

- You are renting 3 or fewer of your own dwellings without the help of someone in the business of selling or renting dwellings (i.e. a real estate broker, agent, or salesman);
- You are renting 4 or fewer additional rooms or units in living quarters you also occupy; or
- You own/operate "housing for older persons."

See Tucson Code §§ 17-51 and 17-53 for additional information.

For Landlords

The City of Tucson's Source of Income Protection adds a new protected group to the existing Human Relations Ordinance. Source of Income Protection now makes it unlawful for apartment owners and property managers from rejecting a voucher holder's rental application based on the applicant's source of income, including a Section 8 Voucher.

Under the City's Human Relations Ordinance, Tucson Code – Chapter 17, it is unlawful for housing providers to discriminate based on race, color, national origin, ancestry, disability, age, sexual orientation, gender identity, religion, sex, familial status, and marital status. The new SOI provision protects renters who receive lawful, regular, and verifiable income from any source, including social security or other federal benefits such as a Housing Choice Voucher, spousal support, child support, or Veteran's benefits.

What is a housing voucher?

A housing voucher represents a direct payment from the voucher administrator to the landlord for all or a portion of the tenant's rent. The tenant then pays the landlord the difference between the actual rent and the amount paid by the voucher program. Housing vouchers are generally administered by local public housing authorities, in this case the City's Public Housing Authority.

Guidelines For Housing Providers

- Landlords and housing providers cannot advertise or state a preference for tenants with certain sources of income.
- Landlords and housing providers cannot refuse an application from a voucher holder, charge a higher deposit, or rent, or treat a voucher holder differently in any other way based on the use of a section 8 voucher or other housing subsidy.
- Housing providers cannot refuse or delay making repairs to apartments or homes because the tenant pays rent with a form of public or housing assistance.
- Landlords and housing providers cannot refuse to enter or renew a lease because the tenant uses a Section 8 housing voucher or other housing subsidies.
- Landlords and housing providers cannot interrupt or terminate any tenancy because the tenant is using or plans to use a Section 8 voucher or other housing subsidy.
- The housing provider is only allowed to consider a tenant's portion of the rent when deciding to rent. If a landlord or housing provider uses a financial or income standard that is not solely based on the portion of rent paid by renter, then the housing provider has committed an unlawful discriminatory housing practice.
- If prospective tenants qualify in all other categories, you may not deny renting to them because they hold a voucher.

What Housing Providers Cannot Say or Publicize

- "We don't take people on SSI."
- "Two years steady employment required."
- "Each roommate has to make three times the rent."
- "I've found that people on Section 8 don't fit in well here."

- “Even if you have a Housing Choice Voucher (Section 8), you must make three times the full rent.”

Other practices which may constitute source of income discrimination

- Denying a rental application because of the applicants’ partner’s or family member’s lawful source of income.
- Asking whether the applicant is receiving any government assistance or Social Security and then denying the application.
- Advertising apartments with the phrase “No Programs” or “No Section 8” included.

What Source of Income Protection Does Not Do

- Does not require housing providers to lower the rent.
- Does not direct how rents are to be set.
- Does not prohibit housing providers from enforcing all provisions of the lease, including relevant criminal background or other rental and credit history, including eviction.

Screening

- To determine if a tenant meets the qualifications to rent, a landlord may choose to apply an income ratio screening criterion. Any screening criteria used in selecting tenants should be applied equally to all applicants to avoid being discriminatory. To determine if a tenant can afford the rent, only the tenant’s portion of the rent can be used in the income ratio calculation. For example, if the monthly rent for a property is \$1,000 and a voucher recipient’s share of that rent is \$100, using a 2.5X rent-to-income ratio, the tenant’s monthly income should be no less than \$250.
- If a landlord chooses to use an income screening criterion, only the tenant’s portion may be used in a rent-to-income ratio calculation. Whether a tenant receives a voucher or not, only the tenant’s portion of the rent may be used in the calculation. Using a number other than the tenant’s portion of the rent or setting a different threshold for voucher holders would be discriminatory.
- Reasonable fees and deposits (subject to State and local laws) are permitted if the fee and deposits are charged to all prospective tenants.

Exemptions to SOI

- Persons renting 3 or fewer of their own dwellings without the help of someone in the business of selling or renting dwellings. (i.e., a real estate broker, agent, or salesperson)
- Persons renting 4 or fewer additional rooms or units in living quarters they also occupy
- Owners/Operators of “Housing for Older Persons”

Enforcement

Any individual who believes they have experienced discrimination may file a complaint with the Office of Equal Opportunity Programs. The OEOP will investigate and render findings. The complaint must be filed within 180 days of the alleged discriminatory act.

The City of Tucson became the first local jurisdiction to pass Source of Income (SOI) protection. Here is a useful guide on the SOI ordinance.

BACKGROUND

On September 27, the Tucson Mayor and City Council voted to amend the Fair Housing Provisions of the Human Relations Ordinance in the Tucson City Code. The amendment would add Source of Income to the list of prohibited discriminatory practices.

DEFINITION

Source of income means any lawful source of income or support that provides funds to or on behalf of a renter or buyer of housing and is verifiable as to amount, regularity, receipt, and length of time received or to be received, including, but not limited to, wages, salaries, child support, spousal support, foster care subsidies, rental assistance, security deposit or down payment assistance, income derived from social security or disability insurance, veterans' benefits, or any other form of governmental assistance, benefit, or subsidy. Source of income includes any requirement of any such program, assistance, benefit, or subsidy.

To rent includes to lease, to sublease, to let and otherwise grant for a consideration the right to occupy premises not owned by the occupant.

WHAT THE ORDINANCE DOES

- Prohibits discrimination based solely on Source of Income. Prospective tenants must still qualify under all other legal screening criteria so long as those requirements are evenly applied to all tenants.
- If prospective tenants qualify in all other categories, you may not deny them because they hold a public housing voucher. At that point, the landlord will be required to file HUD paperwork and comply with inspection guidelines, etc.
- Prohibits use of phrases such as "No Section 8 accepted" or "There is a wait list for people with vouchers." in advertising, promotions, conversations, etc

WHAT THE ORDINANCE DOES NOT DO

- Does not require landlords to lower rent but may not charge a higher rent based solely on the applicant holding a public housing voucher.
- Does not prohibit landlords from enforcing all provisions of the lease up to and including eviction.

EXEMPTIONS

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ENFORCEMENT

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Staff has stated their primary focus will be upon educating landlords first. A conciliation agreement may also be used to eliminate the discriminatory practice.

CIVIL INFRACTIONS AND FINES

First Infraction:	No less than \$300 nor more than \$2,500
Second Infraction:	No less than \$600 nor more than \$2,500
Third or subsequent Infractions:	No less than \$900 nor more than \$2,500

Failure to comply with a judgment in each category shall result in similar fines assessed for each day the respondent fails to comply.