

# Understanding Your Lease in Public Housing

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**A Know Your Rights Guide for  
Public Housing Tenants in Massachusetts**



## **Using This Book**

The purpose of this booklet is to give tenants in public housing in Massachusetts answers to questions about leases. As a tenant, you have important rights under the law. You may have additional rights in your lease. These rights, however, have meaning only when you know and use them.

This booklet is available on **[www.MassLegalHelp.org](http://www.MassLegalHelp.org)**. Please distribute it freely to tenants and organizations working with tenants. We also urge you to use this booklet to hold trainings for tenants in your community about leases.

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Because laws and regulations change, make sure you have the most up-to-date version of the booklet by checking: [www.MassLegalHelp.org](http://www.MassLegalHelp.org).

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# Reading Your Lease

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## 1. What is a public housing lease?

A lease is an agreement between you, as the tenant, and the housing authority, as your landlord. Your lease is very important because it explains your rights and responsibilities and the housing authority's rights and responsibilities. Among other things, a lease will state:<sup>1</sup>

- How much rent you owe,
- Who can live in your apartment,
- What you can expect of the housing authority;
- What the housing authority can expect of you;
- What procedures you must follow to end your lease, and
- What procedures your landlord must follow to evict you.

While each housing authority can develop its own lease, all federal and state public housing tenants must have a written lease, and all leases must comply with federal, state, and local laws and regulations. Be sure you read all the terms of your public housing lease and understand them.

## 2. How do I get a copy of my lease?

After you and the housing authority sign your lease, the housing authority should give you a copy of the lease. Massachusetts law requires that you be given a free copy of your lease within 30 days of when you sign it.<sup>2</sup> If you do not receive the lease, write a letter to the housing authority to ask for it.

If you lose your copy of the lease while you are a tenant in public housing, you can always request another copy from your file at the housing authority office. The housing authority may, however, charge you the cost of photocopying a replacement copy of your lease.

### **3. Does each housing authority have its own lease?**

Yes. While certain terms are required to be in public housing leases, housing authorities are allowed to add additional terms as long as these terms do not violate the law. So while there may be basic lease terms that are similar among housing authorities, there can be significant differences from one housing authority to another in terms of specific lease terms.

Both the state and federal housing agencies provide model or sample leases that you can compare your lease to.

**Federal** public housing lease is available at:

[www.hud.gov/offices/pih/programs/ph/rhiip/phgb\\_app4\\_7new.pdf](http://www.hud.gov/offices/pih/programs/ph/rhiip/phgb_app4_7new.pdf).

**State** public housing lease is available at:

[www.state.ma.us/dhcd/components/public/lease.doc](http://www.state.ma.us/dhcd/components/public/lease.doc).

If the housing authority is proposing to change the standard lease, it must give all tenants written notice of this, and at least 30 days to give written comments. If you have a local tenants organization, it can negotiate with the housing authority about the terms in the lease.

### **4. Do I have to sign a public housing lease?**

Yes. All federal and state public housing tenants must have a written lease that is signed by both you and the housing authority.<sup>3</sup> In fact, in state public housing, if you do not sign a lease or a lease addendum without a good reason, the housing authority can start eviction proceedings against you.<sup>4</sup>

Before you sign a lease, however, be sure that you read it and understand it. If there is any part that you do not understand, ask a housing authority staff person to explain it to you. If you need to, you may bring the lease home with you and go over it with a friend, family member, or an advocate.

## **5. What is a public housing lease addendum?**

A lease addendum is a piece of paper that is added or attached to your lease which makes a change to your current lease. If your rent or the number of people in your household changes, the housing authority may request that you sign a *lease addendum* that reflects these changes.<sup>5</sup> This could occur, for example, at the time of your yearly rent redetermination, which is usually around the anniversary date of your move-in. Or it could happen at an *interim rent redetermination*, which can occur any time something changes—for example, if you receive an increase in your income that requires your rent to be changed.

## **6. How long does my public housing lease last?**

The length of your tenancy or term of your lease varies depending on whether you live in state or federal public housing. Read your lease carefully to figure this out. In addition, at least once a year, around the anniversary date of your move-in, you will need to complete a redetermination of income and household composition so that the housing authority can determine if your rent and unit size are still correct.

### **State public housing**

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In state public housing, the lease continues until either you or the housing authority end it by giving written notice.

### **Federal public housing**

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In federal public housing, a lease lasts for one year. At the end of the year, the lease is automatically renewed for another year, unless you have not complied with the community service requirements for tenants in federal public housing.<sup>6</sup>

## **7. What can I do if I don't understand my lease?**

It is important to understand what is in your lease. If you need to, you may bring the lease home with you and go over it with a friend, family member or an advocate. If

there is any part that you do not understand, ask a housing authority staff person to explain it to you.

You can also contact your local tenant organization, if you have one, and ask the organization to invite an advocate to go over the lease with tenants as a group and explain what key terms mean. Often tenants don't realize what is in a lease. Having an advocate go over it can help prevent tenants from violating the lease and getting in trouble down the road. It can also provide tenants with an opportunity, as a group, to discuss the real-life meaning of various lease terms and develop proposals to give the housing authority about how to change the lease.

