Chapter 12

TERMINATION OF ASSISTANCE AND TENANCY

HUD regulations specify the reasons for which CCHA can terminate a family's assistance, and the ways in which such terminations must take place. They also dictate the circumstances under which an owner may terminate the tenancy of an assisted family. This chapter presents the policies that govern voluntary and involuntary terminations of assistance, and termination of tenancy by the owner. It is presented in three parts:

Part I: Grounds for Termination of Assistance. This part discusses various reasons that a family's assistance may be terminated, including voluntary termination by the family, termination because the family no longer qualifies to receive subsidy, and termination by the CCHA based on the family's behavior.

Part II: Approach to Termination of Assistance. This part describes the policies that govern how an involuntary termination takes place. It specifies the alternatives that the CCHA may consider in lieu of termination, the criteria the CCHA must use when deciding what action to take, and the steps the CCHA must take when terminating a family's assistance.

Part III: Termination of Tenancy by the Owner. This part presents the policies that govern the owner's right to terminate an assisted tenancy.

PART I: GROUNDS FOR TERMINATION OF ASSISTANCE

12-I.A. OVERVIEW

HUD requires the CCHA to terminate assistance for certain offenses and when the family no longer requires assistance. HUD permits the CCHA to terminate assistance for certain other actions family members take or fail to take. In addition, a family may decide to stop receiving HCV assistance at any time by notifying the CCHA.

12-I.B. FAMILY NO LONGER REQUIRES ASSISTANCE [24 CFR 982.455]

As a family's income increases, the amount of CCHA subsidy goes down. If the amount of HCV assistance provided by the CCHA drops to zero and remains at zero for 180 consecutive calendar days the family's assistance terminates automatically.

CCHA Policy

If a participating family receiving zero assistance experiences a change in circumstances that would cause the HAP payment to rise above zero, the family must notify the CCHA of the changed circumstances and request an interim reexamination before the expiration of the 180-day period.

12-I.C. FAMILY CHOOSES TO TERMINATE ASSISTANCE

The family may request that the CCHA terminate the family's assistance at any time.

CCHA Policy

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or co-head. Before terminating the family's assistance, the CCHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the CCHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2), 24 CFR 5.2005(c)(1)]

The CCHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. As discussed further in section 12-II.E, incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

CCHA Policy

A family will be considered evicted if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has given the family an eviction notice for serious or repeated lease violations but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the CCHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, the CCHA may, on a case-by-case basis, choose not to terminate assistance.

Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was through no fault of the tenant or guests.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The CCHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The CCHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the CCHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

For (3) above, such termination must be for a period of at least 24 months. This does not apply to ineligible noncitizens already in the household where the family's assistance has been prorated. See Chapter 7 for a complete discussion of documentation requirements.

Failure to Disclose and Document Social Security Numbers [24 CFR 5.218(c), Notice PIH 2012-10]

The CCHA must terminate assistance if a participant family fails to disclose the complete and accurate social security numbers of each household member and the documentation necessary to verify each social security number.

However, if the family is otherwise eligible for continued program assistance, and the CCHA determines that the family's failure to meet the SSN disclosure and documentation requirements was due to circumstances that could not have been foreseen and were outside of the family's control, the CCHA may defer the family's termination and provide the opportunity to comply with the requirement within a period not to exceed 90 calendar days from the date the CCHA determined the family to be noncompliant.

CCHA Policy

The CCHA will defer the family's termination and provide the family with the opportunity to comply with the requirement for a period of 90 calendar days for circumstances beyond the participant's control such as delayed processing of the SSN application by the SSA, natural disaster, fire, death in the family, or other emergency, if there is a reasonable likelihood that the participant will be able to disclose an SSN by the deadline.

Methamphetamine Manufacture or Production [24 CFR 982.553(b)(1)(ii)]

The CCHA must terminate assistance if any household member has ever been convicted of the manufacture or production of methamphetamine on the premises of federally-assisted housing.

Lifetime Registered Sex Offenders [Notice PIH 2012-28]

Should CCHA discover that a member of an assisted household was subject to a lifetime registration requirement at admission and was erroneously admitted after June 25, 2001, CCHA must immediately terminate assistance for the household member.

In this situation, CCHA must offer the family the opportunity to remove the ineligible family member from the household. If the family is unwilling to remove that individual from the household, the CCHA must terminate assistance for the household.

