

§ 966.5

24 CFR Ch. IX (4-1-04 Edition)

that the lease has been executed by the parties.

[56 FR 51576, Oct. 11, 1991, as amended at 61 FR 13273, Mar. 26, 1996; 65 FR 16730, Mar. 29, 2000; 66 FR 28802, May 24, 2001; 66 FR 32875, June 18, 2001; 66 FR 33134, June 20, 2001]

§ 966.5 Posting of policies, rules and regulations.

Schedules of special charges for services, repairs and utilities and rules and regulations which are required to be incorporated in the lease by reference shall be publicly posted in a conspicuous manner in the Project Office and shall be furnished to applicants and tenants on request. Such schedules, rules and regulations may be modified from time to time by the PHA provided that the PHA shall give at least 30-day written notice to each affected tenant setting forth the proposed modification, the reasons therefor, and providing the tenant an opportunity to present written comments which shall be taken into consideration by the PHA prior to the proposed modification becoming effective. A copy of such notice shall be:

(a) Delivered directly or mailed to each tenant; or

(b) Posted in at least three (3) conspicuous places within each structure or building in which the affected dwelling units are located, as well as in a conspicuous place at the project office, if any, or if none, a similar central business location within the project.

§ 966.6 Prohibited lease provisions.

Lease clauses of the nature described below shall not be included in new leases between a PHA and a tenant and shall be deleted from existing leases either by amendment thereof or execution of a new lease:

(a) *Confession of judgment.* Prior consent by the tenant to any lawsuit the landlord may bring against him in connection with the lease and to a judgment in favor of the landlord.

(b) *Distraint for rent or other charges.* Agreement by the tenant that landlord is authorized to take property of the tenant and hold it as a pledge until the tenant performs the obligation which the landlord has determined the tenant has failed to perform.

(c) *Exculpatory clauses.* Agreement by the tenant not to hold the landlord or landlord's agent liable for any acts or omissions whether intentional or negligent on the part of the landlord or the landlord's authorized representatives or agents.

(d) *Waiver of legal notice by tenant prior to actions for eviction or money judgments.* Agreements by the tenant that the landlord may institute suit without any notice to the tenant that the suit has been filed, thus preventing the tenant from defending against the lawsuit.

(e) *Waiver of legal proceedings.* Authorization to the landlord to evict the tenant or hold or sell the tenant's possessions whenever the landlord determines that a breach or default has occurred without notice to the tenant or any determination by a court of the rights and liabilities of the parties.

(f) *Waiver of jury trial.* Authorization of the landlord's lawyer to appear in court for the tenant and waive the right to a trial by jury.

(g) *Waiver of right to appeal judicial error in legal proceeding.* Authorization to the landlord's lawyer to waive the right to appeal for judicial error in any suit or to waive the right to file a suit in equity to prevent the execution of a judgment.

(h) *Tenant chargeable with cost of legal actions regardless of outcome.* Provision that the tenant agrees to pay attorney's fees or other legal costs whenever the landlord decides to take action against the tenant even though the court determines that the tenant prevails in the action. Prohibition of this type of provision does not mean that the tenant as a party to the lawsuit may not be obligated to pay attorney's fees or other costs if he loses the suit.

§ 966.7 Accommodation of persons with disabilities.

(a) For all aspects of the lease and grievance procedures, a handicapped person shall be provided reasonable accommodation to the extent necessary to provide the handicapped person with an opportunity to use and occupy the dwelling unit equal to a non-handicapped person.

(b) The PHA shall provide a notice to each tenant that the tenant may, at

any time during the tenancy, request reasonable accommodation of a handicap of a household member, including reasonable accommodation so that the tenant can meet lease requirements or other requirements of tenancy.

[56 FR 51579, Oct. 11, 1991]

Subpart B—Grievance Procedures and Requirements

SOURCE: 40 FR 33406, Aug. 7, 1975, unless otherwise noted. Redesignated at 49 FR 6714, Feb. 23, 1984.

§ 966.50 Purpose and scope.

The purpose of this subpart is to set forth the requirements, standards and criteria for a grievance procedure to be established and implemented by public housing agencies (PHAs) to assure that a PHA tenant is afforded an opportunity for a hearing if the tenant disputes within a reasonable time any PHA action or failure to act involving the tenant's lease with the PHA or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status.

[56 FR 51579, Oct. 11, 1991]

§ 966.51 Applicability.

(a)(1) The PHA grievance procedure shall be applicable (except as provided in paragraph (a)(2) of this section) to all individual grievances as defined in § 966.53 of this subpart between the tenant and the PHA.

(2)(i) The term *due process determination* means a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in § 966.53(c)) before eviction from the dwelling unit. If HUD has issued a due process determination, a PHA may exclude from the PHA administrative grievance procedure under this subpart any grievance concerning a termination of tenancy or eviction that involves:

(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;

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

(C) Any criminal activity that resulted in felony conviction of a household member.

(iii) For guidance of the public, HUD will publish in the FEDERAL REGISTER a notice listing the judicial eviction procedures for which HUD has issued a due process determination. HUD will make available for public inspection and copying a copy of the legal analysis on which the determinations are based.

(iv) If HUD has issued a due process determination, the PHA may evict the occupants of the dwelling unit through the judicial eviction procedures which are the subject of the determination. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's administrative grievance procedure.

(b) The PHA grievance procedure shall not be applicable to disputes between tenants not involving the PHA or to class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners.

[40 FR 33406, Aug. 7, 1975. Redesignated at 49 FR 6714, Feb. 23, 1984, and amended at 56 FR 51579, Oct. 11, 1991; 61 FR 13273, Mar. 26, 1996; 66 FR 28804, May 24, 2001]

§ 966.52 Requirements.

(a) Each PHA shall adopt a grievance procedure affording each tenant an opportunity for a hearing on a grievance as defined in § 966.53 in accordance with the requirements, standards, and criteria contained in this subpart.

(b) The PHA grievance procedure shall be included in, or incorporated by reference in, all tenant dwelling leases pursuant to subpart A of this part.

(c) The PHA shall provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the PHA grievance procedure, and providing an opportunity to present written comments. Subject to requirements of this subpart, comments submitted shall be considered by the PHA before adoption of any grievance procedure changes by the PHA.