Housing authorities also have a responsibility to insure that its lease, as a primary communication to tenants, is accessible to people with disabilities.<sup>7</sup> This means that the lease should be made available in an accessible format. In addition, housing authorities must take steps to assist people who do not speak English as their first language.<sup>8</sup> For people with limited English, the lease should be translated.

## **8. How can I tell if I live in state or federal public housing?**

It is important to know whether you live in public housing funded by the federal government or public housing funded by the state of Massachusetts in order for you to figure out what should be in your lease and what rules apply to you.<sup>9</sup>

There are a couple of different steps you can take to determine whether you live in state or federal housing. First, check your lease and any forms that you signed, such as the income verification form. If you see words like "federal public housing" or "HUD form no. 222" (HUD is the federal Department of Housing and Urban Development), you probably live in federal public housing. If you see words like "state-assisted housing" or "Department of Housing and Community Development (DHCD)," you probably live in state public housing.

If it isn't clear from your lease or other tenant forms, contact your tenant organization, if you have one, or the housing authority and ask someone there. It is a perfectly reasonable question to ask, because determining whether you live in federal or state public housing can be confusing and you need to know.

# Common Lease Terms

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## 9. What must every public housing lease include?

Every public housing lease must include the following basic information:<sup>10</sup>

- Your name and the name of the housing authority.
- The address, apartment number, and other identifying information about the apartment.
- The names of the people who live in your apartment (this is commonly known as the family or “household composition,” and includes all your family members and any approved live-in aide who is there to take care of a person with a disability).<sup>11</sup>
- The length of the lease and when it can be renewed.
- Who is responsible for paying utilities.
- How much rent you are required to pay.
- All charges in addition to rent.<sup>12</sup>
- The housing authority’s obligations to you as a tenant.<sup>13</sup>
- Your obligations as a tenant.<sup>14</sup>

## 10. What terms of a public housing lease are illegal?

For both state and federal public housing tenants, the law provides that if there is an illegal clause in your lease, the housing authority cannot force you to comply with it.<sup>15</sup> For example, lease clauses that are considered illegal in Massachusetts for both state and federal leases are clauses that require you to:

- Make repairs even if you didn't cause the damage. (A landlord is required to make repairs, except when the tenant has caused the damage.)

- Pay for electricity or gas when the service and bills are in the housing authority's name or when there is not a separate meter for your own utilities.
- Pay all the rent due for the entire lease if you or the housing authority breaks your lease before your anniversary date.<sup>16</sup>

If you feel you will lose the apartment unless you sign a lease with an illegal clause in it, you can still sign the lease and move in. Except for the illegal parts, your lease will be valid.

## **Federal public housing**

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The following lease clauses are illegal if they are included in your federal lease:<sup>17</sup>

- The housing authority can evict you without first giving you notice or without permission of the court.
- The housing authority will automatically win any lawsuit it brings against you.
- You will not sue the housing authority.
- The housing authority can file a lawsuit against you without giving you notice first.
- You give up (*waive*) your right to a jury trial if there is a lawsuit between you and the housing authority.
- You will not file an appeal or try to stop a court judgment against you obtained by the housing authority.
- You will pay the housing authority's attorney fees and court costs any time it sues you, regardless of who wins the suit.
- The housing authority can hold your belongings until you pay a debt to the housing authority, such as back rent.
- The housing authority can hold or sell your belongings without notice to you or without permission of the court.

**Note:** Federal law also prohibits a housing authority from including "unreasonable" clauses in a public housing lease.<sup>18</sup>

# Tenants' Obligations

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## 11. What are my obligations under a public housing lease?

It is important to know your obligations as a tenant to avoid problems with the housing authority that could put your housing at risk.

### **All public housing residents**

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Every public housing lease must include a listing of your obligations as a tenant.<sup>19</sup> These obligations include:

- Paying the rent.
- Paying the cost of any utilities that the lease requires you to pay.
- Using your apartment only as a private residence for yourself and the members of your household who are named in the lease.
- Not subleasing or transferring use of your apartment to someone else.
- Not providing accommodations to boarders or lodgers.
- Keeping your apartment clean, safe, and sanitary.
- Properly storing and disposing of all garbage and other waste.
- Signing a new lease or lease addendum whenever your rent is redetermined, your household size changes, or there are changes in the terms of the tenancy.
- Agreeing to a transfer to an appropriately-sized unit if the number of people in your household decreases, if you don't need accessible features in the unit and someone else does, or if the housing authority is renovating your apartment.
- Allowing the housing authority access to your apartment for inspection or routine maintenance after you have received 48 hours notice.
- Allowing the housing authority access to your apartment if you requested a repair, after reasonable notice to you.
- Allowing your landlord access to your apartment on an emergency basis.

- Following rules and policies established by the housing authority that are reasonable.
- Paying reasonable charges for the repair of damages to your apartment or the building that were caused by you, your guests, or members of your household.

## **Guests and household members**

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The following obligations apply not just to you, but also to members of your household and your guests:

- Not making any changes or additions to your apartment or any housing authority property unless the housing authority gives you permission.
- Not making unreasonably loud noise in your apartment and on housing authority property that would interfere with other tenants.
- Taking reasonable care of electric, heating, plumbing, and other utility services.
- Not damaging, defacing, or removing any part of your apartment or building.
- Not injuring, harassing, or unreasonably disturbing other tenants, housing authority officers and staff, or people lawfully on the property.
- Not engaging in criminal activity or creating a nuisance in your apartment or on or near housing authority property.

