

LEASE TERMINATION POLICY

Purpose

The purpose of this policy is to ensure HACEP meets all responsibilities regarding lease enforcement and ensure equitable administration of a lease termination and eviction.

Background

The purpose of public housing as established in the U.S. Housing Act of 1937 is to increase the supply of low-cost housing that is safe, decent, affordable and in good repair for low income families. The demand for conventional public housing assistance is high. Therefore, it is imperative that the limited number of public housing units be available to most in need, who will meet their responsibilities by complying with the lease, necessary community rules and paying rent when due. In cases where public housing tenants violate the terms of the lease and related rules, Federal Regulations require public housing agencies to enforce the terms of all leases and agreements and to seek termination of tenancy and eviction.

Definitions

Lease termination, eviction, forcible detainer: Ending a lease agreement and vacancy of the property. These terms have the same meaning herein.

Due Process Determination: A determination by HUD that Texas law provides that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in 24 CFR §966.53(c)) before eviction from the dwelling unit. Due to HUD's determination for the State of Texas, HACEP is not required to provide an administrative grievance hearing before evicting a public housing tenant for:

- (A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA; or
- (B) Any violent or drug-related criminal activity on or off such premises.

Elements of due process: An eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:

- (1) Adequate notice to the Tenant of the grounds for terminating the tenancy and for eviction;
- (2) Right of the Tenant to be represented by counsel;
- (3) Opportunity for the Tenant to refute the evidence presented by HACEP, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have;
- (4) A decision on the merits of the case.

POLICY

1. Termination of tenancy and eviction of public housing tenants. HACEP will seek eviction only for:

Serious and repeated violations, such as the following:

- a. Failure to make payments due under the lease;
- b. Failure to fulfill household obligations as established in the lease;
- c. Being over the income limit for the program as provided in 24 CFR 960.261
- d. Criminal activity or alcohol abuse [as provided in 24 CFR 966.4(1)(5) and the ACOP]
- e. Discovery after admission of facts that made the tenant ineligible;
- f. Discovery of material false statement or fraud by the tenant in connection with an application for assistance or with reexamination of income
- g. Failure of a family member to comply with community service requirements as stipulated in 24 CFR §960.603;

h. Failure to accept HACEP's offer of a lease revision to an existing lease, with written notice of the offer of the revision at least 60 calendar days before the lease revision is scheduled to take effect and specifying a reasonable time limit within that period of acceptance by the family.

2. Lease Termination Notice. HACEP will give written notice of lease termination as follows:

3 Day Notice: A 3-day notice to vacate will be issued for the following violations:

(A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA; or

(B) Any violent or drug-related criminal activity on or off such premises.

No grievance rights are provided for terminations related to these violations as discussed in the ***Due Process Determination*** section above.

14-Day Notice: Notice of intent to terminate the lease will be 14 days in cases of failure to pay any rent or the chronic late payment of rents as required by HUD. As required by State law, because the lease gives a tenant an opportunity to respond to a notice of proposed eviction, a separate 3-day Notice to Vacate will be given following the expiration of the time period to respond (10 business days as provided in HACEP's Grievance Procedures and indicated on the 14-day Notice)

30-Day Notice: A 30 day notice will be used for all other evictions for violations not included in 3- and 14-Day notices as discussed above. Lease violations that fall within the 30-day notice requirement will be handled in accordance with established HACEP procedures. As required by State law, because the lease gives a tenant an opportunity to respond to a notice of proposed eviction, a separate 3-day Notice to Vacate will be given following the expiration of the time period to respond (10 business days as provided in HACEP's Grievance Procedures and indicated on the 14-day Notice)

3. Grievance Procedure: Grievances regarding lease terminations which are not excluded by HUD's Due Process Determination will be processed and resolved in accordance with established HACEP Grievance Procedures for Public Housing Programs.
4. Regulatory Compliance. HACEP will periodically review and update this policy to comply with any changes in governing laws, regulations, rules or ordinances.
5. Non-Discrimination. Application of this policy and HACEP Procedures for lease termination and eviction shall be non-discriminatory and comply with all governing laws and regulations