Failure of Students to Meet Ongoing Eligibility Requirements [24 CFR 982.552(b)(5) and FR 4/10/06]

If a student enrolled at an institution of higher education is under the age of 24, is not a veteran, is not married, does not have dependent children, is not residing with his/her parents in an HCV assisted household, and is not a person with disabilities receiving HCV assistance as of November 30, 2005, the CCHA must the terminate the student's assistance if, at the time of reexamination, either the student's income or the income of the student's parents (if applicable) exceeds the applicable income limit.

If a participant household consists of both eligible and ineligible students, the eligible students shall not be terminated, but must be issued a voucher to move with continued assistance in accordance with program regulations and CCHA policies, or must be given the opportunity to lease in place if the terminated ineligible student members elect to move out of the assisted unit.

Death of the Sole Family Member [24 CFR 982.311(d) and Notice PIH 2010-9]

The CCHA must immediately terminate program assistance for deceased single member households.

12-I.E. MANDATORY POLICIES AND OTHER AUTHORIZED TERMINATIONS

Mandatory Policies [24 CFR 982.553(b) and 982.551(l)]

HUD requires the CCHA to establish policies that permit the CCHA to terminate assistance if the CCHA determines that:

- Any household member is currently engaged in any illegal use of a drug, or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member's abuse or pattern of abuse of alcohol may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents
- Any household member has violated the family's obligation not to engage in any drug-related criminal activity
- Any household member has violated the family's obligation not to engage in violent criminal activity

Use of Illegal Drugs and Alcohol Abuse

CCHA Policy

The CCHA will terminate a family's assistance if any household member is currently engaged in any illegal use of a drug or has a pattern of illegal drug use that interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents.

The CCHA will terminate assistance if any household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Currently engaged in is defined as any use of illegal drugs during the previous six months.

The CCHA will consider all credible evidence, including but not limited to, any record of arrests, convictions, or eviction of household members related to the use of illegal drugs or abuse of alcohol.

In making its decision to terminate assistance, the CCHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the CCHA may, on a case-by-case basis, choose not to terminate assistance.

Drug-Related and Violent Criminal Activity [24 CFR 5.100]

Drug means a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

Drug-related criminal activity is defined by HUD as the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, distribute or use the drug.

Violent criminal activity means any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to cause, or be reasonably likely to cause, serious bodily injury or property damage.

CCHA Policy

The CCHA will terminate a family's assistance if any household member has violated the family's obligation not to engage in any drug-related or violent criminal activity during participation in the HCV program.

The CCHA will consider all credible evidence, including but not limited to, any record of arrests and/or convictions of household members related to drug-related or violent criminal activity, and any eviction or notice to evict based on drug-related or violent criminal activity.

A record or records of arrest will not be used as the sole basis for the termination or proof that the participant engaged in disqualifying criminal activity.

In making its decision to terminate assistance, the CCHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the CCHA may, on a case-by-case basis, choose not to terminate assistance.

Other Authorized Reasons for Termination of Assistance
[24 CFR 982.552(c), 24 CFR 5.2005(c), 24 CFR 984.101(d)]

HUD permits the CCHA to terminate assistance under a number of other circumstances. It is left to the discretion of the CCHA whether such circumstances in general warrant consideration for the termination of assistance. The Violence Against Women Reauthorization Act prohibits CCHA from considering incidents or actual threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking as reasons for terminating the assistance of a victim of such violence.

CCHA Policy

The CCHA **will** terminate a family's assistance if:

The family has failed to comply with any family obligations under the program. See Exhibit 12-1 for a listing of family obligations and related CCHA policies.

Any family member has been evicted from federally assisted housing in the last five years.

Any family member has committed fraud, bribery, or any other corrupt or criminal act in connection with any federal housing program.

The family currently owes rent or other amounts to any CCHA in connection with Section 8 or public housing assistance under the 1937 Act.

The family has not reimbursed any CCHA for amounts the CCHA paid to an owner under a HAP contract for rent, damages to the unit, or other amounts owed by the family under the lease.

The family has breached the terms of a repayment agreement entered into with the CCHA.

A family member has engaged in or threatened violent or abusive behavior toward CCHA personnel.

Abusive or violent behavior towards CCHA personnel includes verbal as well as physical abuse or violence. Use of racial epithets, or other language, written or oral, that is customarily used to intimidate may be considered abusive or violent behavior.

Threatening refers to oral or written threats or physical gestures that communicate intent to abuse or commit violence.