## **State public housing**

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In state public housing, your lease must also state that you are responsible for doing the following:<sup>20</sup>

- Participate in wage, tax, and bank match systems that the housing authority has established and provide the housing authority with information and authorizations that are necessary for them to perform such matches.
- Give the housing authority your Social Security Number and allow the housing authority to use your Social Security Number to verify your income and assets.
- Not obstruct any smoke detectors or other fire safety equipment.
- Promptly report any problems with smoke detectors or fire safety equipment to the housing authority.
- Not keep pets without the permission of the housing authority.

- Live in the apartment for at least 9 months in any 12-month period unless there is a good reason for you to be away from the apartment for a longer time, such as for medical reasons or military service.<sup>21</sup>
- Not install or allow someone else to install any major appliances or waterbeds unless the housing authority gives you permission to do so.
- Pay the housing authority's court costs if you lose an eviction case brought by the housing authority for lease violations.

## **Federal public housing**

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Federal public housing authority leases will also require you to do the following:

- Send any notices to the housing authority in writing and deliver them either by hand or by mail.
- Perform seasonal maintenance tasks that your lease says you are required to do, which is permitted by the State Sanitary Code. For example, a housing authority lease could require tenants to mow their own lawns, if each apartment has its own yard. The housing authority cannot, however, shift its own maintenance obligations to tenants. The State Sanitary Code, for example, says that it is the landlord's duty to clean common hallways. Also, elderly tenants and tenants with a disability who cannot perform such maintenance tasks should be excused or exempted from these requirements.
- Not engage in any drug-related or other criminal activity that threatens the health and safety of other tenants. This includes drug-related criminal activity on or off the premises. This requirement applies to you, members of your household, your guests, and persons who are "under your control."<sup>22</sup>
- Not abuse alcohol in a way that affects the health and safety of other tenants. This requirement applies to you, members of your household, and your guests.

## **12. When do I have to report a change in income to the housing authority?**

Once a year, the housing authority requires that you do what is called an “annual reexamination” or “annual redetermination.”<sup>23</sup> This means, once a year the housing authority checks or verifies who lives in your household and what your household’s income is.

The housing authority will also have rules about when to report changes in income in between the annual checks. Reporting a change of income between yearly redeterminations is called “interim” reporting.

### **State public housing**

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If you live in state public housing, in between your yearly redeterminations, you must report any monthly increase in your household’s income of 10% or more. For example, if the monthly *gross income* the housing authority used to determine your rent was \$1,000, and you made another \$100 or more this month, you would need to report this amount to the housing authority.

You must report this increase by the **7th day** of the month after the month of the increase. If your income went up by 10% or more in January, you would need to report the increase by February 7<sup>th</sup>.

Your rent will then be redetermined. The housing authority must give you at least 14 days notice of a rent increase, and that increase must start on the first day of a month (not in the middle of the month).<sup>24</sup>

### **Federal public housing**

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For federal public housing, each housing authority has its own rules about whether and when you have to report changes in your household’s income between the annual reexaminations.<sup>25</sup> Some housing authorities require you to report any changes in income throughout the year. Other housing authorities don’t.

To see what the rules about interim reexaminations are in your housing authority read your lease and get your housing authority’s Admissions and Continued Occupancy Plan (ACOP). There should be a copy of this plan in the housing authority’s office.

## **Decreases in income**

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If you live in state or federal public housing, you should report all **decreases** in your household's income throughout the year, even if you are not required to do interim reporting of increases. Lower income usually means lower rent.<sup>26</sup> For state housing, the housing authority must lower your rent in the month following when you reported the decrease. For federal housing, the housing authority must lower your rent within a reasonable time.

## **Challenging a rent increase**

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If you disagree with the amount that the housing authority has determined that your rent should be, you have a right to file a grievance.<sup>27</sup> But you need to pay attention to deadlines.

- If you live in state public housing, you must file a grievance within **14 days** of receiving the housing authority's rent notice.<sup>28</sup>
- If you live in federal public housing, look at the notice that your housing authority sent you to see if there is a deadline by which you have to file a grievance. You may also need to read your lease or your housing authority's grievance procedure to figure out the deadlines for filing a grievance about rent.

For more information about how to file a grievance, see **Using Your Public Housing Grievance Process** guidebook at [www.MassLegalHelp.org](http://www.MassLegalHelp.org) (click on *Housing*, then *Public Housing*, then *Grievances*).

## **13. When do I need to report a change in household size to the housing authority?**

You must immediately tell the housing authority if the household members who are named in your lease change. This means that if you want to remove someone from the lease or if you want to add someone to your lease, you must immediately tell the housing authority.<sup>29</sup> If you do not notify the housing authority, you may be putting yourself at risk of eviction.

To add someone to your lease, in most cases you must apply to the housing authority for approval before the person moves in with you; and you must do so in writing. The housing authority will then determine if that person is likely to be a good tenant before it gives permission to add him or her to your lease.<sup>30</sup>

Advance approval from the housing authority is **not** needed in cases of the birth, adoption or court-awarded custody of a minor child. You must, however, promptly notify the housing authority of these changes. You may also need to move (*transfer*) to a different size unit because of the change in your household.

