

TUSCALOOSA HOUSING AUTHORITY

Tuscaloosa, Alabama

TERMINATION AND EVICTION POLICY

Adopted by PHA Board of Commissioners

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Termination and Eviction Policy

As a landlord, Tuscaloosa Housing Authority (hereinafter referred to as PHA) has certain rights and responsibilities concerning termination of dwelling leases and eviction of residents who violate lease terms or are determined to be undesirable for other reasons.

A. Rights and Responsibilities

1. The PHA may terminate or refuse to renew a lease for serious or repeated violations of material terms of the lease by residents including, but not limited to, the following:

The regulation at 24 CFR (Code of Federal Regulations) 966.4(f)(12), requires under Section 6(1) that every lease signed by a resident of a public housing unit must contain a provision which authorizes the PHA to consider certain "criminal activity engaged in by the resident, members of their household, another person under the control of the resident, or their guests", including drug-related, *on or off* the PHA's premises to be "cause for termination of tenancy".

This lease provision authorizes termination of the lease and eviction of all members of the household. Thus, any criminal activity that threatens the health, safety or right to peaceful enjoyment of the PHA's public housing premises by other residents may be cause for such termination. (See CFR 966.4(e)(2) Grounds for Termination).

It is the policy of the PHA to terminate tenancy of any household where a member or guest engages in such criminal, drug-related or alcohol related activity.

The PHA retains the discretion to determine on a case-by-case basis whether or not the entire household or only the offending member(s) should be evicted for such criminal activity.

2. The PHA has a "zero tolerance" policy with respect to violations of lease terms regarding violent criminal activity.

The following are some examples of said activities:

- a. Displaying a deadly weapon in connection with a verbal or nonverbal threat of bodily harm.
- b. Inflicting any injury upon another person through the intentional, reckless, careless, or negligent use of a deadly weapon.
- c. Damaging any property through the intentional, reckless, careless, or negligent use of a deadly weapon.

B. Consideration of Favorable Factors

In the event of the receipt of unfavorable information with respect to a tenant and or lease violations that could cause termination of tenancy, the PHA will give consideration to the time, nature, and extent of the applicant's conduct. The PHA will also consider factors that might indicate a reasonable probability of favorable future conduct, such as:

1. Evidence of successful completion of an appropriate rehabilitation program for drug alcohol-related problems (requiring certification from a health professional, or State certified program). The resident may be required to provide evidence of otherwise being rehabilitated successfully (i.e., on-going participation in AA, ALANON, or other drug/alcohol support group).
2. The seriousness of the offending action.
3. The effect on the community of denial or the failure of the PHA to take such action.
4. The extent of participation by the leaseholder in the offending action.
5. The effect of denial of admission on household members not involved in the offending action.
6. The demand for assisted housing by families who will adhere to lease responsibilities.
7. The extent to which the tenant has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action.
8. The effect of the PHA's action on the integrity of the program.
9. The willingness of the tenant to exclude the offending household member in order to remain in the housing program, where the identified member has participated in or been culpable for action or failure to act that warrants denial.
10. Evidence of the tenant family's participation in or willingness to participate in social services or other appropriate counseling programs, and the availability of such programs.

C. Domestic Violence

1. The PHA may terminate or refuse to renew a lease to any household member who is a perpetrator of domestic violence, dating violence, sexual assault, or stalking, collectively referred to as VAWA crimes.
2. The PHA retains the discretion to determine on a case-by-case basis whether or not the entire household or only the offending member(s) should be evicted for such criminal activity.
3. An incident or incidents of actual or threatened VAWA crime will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence and shall not be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence.
4. Criminal activity directly relating to a VAWA crime, engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the victim or threatened victim of that VAWA crime. This does not limit the authority of the PHA to:
 - a. Terminate public housing assistance to individuals who engage in criminal acts of physical violence against family members or others.

- b. Terminate public housing assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member of the tenant's household, provided that the public housing agency does not subject an individual who is or has been a victim of a VAWA crime to a more demanding standard than other tenants in determining whether to terminate.
- c. Terminate public housing assistance to a tenant if the public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property or PHA if that tenant is not evicted or terminated from assistance.
- d. Upon relocation of the household member who is the victim of a VAWA crime, the PHA shall terminate the assistance of the remaining family if the perpetrator of the VAWA crime remains in the household.

D. Restriction on Eviction of Over-Income Families

The PHA may not evict or terminate the tenancy of a family solely because the family is over the income limit if:

1. The family has a valid Family Self-Sufficiency Contract of Participation; or
2. At least one family member is receiving the Earned Income Disallowance benefit.