In making its decision to terminate assistance, the CCHA will consider alternatives as described in Section 12-II.C and other factors described in Sections 12-II.D and 12-II.E. Upon consideration of such alternatives and factors, the CCHA may, on a case-by-case basis, choose not to terminate assistance.

Asset Limitation [24 CFR 5.618; Notice PIH 2023-27]

The PHA has discretion with respect to the application of the asset limitation at annual and interim reexamination. The PHA may adopt a written policy of total nonenforcement, enforcement, or limited enforcement as well as adopting exception policies.

CCHA Policy

The CCHA has adopted a policy of limited enforcement of the asset limitation for all program participants in which families are given the opportunity to cure noncompliance with the asset limitation. All families who are found to be out of compliance at any annual or interim reexamination will be provided up to but no longer than six months from the effective date of that reexamination to cure their noncompliance. Except for a reasonable accommodation for a person with disabilities, no family will be afforded more than six months to cure noncompliance.

After completing the family's reexamination, the CCHA will provide a written notice stating the family is out of compliance with the asset limitation, but CCHA Policy allows families up to six months to cure noncompliance. If, after six months of the initial notification of noncompliance, a family is still out of compliance with asset limitation, the CCHA will begin termination proceedings according to the policies described in this chapter.

Family Absence from the Unit [24 CFR 982.312]

The family may be absent from the unit for brief periods. The CCHA must establish a policy on how long the family may be absent from the assisted unit. However, the family may not be absent from the unit for a period of more than 180 consecutive calendar days for any reason. Absence in this context means that no member of the family is residing in the unit.

CCHA Policy

If the family is absent from the unit for more than 90 consecutive calendar days, the family will be required to request approval from the CCHA for additional time of absence. However, no extensions of time will be granted past 180 days, at which point the family's assistance will be terminated. Notice of termination will be sent in accordance with Section 12-II.E.

Insufficient Funding [24 CFR 982.454]

The CCHA may terminate HAP contracts if the CCHA determines, in accordance with HUD requirements, that funding under the consolidated ACC is insufficient to support continued assistance for families in the program.

CCHA Policy

The CCHA will determine whether there is sufficient funding to pay for currently assisted families according to the policies in Part VIII of Chapter 16. If the CCHA determines there is a shortage of funding, prior to terminating any HAP contracts, the CCHA will determine if any other actions can be taken to reduce program costs. If after implementing all reasonable cost cutting measures there is not enough funding available to provide continued assistance for current participants, the CCHA will terminate HAP contracts as a last resort.

Prior to terminating any HAP contracts, the CCHA will inform the local HUD field office. The CCHA will terminate the minimum number needed in order to reduce HAP costs to a level within the CCHA's annual budget authority.

If the CCHA must terminate HAP contracts due to insufficient funding, the CCHA will do so in accordance with the following criteria and instructions:

Families receiving the least amount of assistance will be terminated first. All families receiving less than $50/mo HAP will be terminated first. An analysis of program expenses per family will be done, and all families receiving less than $50/mo HAP will be identified. From that selection of families, names will be randomly ordered through the use of random.org, and families will be terminated in that order.

If additional actions need to be taken in order to further reduce HAP expenses, families receiving less than $75/mo HAP will be terminated; increasing in increments of $25 until the funding shortage has been resolved.

PART II: APPROACH TO TERMINATION OF ASSISTANCE

12-II.A. OVERVIEW

The CCHA is required by regulation to terminate a family's assistance if certain program rules are violated. For other types of offenses, the regulations give the CCHA the discretion to either terminate the family's assistance or to take another action. This part discusses the various actions the CCHA may choose to take when it has discretion and outlines the criteria the CCHA will use to make its decision about whether or not to terminate assistance. It also specifies the requirements for the notice that must be provided before terminating assistance.

12-II.B. METHOD OF TERMINATION [24 CFR 982.552(a)(3)]

The way in which the CCHA terminates assistance depends upon individual circumstances. HUD permits the CCHA to terminate assistance by:

- Terminating housing assistance payments under a current HAP contract,
- Refusing to approve a request for tenancy or to enter into a new HAP contract, or
- Refusing to process a request for or to provide assistance under portability procedures.

12-II.C. ALTERNATIVES TO TERMINATION OF ASSISTANCE

Change in Household Composition

As a condition of continued assistance, the CCHA may require that any household member who participated in or was responsible for an offense no longer resides in the unit [24 CFR 982.552(c)(2)(ii)].