If someone leaves your household, the housing authority may require that you provide proof of the new address for the individual. Get the best information that you can. Otherwise, the housing authority may continue to think that the person is in your household and may not change or may hold you responsible for that person.

If you can't get the new address because it is not known to you, show the housing authority that you've done the best you can.

If you ask that someone be added to or removed from your household, and the housing authority denies this request, you have the right to use the housing authority grievance procedures to dispute this.<sup>31</sup>

If you do make a change to your housing, you and the housing authority will have to sign a lease addendum to reflect this change.<sup>32</sup>

# Housing Authority's Obligations

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## 14. What are the housing authority's obligations under the lease?

Every public housing lease must include a listing of the housing authority's obligations to you as their tenant.<sup>33</sup> These obligations include the following:

- Maintaining a decent, safe, and sanitary apartment.
- Complying with the State Sanitary Code, building codes, and other state and federal laws and regulations regarding the health and safety of tenants. (To find out what the State Sanitary Code requires, go to: [www.MassLegalHelp.org](http://www.MassLegalHelp.org) and click on *Housing, Useful Forms, Eviction Self-Help Forms, Booklet 2: Housing Code Checklist.*)
- Maintaining the utilities, appliances, water services, and elevators that are required to be supplied by the housing authority.
- Providing the utilities that the lease says the housing authority (and not the tenant) is responsible for providing.
- Maintaining the common areas of the complex.
- Making necessary repairs to your unit within a reasonable time after being notified of the problem.
- Giving you at least 48 hours notice that the housing authority workers are coming into your apartment to inspect or make repairs.
- Giving you reasonable notice if the housing authority needs to enter your apartment to deal with an emergency. If there is no adult household member present when housing authority staff comes in, they must leave you a written notice that tells when and why they came into your apartment.
- Notifying you in writing of the specific grounds or reasons for any action the housing authority plans to take that would adversely affect you, including terminating your lease, transferring your family to another unit, or charging you for maintenance work and repairs done by the housing authority.<sup>34</sup>

- Informing you of your right to a grievance hearing if you disagree with something the housing authority is doing or failing to do.<sup>35</sup>
- Respecting your right to organize or join a tenant association.

## **State public housing**

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State public housing leases will also require the housing authority to do the following:

- Provide you with a working stove when you move in.
- Provide you with keys for rekeyed locks when you move in.
- Redetermine your rent promptly at the time of the annual redetermination and at the time of any interim redetermination.
- Provide reasonable extermination services.
- Keep your records confidential, to the extent possible as required by law.
- Process transfer applications and requests to add household members promptly.
- Provide appropriate assistance to a household member who is a victim of domestic violence, including prompt rekeying of locks.
- Provide, upon your request, copies of the housing authority's rules, regulations, and policies that affect the tenancy (the housing authority can charge you for these copies if you have already received a copy).
- Begin eviction proceedings against a tenant whose behavior has jeopardized the health and safety of another tenant.

## **Federal public housing**

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Federal public housing leases will also require the housing authority to:

- Provide and maintain enough garbage and waste receptacles.
- Provide all notices to you in writing and deliver them by hand or mail.
- Provide all notices in an accessible format if the tenant is visually impaired.<sup>36</sup>

## 15. When can a housing authority employee enter my apartment?

The rules for when a housing authority employee can enter your apartment depend on whether you live in federal or state public housing and whether the housing authority employee is entering your apartment because of an emergency, to do a routine inspection, or to make repairs. The circumstances under which a housing authority employee can enter your apartment are controlled by federal and state regulations and should be spelled out in your lease.

### State public housing

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If you live in state public housing, you must allow a housing authority employee to enter your apartment during reasonable hours to:

- Perform inspections or routine maintenance, or
- Make repairs or do maintenance that you have requested.<sup>37</sup>

If the housing authority is performing inspections or routine maintenance, it must give you **48 hours** notice before it sends a worker into the apartment (unless you and the housing authority agree to a specific time that they may enter).

If the housing authority is making repairs that you requested, it must give you reasonable notice and, whenever possible, should give you notice at least the day before entering your apartment (unless you and the housing authority agree to a specific time that they may enter).

If there is an emergency, the housing authority must give you whatever reasonable notice they can in light of the emergency. This means they could enter your apartment without giving you any notice, whether you are home or not. If there is no adult home when the housing authority enters, they must leave you a written statement explaining why and when they came into the apartment.

### Federal public housing

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In federal public housing, you must allow a housing authority employee to enter your apartment during reasonable hours to:

- Perform routine inspections and maintenance,
- Make improvements or repairs, or
- Show the apartment to a new tenant.<sup>38</sup>

The housing authority must give you **48 hours** notice before it sends a worker into the apartment (unless you and the housing authority agree to a specific time that they may enter). This notice must be in writing and must state why the housing authority is sending a worker into your apartment.<sup>39</sup>

If the housing authority believes there is an emergency situation, they may enter your apartment without giving you any notice, whether you are home or not.<sup>40</sup> If there is no adult at home when the housing authority enters, they must leave you a written statement explaining why and when they came into the apartment.<sup>41</sup>

## **Illegal entry**

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In addition to the above reasons, under state law, the housing authority may enter your apartment in the following situations:<sup>42</sup>

- If the housing authority has a court order allowing it to enter.
- If appears that you have abandoned the apartment.
- If either you or the housing authority has given notice of intention to terminate the tenancy, the housing authority may, during the last 30 days of the tenancy, inspect to determine whether there is damage that should be deducted from a security deposit.

