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## **U.S. Department of Housing and Urban Development Admissions/Eviction Policies for Public Housing/Voucher Lease Holders**

### **Admissions to Public Housing and Housing Choice Voucher Programs**

#### **What are the federal policies governing admission of individuals with a criminal record to Public Housing and Housing Choice Voucher programs?**

The U.S. Department of Housing and Urban Development (HUD) explicitly requires two bans based on criminal activity. HUD requires that all Public Housing Authorities (PHAs) establish lifetime bans on the admission to the Public Housing and Housing Choice Voucher (Tenant-Based Section 8) programs for:

- Individuals found to have manufactured or produced methamphetamine on the premises of federally assisted housing (24 CFR 960.204, 24 CFR 982.553); and
- Sex offenders subject to a lifetime registration requirement under a State sex offender registration program (24 CFR 960.204, 24 CFR 982.553)

PHAs must also prohibit admission if (24 CFR 960.204, 24 CFR 982.553):

- The PHA determines that any household member is currently engaged in illegal drug use;
- The PHA has reasonable cause to believe that a household member's illegal drug use, alcohol use, or pattern of drug or alcohol abuse may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents ; or
- A household member of the applicant was evicted from federally assisted housing for drug-related criminal activity in the past three years. In this case, however, PHAs have the discretion to consider the circumstances and may admit households if:
  - the PHA determines that the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program, including those supervised by drug courts; or
  - that the circumstances that led to the eviction no longer exist (for example, the household member who engaged in criminal activity is now in prison).

#### **When do Public Housing Authorities (PHAs) have discretion to set local admission policies?**

PHAs have a great deal of discretion to set admission policies for the public housing and Housing Choice Voucher programs. When screening family behavior and suitability for admission, PHAs may consider all relevant information, including negative factors (such as past drug criminal activity or violent criminal activity) and positive factors (such as evidence of rehabilitation or a family's willingness to participate in social services).

#### **Where can I find my local PHA's admissions policy?**

A specific PHA's policy can be found in their Administrative Plan (Housing Choice Voucher program) and the Admission and Continued Occupancy Plan, or ACOP (Public Housing Program). You can request a copy of the Administrative Plan and ACOP directly from your PHA. Please note that a PHA may have different admissions policies for public housing and Housing Choice Voucher programs.

## **Related Public Housing Program Rules**

### **What happens after I am admitted to Public Housing?**

After you are admitted to public housing, it is your responsibility to make sure that you, your household members, your guests, and any other person under your control follow public housing rules.

Among other things, public housing tenants must ensure that no tenant, household member, or guest engages in (24 CFR 966.4(l)(5)):

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, or;
- Any drug-related criminal activity on or off the premises;

For example, this means that a tenant and their household members may be evicted if a guest is staying at their apartment for the week and during that week is arrested for using illegal drugs on the other side of town. In this case, the tenant and their household members could be evicted for their guest's drug use even if they did not know the guest was using drugs. PHAs can choose to consider circumstances such as if the tenant knew about the drug use, but they can also choose not to consider these circumstances. Tenants should be cautious about who they allow as guests or household members and make guests and household members aware of these rules.

In addition to being responsible for the behavior of household members, other tenants, and current guests, public housing tenants are also responsible for ensuring that no other person under their control engages in:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants, or;
- Any drug-related criminal activity on the premises;

For example, if an acquaintance stops by the apartment for an hour and engages in criminal activity during that time, the public housing tenant could potentially be evicted for that friend's behavior.

### **What happens if I am being evicted from Public Housing for criminal activity?**

The PHA must send by mail or hand deliver a written notice of lease termination (eviction) to you. This notice must tell you why you are being evicted, that you can examine any documents directly relevant to the lease termination, and whether you have the right to request a grievance hearing. (24 CFR 966.4(l)(3))

In this case, a grievance hearing is a hearing in which the tenant and the PHA present arguments to a third party, who decides whether to evict or not evict the tenant. Tenants must request the grievance hearing in writing within the time stated in the PHA's grievance procedures, which may be as short as three days in the case of expedited grievance procedures. (24 CFR 966.55) You can ask the PHA for a copy of the grievance procedures and how to request a grievance hearing. During the grievance hearing, the tenant has certain rights including the right to be represented by counsel, such as a legal aide advocate. (24 CFR 966.56)

In some cases of eviction for criminal activity, tenants will not be eligible for a grievance hearing; instead their case will be determined by a court hearing. During this hearing, the tenant has the right to be represented by counsel, including legal aide or a public defender, and will have an opportunity to present a defense. (24 CFR 966.51(a)(2), 24 CFR 966.53(c)).