CCHA Policy

As a condition of continued assistance, the head of household must certify that the culpable family member has vacated the unit and will not be permitted to visit or to stay as a guest in the assisted unit. The family must present evidence of the former family member's current address upon CCHA request.

Repayment of Family Debts

CCHA Policy

If a family owes amounts to the CCHA, as a condition of continued assistance, the CCHA will require the family to repay the full amount or to enter into a repayment agreement, within 30 days of receiving notice from the CCHA of the amount owed. See Chapter 16 for policies on repayment agreements.

12-II.D. CRITERIA FOR DECIDING TO TERMINATE ASSISTANCE

Evidence

For criminal activity, HUD permits the CCHA to terminate assistance if a *preponderance of the evidence* indicates that a household member has engaged in the activity, regardless of whether the household member has been arrested or convicted [24 CFR 982.553(c)].

CCHA Policy

The CCHA will use the concept of the preponderance of the evidence as the standard for making all termination decisions.

Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Use of Criminal Conviction Records after Admission [24 CFR 5.903]

The regulation at 24 CFR 5.903 governs CCHA's access to and use of criminal conviction records obtained from a "law enforcement agency" such as the National Crime Information Center (NCIC), police departments, and other law enforcement agencies that hold criminal conviction records. While the regulatory listing of permitted uses for these records includes CCHA screening of applicants for admission to the HCV program, it specifically excludes the use of records for lease enforcement and eviction of HCV participants and excludes by omission CCHA's use of records to terminate assistance for participants. While CCHA has regulatory authority to use criminal conviction records for the purpose of applicant screening for admission, there is no corresponding authority to use these records to check for criminal and illegal drug activity by participants, and therefore, CCHA may not use records for this purpose. The limitations, however, do not apply to criminal conviction information searches from non-federal sources (i.e., sources other than the "law enforcement agencies" defined in 24 CFR 5.902(b)). There is no prohibition that bars CCHA from using non-federal sources to conduct criminal background checks of program participants.

Consideration of Circumstances [24 CFR 982.552(c)(2)(i)]

The CCHA is permitted, but not required, to consider all relevant circumstances when determining whether a family's assistance should be terminated.

CCHA Policy

The CCHA will consider the following factors when making its decision to terminate assistance:

The seriousness of the case, especially with respect to how it would affect other residents

The effects that termination of assistance may have on other members of the family who were not involved in the action or failure

The extent of participation or culpability of individual family members, including whether the culpable family member is a minor or a person with disabilities or

(as discussed further in section 12-II.E) a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

The length of time since the violation occurred, the family's history and the likelihood of favorable conduct in the future

While a record or records of arrest will not be used as the sole basis for termination, an arrest may, however, trigger an investigation to determine whether the participant actually engaged in disqualifying criminal activity. As part of its investigation, the CCHA may obtain the police report associated with the arrest and consider the reported circumstances of the arrest. The CCHA may also consider:

- Any statements made by witnesses or the participant not included in the police report
- Whether criminal charges were filed
- Whether, if filed, criminal charges were abandoned, dismissed, not prosecuted, or ultimately resulted in an acquittal
- Any other evidence relevant to determining whether or not the participant engaged in disqualifying activity

Evidence of criminal conduct will be considered if it indicates a demonstrable risk to safety and/or property

In the case of drug or alcohol abuse, whether the culpable household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program or has otherwise been rehabilitated successfully

The CCHA will require the participant to submit evidence of the household member's current participation in or successful completion of a supervised drug or alcohol rehabilitation program, compliance with drug court/probation requirements, or evidence of otherwise having been rehabilitated successfully.

In the case of program abuse, the dollar amount of the overpaid assistance and whether or not a false certification was signed by the family

Reasonable Accommodation [24 CFR 982.552(c)(2)(iv)]

If the family includes a person with disabilities, the CCHA's decision to terminate the family's assistance is subject to consideration of reasonable accommodation in accordance with 24 CFR Part 8.

CCHA Policy

If a family indicates that the behavior of a family member with a disability is the reason for a proposed termination of assistance, the CCHA will determine whether the behavior is related to the disability. If so, upon the family's request, the CCHA will determine whether alternative measures are appropriate as a reasonable accommodation. The CCHA will only consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12-II.E. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, STALKING, OR HUMAN TRAFFICKING

This section describes the protections against termination of assistance that the Violence against Women Act of 2013 (VAWA) provides for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For general VAWA requirements, key VAWA definitions, and CCHA policies pertaining to notification, documentation, and confidentiality, see section 16-IX of this plan.