If any part of your lease that states other reasons that the housing authority can enter your apartment this is illegal.<sup>43</sup>

If a housing authority employee enters your apartment illegally, write to the manager of the development. In the letter, state what happened and ask the manager to make sure it does not happen again. You can also file a grievance with the housing authority. If these measures do not stop the illegal behavior, in extreme cases you may also go to court and get an order (called a *restraining order*) preventing such unauthorized entry.

## **Refusing entry**

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If you do not let the housing authority into your apartment after it followed the notice requirements, you may face an eviction for violating your lease.<sup>44</sup> If you think the housing authority's stated reason for coming into your apartment is a pretense for something else, such as harassment, you may have a defense to the eviction.

If you believe that the housing authority is being unreasonable in requesting an inspection, you may request a grievance hearing.<sup>45</sup> To do this, write to the housing authority and explain why you want a grievance hearing. Bring the letter to the office of the development where you live. The housing authority will then schedule a hearing.

# Guests

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## 16. Who is considered a guest in public housing?

In general, a guest is someone who does not appear on your lease and who is not a member of your household. A guest is defined differently, however, depending upon whether you live in state or federal public housing.

**Important:** Just because someone is related to you does not mean that he or she is automatically a household member. You must consult with the housing authority before letting anyone move in with you. Many tenants get into trouble with the housing authority when they allow people to move in without requesting permission.

### State public housing

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If you live in state public housing, a guest is defined as a person who is in your housing development at your invitation or the invitation of someone else in your household. The individual does not have to be staying in your apartment.<sup>46</sup>

### Federal public housing

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If you live in federal public housing, a guest is defined as a person who is temporarily staying in your apartment with your permission or the permission of someone else in your household.<sup>47</sup>

### Grandchildren

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If your children or grandchildren are not a part of your household or on your lease, they are most likely guests. Your grandchildren could be considered household members (and therefore not guests) if they routinely live with you. You must, however, inform the housing authority that they live with you and the housing authority must calculate your rent to reflect the fact that they live with you.

## 17. May I have guests in public housing?

You have a right to have guests visit you. But you need to be familiar with what rules apply to you, because if the housing authority suspects that someone is staying with you longer than allowed, they may try to evict you for having an "unauthorized occupant." They may also claim that you have not reported all household members and income and require you to pay more rent.

In general, there are no rules that limit when or for how long a guest may visit you during the day. There are, however, rules that govern the number of nights a guest may stay (either living with you temporarily or staying for an extended period of time). The rules are different for federal and state public housing.

**Note:** In no case may the number of guests go above the number of people allowed to occupy an apartment under the State Sanitary Code.<sup>48</sup>

### State public housing

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In state public housing, there are specific regulations that say how long a guest can stay in an apartment. A guest may not stay overnight longer than 21 nights during any 12-month period. You may request an extension of that time if you have a good reason (or *good cause*) and you request it before the 21-night limit is up. If the housing authority gives you permission, it must do so in writing. Be sure to ask for a copy of this letter. You will need it if the housing authority later accuses you of violating the lease.

### Federal public housing

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Housing authorities establish their own policies about guests. There are no specific rules about how many days per year are allowed. To find out what your housing authority's policy is, read your lease. It should state how long someone may stay in your apartment, how many guests you may have at one time, and what procedures you must follow if you want a guest to stay longer than what your lease allows.

**Review your lease very carefully before you allow a guest (even a family member) to stay in your apartment for any amount of time.** Overly restrictive guest policies (such as those which require housing authority permission for any overnight guest) can be challenged in court.<sup>49</sup>

If a guest is staying for a period that is beyond the limitation contained in the lease, you may want to consider requesting that the guest be added to your lease. The housing authority may *screen* such a person (determine whether he or she is likely

to be a good tenant.) The housing authority's approval is needed before the person is added to your household. There may also be cases where the tenant should consider whether the guest is going to be in longer-term live-in aide, needed because of the disability of someone in the household.

## **18. If I am disabled and live in public housing, can someone sleep over to care for me?**

If you are disabled and you require the assistance of a live-in aide, then you and the live-in aide may be eligible to occupy your apartment. To qualify as a live-in aide, the person who will be assisting you must be essential to your care and well-being and be living in the unit in order to provide necessary support services.<sup>50</sup> Under state rules, a personal care attendant must also be paid for the *fair value* of such assistance and would not live in the unit except to provide such assistance. You must ask the housing authority for permission to have a live-in aide.

Live-in aides are held to the same standards as other household members in terms of eligibility, admission, and conduct. A live-in aide's income, however, is not calculated for the purposes of determining rent. Also, if your disability ceases or you no longer qualify for the assistance of a live-in aide, your aide will have to vacate the unit and will no longer be eligible or allowed to live with you.

In federal housing, a live-in aide who is residing in the apartment must be counted for purposes of a housing authority determining your unit size.<sup>51</sup> If the aide is part-time and only there at night or certain days, the issue of unit size may still come up.

If the live-in aide is a relative, you will need to figure out whether to ask that they be approved as a **live-in aide** (which means that the person has another place to live and their income will not be counted when figuring out your rent).<sup>52</sup> Or whether the person should be added as a **household member** (which means that they do not have another place to live and their income will be counted when figuring out your rent).