E. Termination by Family

1. A resident may terminate their lease at any time but must provide the PHA 30 days' notice in writing and should include a forwarding address for the PHA to return the resident's security deposit after the resident vacates the premises.
2. A notice of termination by the PHA or a resident may be given on any day of the month.

F. The PHA must provide residents a notice of termination as follows:

1. Thirty (30) days in advance, in cases of failure to pay rent.
2. Three (3) days in advance, in cases of creation or maintenance of a threat to the health and safety of other residents, or PHA employees, or a reasonable time in excess of three (3) days considering the seriousness of the situation.
3. Thirty (30) days in advance in all other cases.
4. The notice shall state the specific reasons for termination and inform the residents they have a right to reply, examine relevant PHA documents, copy relevant documents at their expense, and request a grievance hearing. The lease termination notice shall:
 - a. State that the resident is entitled to a grievance hearing on the termination.
 - b. Specify the judicial eviction procedure to be used by the PHA for eviction of the resident, and state that HUD has determined that this eviction procedure provides the opportunity for a hearing that contains the basic elements of due process as defined in HUD regulations.

- c. State whether the eviction is for a criminal activity or for a drug-related criminal activity, or a pattern of alcohol abuse which threatens the health, safety or right to peaceful enjoyment of the premises by other residents or PHA employees.
5. HUD has issued a due process determination that the law of the state of Alabama requires that the resident be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in the Definition section of these policies) before eviction from a dwelling unit. Therefore, the PHA has elected to determine that this grievance procedure shall not be applicable to any termination of tenancy or eviction that involves:
 - a. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of the PHA; or
 - b. Any violent or drug-related criminal activity on or off such premises; or
 - c. Any activity that resulted in felony conviction of a household member.
6. Any criminal activity is cause for termination of tenancy even in the absence of conviction or arrest.
7. Any repeated pattern of alcohol abuse which threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or PHA employees.
8. The PHA's eviction notices to residents must be in writing, hand delivered or sent by certified mail, with a return receipt requested.
9. Notices under this grievance procedure shall be deemed delivered:
 - a. Upon personal service thereof to the complainant or an adult member (18 years of age or older) of the complainant's household;
 - b. Upon the date received for or refused by the addressee, in the case of certified or registered U.S. Mail; or
 - c. On the second day after the deposit thereof for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail, unless the resident can prove that delivery of the notice, in fact, occurred at some other time.
10. If a resident is visually impaired, any notice delivered to such resident shall be in an accessible format.
11. The PHA will notify the local post office of residents evicted for criminal activity so that evicted persons will not return to the housing development to pick up their mail.

G. Future Eligibility for Assistance.

The PHA has established standards that prohibit and deny readmission of a previous resident and/or household member to the PHA's public housing program for certain drug, criminal and/or unfavorable family behaviors.

1. The PHA will prohibit and deny readmission to the PHA's public housing program for:

- a. Persons evicted from federally assisted housing for drug-related criminal activity for three (3) years from the date of the eviction.
 - b. Person engaging in illegal use of a drug.
 - c. Persons convicted of methamphetamine production for manufacture or production methamphetamine on the premises of federally assisted housing (permanently prohibited admission).
 - d. Persons subject to sex offender registration requirement.
 - e. Persons that abuse or show a pattern of abuse of alcohol.
2. The PHA may prohibit and deny readmission to the PHA's public housing program for:
 - a. An applicant's past performance in meeting financial obligations, especially rent and/or utility payments.
 - b. An applicant's previous lease violations, including the failure to comply with community service and self-sufficiency requirements.
 - c. An applicant who left owing a debt to the PHA or any other PHA.
 - d. A record of disturbance of neighbors, destruction of property, or living or housekeeping habits at any prior PHA public housing development which may have adversely affected the health, safety, or welfare of other tenants.
 - e. A history of criminal activity involving crimes of physical violence to persons or property and other criminal acts which would have adversely affected the health, safety, or welfare of other tenants.
 3. The eligibility determination for readmission will be based on the circumstances of the applicant family at the time the family reapplies.
 4. The PHA may require an applicant to exclude a household member in order to be readmitted to the public housing program where that household member has participated in or been culpable for any actions described above.
 5. In the event of unfavorable information with respect of an applicant, consideration shall be given to the time, nature, and extent of the applicant's conduct, including seriousness of the offense.

NOTICE

The Nelrod Company has made its best efforts to comply with regulations, laws, and Federal/local policies. The Nelrod Company does not offer advice on legal matters or render legal opinions. We recommend that the Housing Authority's general counsel and/or attorney review this policy prior to approval by the Board of Commissioners.

The Nelrod Company is not responsible for any changes made to these policies by any party other than The Nelrod Company.