VAWA Protections against Termination

VAWA provides four specific protections against termination of HCV assistance for victims of domestic violence, dating violence, sexual assault or stalking. (*Note:* The second, third, and fourth protections also apply to terminations of tenancy or occupancy by owners participating in the HCV program, as do the limitations discussed under the next heading.)

- Although the VAWA 2022 statute does not specifically include human trafficking in the list of victims protected under VAWA, in 2022 HUD began including human trafficking as part of the list of victims protected under VAWA (as seen in Notices PIH 2022-06, PIH 2022-22, and PIH 2022-24). In the absence of a final rule implementing VAWA 2022 and to mirror HUD's recent usage, this policy includes human trafficking in addition to domestic violence, dating violent, sexual assault, and stalking anywhere such a list appears.

First, VAWA provides that a CCHA may not terminate assistance to a family that moves out of an assisted unit in violation of the lease, with or without prior notification to the CCHA, if the move occurred to protect the health or safety of a family member who is or has been the victim of domestic violence, dating violence, sexual assault, stalking or human trafficking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit [24 CFR 982.315(b)(4)].

Second, it provides that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as a serious or repeated lease violation by the victim or as good cause to terminate the assistance of the victim [24 CFR 5.2005(c)(1)].

Third, it provides that criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking may not be construed as cause for terminating the assistance of a tenant if a member of the tenant's household, a guest, or another person under the tenant's control is the one engaging in the criminal activity and the tenant or affiliated individual or other individual is the actual or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking. [24 CFR 5.2005(c)(2)].

Fourth, it gives CCHA the authority to terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others without terminating assistance to, or otherwise penalizing, the victim of the violence [24 CFR 5.2009(a)].

CCHA and owners may not coerce, intimidate, threaten, interfere with, or retaliate against any person who exercises or assists or encourages a person to exercise any rights or protections under VAWA [FR Notice 1/4/23].

Limitations on VAWA Protections [24 CFR 5.2005(d) and (e)]

VAWA does not limit the authority of a CCHA to terminate the assistance of a victim of abuse for reasons unrelated to domestic violence, dating violence, sexual assault, stalking, or human trafficking so long as the CCHA does not subject the victim to a more demanding standard than it applies to other program participants [24 CFR 5.2005(d)(1)].

Likewise, VAWA does not limit the authority of a CCHA to terminate the assistance of a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking if the CCHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the assisted property if the victim is not terminated from assistance [24 CFR 5.2005(d)(2)].

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm
- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

In order to demonstrate an actual and imminent threat, CCHA must have objective evidence of words, gestures, and other indicators. Even when a victim poses an actual and imminent threat, however, HUD regulations authorize CCHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

CCHA Policy

In determining whether a participant who is a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the CCHA will consider the following, and any other relevant, factors:

Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking

Whether the threat is a physical danger beyond a speculative threat

Whether the threat is likely to happen within a short period of time

Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location

If the tenant wishes to contest the CCHA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the informal hearing.

Documentation of Abuse [24 CFR 5.2007]

CCHA Policy

When an individual facing termination of assistance for reasons related to domestic violence, dating violence, sexual assault, stalking, or human trafficking claims protection under VAWA, the CCHA will request that the individual provide documentation supporting the claim in accordance with the policies in section 16-IX.D of this plan.

The CCHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the CCHA will document the waiver in the individual's file.

Terminating the Assistance of a Domestic Violence Perpetrator [24 CFR 5.2005(c)]

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. VAWA gives the CCHA the explicit authority to "terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others…without terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant." [24 CFR 5.2009(a)] This authority is not dependent on a bifurcated lease or other eviction action by an owner against an individual family member. Further, this authority supersedes any local, state, or other federal law to the contrary. However, if the CCHA chooses to exercise this authority, it must follow any procedures prescribed by HUD or by applicable local, state, or federal law regarding termination of assistance. This means that the CCHA must follow the same rules when terminating assistance to an individual as it would when terminating the assistance of an entire family [FR Notice 3/16/07]

If the perpetrator remains in the unit, the PHA continues to pay the owner until the PHA terminates the perpetrator from the program. The PHA must not stop paying HAP until 30 days after the owner bifurcates the lease to evict the perpetrator. The PHA may pay HAP for the full month if the 30-day period will end mid-month [Notice PIH 2017-08].