## **19. Am I responsible for the conduct of my guest in public housing?**

When your guests are on housing authority property, they are subject to the same rules as you are and you are responsible for their conduct. If your guest breaks the rules, the housing authority may bring an eviction action against you.<sup>53</sup>

**Note:** In state public housing, a tenant can be evicted only for the conduct of a

guest where the tenant knew or should have known that there was a possibility that a guest would misbehave.<sup>54</sup>

Specifically, your guests may not:

- Disturb other tenants and conduct themselves in a way that is not peaceful, including making unreasonably loud noises.<sup>55</sup>
- Engage in criminal activity in the apartment, on housing authority premises or near the property.<sup>56</sup>
- Damage the unit or any of the housing authority's property.<sup>57</sup>  
A tenant can be required to pay for any damages caused by a guest.<sup>58</sup>

## **State public housing**

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If you are in state housing, your guest may also not:

- Injure, threaten, or unreasonably disturb housing authority officers and employees.<sup>59</sup>
- Misuse electric, heating, plumbing, or other utility services or install any major appliances or waterbeds without permission.<sup>60</sup>
- Keep pets without permission.<sup>61</sup>
- Alter or perform additions to the unit.<sup>62</sup>
- Interfere with smoke detectors or other fire safety equipment.<sup>63</sup>

## **Federal public housing**

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In addition to the above, if you are in federal housing, your guests may not engage in any drug-related criminal activity on or off the premises.<sup>64</sup> A tenant may be evicted for a guest's drug activity in or away from the apartment even if the tenant did not know this would occur.<sup>65</sup>

If the wrongdoer was a guest and the housing authority doesn't have some proof that you knew about the activity, or if the activity did not take place on or near housing authority property as a matter of state law, you would get the opportunity for a grievance hearing before you are taken to court. This is true even if you are a federal tenant.

The law is not yet clear about whether, once the case gets to court, you would have the usual rights under the state law to try to prevent eviction by showing: 1) that you did not know or have a reason to know of a guest's or household member's wrongdoing, or 2) that you took all steps within your power to prevent future wrongdoing once you knew about it. Some courts in Massachusetts have said that federal tenants don't have these state law rights.

## 20. What can I do if the housing authority has a "no-trespass" order against my guest?

Massachusetts specifically allows housing authorities to go to court and ask for a “no-trespass” order to prohibit non-residents from being on housing authority property.<sup>66</sup> A public housing authority may do this only if the visitor has:

- Caused serious physical harm to a tenant or housing authority employee,
- Repeatedly destroyed, vandalized or stole a tenant’s or housing authority property,
- Had weapons or explosives,
- Sold drugs, or
- Committed a civil rights crime on or near housing authority property.

The housing authority must show that the guest's behavior is likely to continue or poses a serious threat to the safety of people in the development or to housing authority employees.<sup>67</sup>

To get a no-trespass order against a non-resident, the housing authority must file a complaint against the non-resident in Housing or Superior Court. If the complaint is against your guest, you are entitled to be heard in court. Keep in mind, if there are other court orders (such as a visitation order that would be affected by a no-trespass order), you should bring this to the housing authority’s or court’s attention and ask that the no-trespass order be modified so that it is not in violation of other court orders.

There are three possible types of no-trespass orders that the housing authority can get:

- A temporary order for 10-days (called a *temporary restraining order*).
- An order that is in effect while a case is going on (called an *interlocutory order*). This order must be time limited and cannot be for longer than a year. A housing authority can ask that this type of order be extended for *good cause*.
- A permanent order (called a *permanent injunction*). This type of order can only be issued after a full trial.

Many housing authorities, however, do not use this court process and instead print up no-trespass notices on their own letterhead. The housing authority may also maintain a “barred” guest list. These notices and list may be illegal.

If the court grants a no-trespass order, the clerk must give a certified copy of the order to the police. If the police see the non-resident on the premises, they can arrest that person without a warrant or court order and without any further misbehavior on the non-resident's part. A violation of the order could result in a jail sentence, a monetary fine, or both.

If there is a no-trespass order against one of your guests, you should not allow the guest into your apartment. If you do, the housing authority could start eviction proceedings against you. If you want the guest to be able to visit you, there are ways to fight these informal no-trespass notices. This is complicated and requires the assistance of an attorney.<sup>68</sup>

## **21. What can I do if the housing authority says I have an "unauthorized occupant"?**

Housing authorities have specific rules on how long someone can stay with you as a guest. If you have someone staying with you longer than allowed by your housing authority, that person is considered an "unauthorized occupant."

If you do have an unauthorized occupant, you should have that person leave immediately. You are violating your lease and public housing rules, and the housing authority can start eviction proceedings against you. However, if you ask the guest to leave, you may be able to avoid eviction by signing an agreement with the housing authority that says that you will not allow the guest to live in your apartment.

If you do not have an unauthorized occupant, you need to first find out exactly who the housing authority thinks is your unauthorized guest. Once you know who the housing authority thinks is living with you, you should gather evidence to show that the person does not live with you. Examples of this type of evidence include:

- A copy of that person's lease showing where they do live.
- A copy of that person's driver's license with an address clearly indicated.
- Copies of the outside of envelopes addressed to that person, such as utility bills, car payments, or credit card bills.
- A signed statement by the person that says he or she does not live with you and giving his or her actual address.

