



ADVANCING HEALTH EQUITY: HUD'S SMOKE-FREE PUBLIC HOUSING RULE

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HUD and Smoke-Free Housing

- 2003/2004** HUD legal counsel determine apartments may legally adopt smoke-free policies
- 2009** HUD issues notice *strongly encouraging* PHAs to adopt smoke-free policies
- 2010** Extends notice to owners/operators of subsidized multifamily properties
- 2012** Reissues 2009 and 2010 notices; provide guidance on how to adopt these policies
- 2015** HUD issues a proposed rule mandating PHAs implement a smoke-free policy
- 2016** December 5, agency issues final rule
- 2017** February 3, final rule becomes effective...



Instituting Smoke-Free Public Housing

Scope: Applies to all public housing

Prohibits: Cigarettes, cigars, pipes, and hookah

Location: (1) All indoor areas, including resident units, and
(2) Within 25 feet of any public housing building

Timeline: All public housing must be smoke-free by July 30, 2018



Indoor

- Residential units
- Laundry rooms
- Stairwells
- Hallways
- Admin. offices
- Daycare centers

Outdoor

- Entrances/Exits
- Windows
- Decks, Patios, Balconies, and Roofs



What doesn't the Rule Do?

Ban smoking in other types of federally subsidized housing

- Rule doesn't impact mixed finance, Section 8, Rural development (USDA) or Tribal housing

Ban use of electronic nicotine delivery systems

Make grounds entirely smoke-free/Require designated smoking areas

- Outside 25-foot smoke-free buffer, properties may restrict or permit smoking

Cover implementation costs

- Any costs should be covered through operating reserves and other existing resources

Require smoke-free signage



Implementation Requirements: How do PHAs go smoke-free?

Amend PHA plans and all tenant leases by July 30, 2018

(1) PHA Plan Amendments

- Obtain board approval
- Document smoke-free policy in PHA plan
- Conduct resident engagement

(2) Lease Amendments

- Amend all individual leases
- Extend ban to household members and guests
- Provide 60+ day notice to residents



Medical Marijuana

Federal Law

- Marijuana remains Schedule I substance under CSA
- Possession/use are illegal under federal law

HUD Requirements

- Smoke-Free housing rule does not address marijuana
- December 2014 Memo – marijuana possession violates federal law *even if* permitted under state law
 - ▶ Owners must deny admission to known users
 - ▶ Owners may not establish lease provisions permitting marijuana use
 - ▶ Owners must establish policies for lease termination due to marijuana use
 - ▶ Owners have discretion over whether to evict current residents



Reasonable Accommodation Requests

PHAs must provide “reasonable accommodations” to persons with qualifying disabilities

Smoking/nicotine addiction is **not** a qualifying disability

PHA must provide reasonable accommodation to persons with disabilities who smoke, but cannot permit continued smoking in restricted areas

- **Ex.:** Move to a floor or apartment closer to door, provide easily accessible designated smoking areas



Enforcement and Monitoring Tools

Must enforce smoke-free policy when residents violate

May not evict for a single incident of smoking

Must provide due process

Encouraged to adopt graduated enforcement:

- Clearly define what constitutes a violation and penalties in lease amendment
- Quantify number of violations triggering enforcement actions
- Document non-compliance or non-responsiveness
- Outline eviction proceedings



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