If the perpetrator is the only participant eligible to receive assistance, the PHA will provide any remaining participant a chance to establish eligibility for the program. If the remaining participant cannot do so, the PHA will provide them with 30 days to establish eligibility for another housing program prior to termination of the HAP contract.

CCHA Policy

The CCHA will terminate assistance to a family member if the CCHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the assistance of the remaining, non-culpable family members.

In making its decision, the CCHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-50066) or other documentation of abuse submitted to the CCHA by the victim in accordance with this section. The CCHA will also consider the factors in section 12-II.D. Upon such consideration, the CCHA may, on a case-by-case basis, choose not to terminate the assistance of the culpable family member.

If the CCHA does terminate the assistance of the culpable family member, it will do so in accordance with applicable law, HUD regulations, and the policies in this plan.

12-II.F. TERMINATION NOTICE

HUD regulations require CCHA to provide written notice of termination of assistance to a family only when the family is entitled to an informal hearing. However, since the family's HAP contract and lease will also terminate when the family's assistance terminates [form HUD-52641], it is also a good business practice to provide written notification to both the owner and family anytime assistance will be terminated, whether voluntarily or involuntarily.

CCHA Policy

Whenever a family's assistance will be terminated, the CCHA will send a written notice of termination to the family and the owner. The CCHA will also send a form HUD-50066 to the family with the termination notice. The notice will state the date on which the termination will become effective. This date generally will be at least 30 calendar days following the date of the termination notice, but exceptions will be made whenever HUD rules, other CCHA policies, or the circumstances surrounding the termination require.

If a family whose assistance is being terminated is entitled to an informal hearing, the notice of termination that the CCHA sends out to the family must meet the additional HUD and CCHA notice requirements discussed in section 16-III.C of this plan. VAWA requires CCHA to provide notice of VAWA rights and the HUD 50066 form when a CCHA terminates a household's housing benefits.

CCHA Policy

Whenever CCHA decides to terminate a family's assistance because of the family's action or failure to act, the CCHA will include in its termination notice the VAWA information described in section 16-IX.C of this plan and a form HUD-50066. The CCHA will request that a family member wishing to claim protection under the VAWA notify the CCHA within 10 business days.

Still other notice requirements apply in two situations:

- If a criminal record is the basis of a family's termination, the CCHA must provide a copy of the record to the subject of the record and the tenant so that they have an opportunity to dispute the accuracy and relevance of the record [24 CFR 982.553(d)(2)].
- If immigration status is the basis of a family's termination, as discussed in section 12-I.D, the special notice requirements in section 16-III.D must be followed.

PART III: TERMINATION OF TENANCY BY THE OWNER

12-III.A. OVERVIEW

Termination of an assisted tenancy is a matter between the owner and the family; CCHA is not directly involved. However, the owner is under some constraints when terminating an assisted tenancy, and the reasons for which a tenancy is terminated dictate whether assistance also will be terminated.

12-III.B. GROUNDS FOR OWNER TERMINATION OF TENANCY [24 CFR 982.310, 24 CFR 5.2005(c), and Form HUD-52641-A, Tenancy Addendum]

During the term of the lease, the owner is not permitted to terminate the tenancy except for serious or repeated violations of the lease, certain violations of state or local law, or other good cause.

Serious or Repeated Lease Violations

The owner is permitted to terminate the family's tenancy for serious or repeated violations of the terms and conditions of the lease, including failure to pay rent or other amounts due under the lease, except when the violations are related to incidents of actual or threatened domestic violence, dating violence, sexual assault, stalking, or human trafficking and the victim is protected from eviction by the Violence Against Women Act of 2013 (see section 12-II.E). A serious lease violation includes failure to pay rent or other amounts due under the lease. However, the CCHA's failure to make a HAP payment to the owner is not a violation of the lease between the family and the owner.

Violation of Federal, State, or Local Law

The owner is permitted to terminate the tenancy if a family member violates federal, state, or local law that imposes obligations in connection with the occupancy or use of the premises.

Criminal Activity or Alcohol Abuse

The owner may terminate tenancy during the term of the lease if any *covered person*, meaning any member of the household, a guest or another person under the tenant's control commits any of the following types of criminal activity (for applicable definitions see 24 CFR 5.100):

- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of the premises by, other residents (including property management staff residing on the premises);
- Any criminal activity that threatens the health or safety of, or the right to peaceful enjoyment of their residences by, persons residing in the immediate vicinity of the premises;
- Any violent criminal activity on or near the premises; or
- Any drug-related criminal activity on or near the premises

However, in the case of criminal activity directly related to domestic violence, dating violence, sexual assault, stalking, or human trafficking if the tenant or an affiliated individual is the victim, the criminal activity may not be construed as cause for terminating the victim's tenancy (see section 12-II.E).