Once you have the evidence, write a letter to the housing authority and explain the situation. Include copies of your evidence and a clear explanation about what the

situation is. Keep a copy of this letter and whatever else you send with it for yourself. You can also request a meeting to describe your situation and evidence.<sup>69</sup>

# Pets

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## 22. Am I allowed to have a pet in family public housing?

The rules vary depending on whether you are in state or federal family public housing. Read your lease or occupancy agreement carefully. You should never get a pet without express written permission from the housing authority. If the housing authority finds out about an unauthorized pet, you may not be able to keep the pet and you could face eviction proceedings.

### State public housing

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Under state law, a “pet” is defined as a domesticated animal that is commonly kept as a household pet, such as a cat, dog, gerbil, or hamster. Other animals, such as monkeys and snakes, are generally not considered pets and are usually not allowed in public housing. You usually do not need permission, however, to keep caged birds which are not unreasonably noisy and fish in tanks.<sup>70</sup> In state public housing, you must have permission from the housing authority to have a pet.<sup>71</sup> Ask your housing authority what its pet policy is. Some housing authorities may allow certain pets or animals; others may not.

### Federal public housing

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If you live in federal public housing, you may own one or more "common household pets" if you maintain your pets responsibly.<sup>72</sup>

A "common household pet" is defined as a domesticated animal that is traditionally kept in the home for pleasure, such as a dog, cat, bird, rodent (including a rabbit), fish, or turtle. This definition does not include reptiles, with the exception of turtles.<sup>73</sup>

The housing authority may put “reasonable” requirements on you if you have a pet. The requirements are listed in the housing authority’s pet policy, which is part of its administrative plan. You can get a copy of the administrative plan at the housing authority office.<sup>74</sup> These requirements may include the following:

- Charging you a non-refundable pet fee.
- Charging you a refundable pet deposit (which must be placed in a separate account so that if the animal causes damage, the housing

authority can use the money to pay for the damage when you move out).

- Placing a limit on the number of animals in an apartment based on the apartment's size.
- Prohibiting animals that are classified as dangerous.
- Prohibiting animals based on size or weight.
- Requiring you to register your pet with the housing authority.
- Requiring you to spay or neuter your pet.<sup>75</sup>

**Note:** A housing authority may not require you to have your pet's vocal cords removed.<sup>76</sup>

Pet policies for public housing are covered in a housing authority's yearly plan, which residents can participate in developing through a Resident Advisory Board.

## **23. If I live in public housing and have a disability, can I have a pet?**

### **State public housing**

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An animal that assists an individual with a disability is not considered a "pet." If you need an animal for a disability, you do not need permission to keep it in your apartment, as long as it is kept in a safe and sanitary manner.<sup>77</sup> Even though you do not need to get permission, it is still a good idea to tell the housing authority you have a pet.

### **Federal public housing**

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Under federal rules, housing authorities cannot use their pet policies to prevent people with disabilities from having an animal that provides them with assistance. Such animals perform many types of functions, including:

- Guiding people who are blind or have low vision.
- Alerting people who are hearing impaired.
- Providing rescue assistance or minimal protection.
- Pulling a wheelchair.
- Fetching items.
- Alerting people to impending seizures.

- Providing emotional support.<sup>78</sup>

A housing authority may require a person with a disability to show that there is a relationship between the person's disability and her need for the animal.<sup>79</sup>

## **24. Am I allowed to have a pet in elderly and disabled public housing?**

If you are a tenant in an elderly and disabled housing complex, you are permitted to have a “common household pet” in your apartment, and your housing authority may not discriminate against you for having a pet.<sup>80</sup> The rules vary depending on whether you are in state or federal elderly and disabled housing.

### **State public housing**

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Each housing authority must develop a pet policy. This policy must be consistent with state law.<sup>81</sup>

If you are a tenant in a state elderly and disabled housing complex, you must get approval from the housing authority to have a pet in your apartment. Once you have approval, your housing authority may not discriminate against you for having a pet.<sup>82</sup> There are some exceptions to the permission requirement. If you have a caged bird that is not unreasonably noisy or a fish in a tank, you do not need permission.

To get approval for a pet, you must fill out an application for pet ownership. If your application is approved, before you can get a pet, you must sign a pet *addendum* (or rider) to your lease and pay a refundable pet deposit with the housing authority.

### **Federal public housing**

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In federal elderly and disabled public housing, leases must allow tenants to keep “common household pets” in their apartments.<sup>83</sup> Your housing authority may choose to establish pet rules that are designed to ensure a safe and sanitary living environment, protect the complex's physical condition, or protect the housing authority's financial interest in the building.<sup>84</sup>

The following are examples of rules the housing authority may establish:<sup>85</sup>

- A restriction on the number of pets that may be allowed in each apartment.
- A restriction on the size, weight, and type of your pet.

- A requirement that you pay a refundable pet deposit and a "waste removal" charge.
- A requirement that you control a pet's noise and odor.
- A requirement that you spay or neuter your pet.
- A limit on the length of time a pet may be left alone in a unit.
- A requirement that your pet be licensed.