The owner may terminate tenancy during the term of the lease if any member of the household is:

- Fleeing to avoid prosecution, custody, or confinement after conviction for a crime or an attempt to commit a crime that is a felony under the laws of the place from which the individual flees, or that, in the case of the State of New Jersey, is a high misdemeanor; or
- Violating a condition of probation or parole imposed under federal or state law.

The owner may terminate tenancy during the term of the lease if any member of the household has engaged in abuse of alcohol that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents.

Evidence of Criminal Activity

The owner may terminate tenancy and evict by judicial action a family for criminal activity by a covered person if the owner determines they have engaged in the criminal activity, regardless of whether the covered person has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction. This is the case except in certain incidents where the criminal activity directly relates to domestic violence, dating violence, sexual assault, stalking, or human trafficking, and the tenant or an affiliated individual is the victim or threatened victim of the domestic violence, dating violence, sexual assault, stalking, or human trafficking.

Other Good Cause

During the initial lease term, the owner may not terminate the tenancy for "other good cause" unless the owner is terminating the tenancy because of something the family did or failed to do. During the initial lease term or during any extension term, other good cause includes the disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises.

After the initial lease term, "other good cause" for termination of tenancy by the owner includes:

- Failure by the family to accept the offer of a new lease or revision;
- The owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
- A business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rent).

After the initial lease term, the owner may give the family notice at any time, in accordance with the terms of the lease.

If a property is subject to foreclosure, during the term of the lease, the new owner of the property does not have good cause to terminate the tenant's lease, unless the new owner will occupy the unit as their primary residence and has provided the tenant with at least a 90-day notice. In that case, the lease may be terminated effective on the date of sale, although the tenant is still entitled to a 90-day notice to vacate. See Section 13-II.G for a discussion of PHA policies relating to units in foreclosure.

12-III.C. EVICTION [24 CFR 982.310(e) and (f) and Form HUD-52641-A, Tenancy Addendum]

The owner must give the tenant a written notice that specifies the grounds for termination of tenancy during the term of the lease. The tenancy does not terminate before the owner has given this notice, and the notice must be given at or before commencement of the eviction action.

The notice of grounds may be included in, or may be combined with, any owner eviction notice to the tenant.

Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used under state or local law to commence an eviction action. The owner may only evict the tenant from the unit by instituting a court action. The owner must give the CCHA a copy of any eviction notice at the same time the owner notifies the family. The family is also required to give the CCHA a copy of any eviction notice (see Chapter 5).

CCHA Policy

If the eviction action is finalized in court, the owner must provide the CCHA with documentation related to the eviction, including notice of the eviction date, as soon as possible, but no later than 5 business days following the court-ordered eviction.

12-III.D. DECIDING WHETHER TO TERMINATE TENANCY [24 CFR 982.310(h), 24 CFR 982.310(h)(4)]

An owner who has grounds to terminate a tenancy is not required to do so, and may consider all of the circumstances relevant to a particular case before making a decision. These might include:

- The nature of the offending action
- The seriousness of the offending action;
- The effect on the community of the termination, or of the owner's failure to terminate the tenancy;
- The extent of participation by the leaseholder in the offending action;
- The effect of termination of tenancy on household members not involved in the offending activity;
- The demand for assisted housing by families who will adhere to lease responsibilities;
- The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action;
- The effect of the owner's action on the integrity of the program.

The owner may require a family to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants termination.

In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully (42 U.S.C. 13661). For this purpose, the owner may require the tenant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

The owner's termination of tenancy actions must be consistent with the fair housing and equal opportunity provisions in 24 CFR 5.105.

An owner's decision to terminate tenancy for incidents related to domestic violence, dating violence, sexual assault, stalking, or human trafficking is limited by the Violence Against Women Reauthorization Act (VAWA) and the conforming regulations in 24 CFR Part 5, Subpart L. (See Section 12-II.E.)

12-III.E. EFFECT OF TENANCY TERMINATION ON THE FAMILY'S ASSISTANCE

If a termination is not due to a serious or repeated violation of the lease, and if the CCHA has no other grounds for termination of assistance, the CCHA may issue a new voucher so that the family can move with continued assistance (see Chapter 10).

EXHIBIT 12-1: STATEMENT OF FAMILY OBLIGATIONS

Following is a listing of a participant family's obligations under the HCV program:

- The family must supply any information that the CCHA or HUD determines to be necessary, including submission of required evidence of citizenship or eligible immigration status.
- The family must supply any information requested by the CCHA or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition.
- The family must disclose and verify social security numbers and sign and submit consent forms for obtaining information.
- Any information supplied by the family must be true and complete.
- The family is responsible for any Housing Quality Standards (HQS) breach by the family caused by failure to pay tenant-provided utilities or appliances, or damages to the dwelling unit or premises beyond normal wear and tear caused by any member of the household or guest.

  CCHA Policy

  Damages beyond normal wear and tear will be considered to be damages which could be assessed against the security deposit.

- The family must allow the CCHA to inspect the unit at reasonable times and after reasonable notice, as described in Chapter 8 of this plan.
- The family must not commit any serious or repeated violation of the lease.

  CCHA Policy

  The CCHA will determine if a family has committed serious or repeated violations of the lease based on available evidence, including but not limited to, a court-ordered eviction, or an owner's notice to evict.

  Serious and repeated lease violations will include, but not be limited to, nonpayment of rent, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criteria to be used is whether the reason for the eviction was the fault of the tenant or guests. Any incidents of, or criminal activity related to, domestic violence, dating violence, sexual assault, stalking, or human trafficking will not be construed as serious or repeated violations of the lease by the victim [24 CFR 5.2005(c)(1)].

- The family must notify the CCHA and the owner before moving out of the unit or terminating the lease.

  CCHA Policy

  The family must comply with lease requirements regarding written notice to the owner. The family must provide written notice to the CCHA at the same time the owner is notified.

- The family must promptly give the CCHA a copy of any owner eviction notice.

- The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
- The composition of the assisted family residing in the unit must be approved by the CCHA. The family must promptly notify the CCHA in writing of the birth, adoption, or court-awarded custody of a child. The family must request CCHA approval to add any other family member as an occupant of the unit.

  CCHA Policy

  The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The CCHA will determine eligibility of the new member in accordance with the policies in Chapter 3.
- The family must promptly notify the CCHA in writing if any family member no longer lives in the unit.
- If the CCHA has given approval, a foster child or a live-in aide may reside in the unit. The CCHA has the discretion to adopt reasonable policies concerning residency by a foster child or a live-in aide, and to define when CCHA consent may be given or denied. For policies related to the request and approval/disapproval of foster children, foster adults, and live-in aides, see Chapter 3 (Sections I.K and I.M), and Chapter 11 (Section II.B).
- The family must not sublease the unit, assign the lease, or transfer the unit.

  CCHA Policy

  Subleasing includes receiving payment to cover rent and utility costs by a person living in the unit who is not listed as a family member.
- The family must supply any information requested by the CCHA to verify that the family is living in the unit or information related to family absence from the unit.
- The family must promptly notify the CCHA when the family is absent from the unit.

  CCHA Policy

  Notice is required under this provision only when all family members will be absent from the unit for an extended period. An extended period is defined as any period greater than 30 calendar days. Written notice must be provided to the CCHA at the start of the extended absence.
- The family must pay utility bills and provide and maintain any appliances that the owner is not required to provide under the lease [Form HUD-52646, Voucher].
- The family must not own or have any interest in the unit, (other than in a cooperative and owners of a manufactured home leasing a manufactured home space).
- Family members must not commit fraud, bribery, or any other corrupt or criminal act in connection with the program. (See Chapter 14, Program Integrity for additional information).
- Family members must not engage in drug-related criminal activity or violent criminal activity or other criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for HUD and CCHA policies related to drug-related and violent criminal activity.

- Members of the household must not engage in abuse of alcohol in a way that threatens the health, safety or right to peaceful enjoyment of the other residents and persons residing in the immediate vicinity of the premises. See Chapter 12 for a discussion of HUD and CCHA policies related to alcohol abuse.
- An assisted family or member of the family must not receive HCV program assistance while receiving another housing subsidy, for the same unit or a different unit under any other federal, state or local housing assistance program.
- A family must not receive HCV program assistance while residing in a unit owned by a parent, child, grandparent, grandchild, sister or brother of any member of the family, unless the CCHA has determined (and has notified the owner and the family of such determination) that approving rental of the unit, notwithstanding such relationship, would provide reasonable accommodation for a family member who is a person with disabilities. [Form HUD-52646, Voucher]