Your housing authority may not:

- Charge you for insurance liability to cover pet damage, or
- Require you to have your pet's vocal cords removed.<sup>86</sup>

If your housing authority does establish pet rules, your lease must mention the rules and state that violation of the rules may be grounds for removal of the pet or termination of your tenancy. If your pet is a danger to the health or safety of other tenants in the community where your housing is located, the housing authority may require you to remove your pet.<sup>87</sup>

If your housing authority does not enact pet rules, your lease may not prohibit you from owning common household pets. Your ownership of the pet will still be subject to general housing authority rules and state or local laws governing animals in apartments.<sup>88</sup>

If you are disabled and you need your pet for your disability, the federal rules about pets do not apply to you.<sup>89</sup> In other words, you may have a pet if it assists you with your disability. You will need to certify in writing that:

- You are or a family member is disabled,
- The animal has been trained to assist with the disability, and
- The animal actually does assist with the disability.<sup>90</sup>

**Note:** A housing authority must notify all tenants in writing during the development of pet rules and must give tenants adequate opportunity to review and comment on these rules before they are issued. The housing authority must send HUD's regional office a copy of the final rule with a summary or copies of tenants' comments.<sup>91</sup>

## **25. If I have a pet for my disability, do I have to pay a pet deposit in public housing?**

In Massachusetts, pet fees are legal in public housing. Because your seeing eye dog or a hearing ear dog is not a pet in the traditional sense, but actually assists you in your daily life, you should ask that you not have to pay a pet deposit. This request would be considered a “reasonable accommodation.”

A reasonable accommodation is a request that you make based on your disability that would allow you to more easily use your apartment.<sup>92</sup> Although the law doesn’t clearly define what “reasonable accommodation” means, in general it requires landlords to make changes in rules, policies or practices so that a tenant may make full use of his or her home. Requests for a reasonable accommodation can come before moving in or after you have lived in the apartment for a period of time.

If you have an animal due to your disability, you should request that the housing authority make a reasonable accommodation to the rules about pets and to allow you to keep your animal and avoid the payment of a pet deposit. You may be required to prove that you need the animal due to your disability. You can do this by requesting a letter from your doctor stating why you need the animal.

## **26. What can I do if the housing authority denies my application for a pet?**

If the housing authority denies your pet application, it must notify you in writing of the reasons for the denial. You have the right to challenge or appeal the denial. If you live in federal public housing or state family public housing, follow your regular grievance procedures.

If you live in state elderly or disabled housing, you must appeal to the housing authority within 14 days after receiving the denial. The denial notification must state the deadline by which you must appeal and the documentation you are required to submit with the appeal. With the appeal request, you must submit the following documentation (or an explanation why the documentation is not reasonably available).<sup>93</sup>

- A copy of the completed pet application.
- Your housing authority’s denial.
- A color photo and description of your pet.

- The name, address, and telephone number of a veterinarian and his or her statement of the current health, weight, and age of the pet.
- Veterinary certificates of spaying or neutering and of all inoculations and testing.
- A dog license, if your town requires such a license.
- The names, addresses, and telephone numbers of two responsible persons who can assume immediate responsibility for the care of the pet in an emergency.
- A statement that you are prepared to pay a pet deposit of \$160 or one month's rent whichever is less).

# Lease Termination

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## 27. When can a housing authority terminate my lease?

To end your lease, the housing authority must have “good cause.” Read your lease carefully; it will specify when your tenancy can be terminated.

### State public housing

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Under state law, your public housing tenancy can be terminated for the following reasons:

- If you or a household member violates any lease terms.<sup>94</sup>
- If a guest violates any lease terms and you or someone in your household knew there was a possibility the guest would do so.<sup>95</sup>  
**Note:** If the housing authority does this, it must offer grievance opportunity except where it has proof that tenant knew or should have known.
- If you or a household member or a guest engages in criminal conduct (including causing or threatening to cause serious physical harm, destroying property, using weapons, drug activity, prostitution, and illegal gaming).<sup>96</sup>
- If you know there is a court order barring a person from housing authority property and you don't take all necessary steps to keep the person away.<sup>97</sup>

### Federal public housing

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Federal law allows a housing authority to terminate a public housing tenancy for the following reasons:

- If you commit a serious or repeated violation of the lease.<sup>98</sup>
- If you or a household member engage in alcohol abuse.<sup>99</sup>
- If you or any household member has ever been convicted of methamphetamine manufacture or production on the premises.<sup>100</sup>

- If you, a household member, or a guest engage in drug-related criminal activity on or off the premises.<sup>101</sup>
- If you or a household member use illegal drugs or have a pattern of illegal drug use that interferes with the safety of or peaceful enjoyment of the premises by other residents.<sup>102</sup>
- If you or a household member engage in any criminal activity that threatens the safety or peaceful enjoyment of the premises by other residents.<sup>103</sup>

Federal law allows a housing authority to bring an eviction case for criminal activity regardless of whether anyone has been arrested or convicted.

## **28. How can I break my public housing lease?**

If you need to break a public housing lease, you should read the sections of the lease on "terminating the tenancy." The lease will explain the procedures that you must follow.

### **State public housing**

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In state public housing, you must mail or deliver a notice in writing to the housing authority stating that you are ending your tenancy on a specific date. You must mail or deliver this notice at least 30 days before the date you want to move out.<sup>104</sup> You do not need to state any reason for breaking the lease if you follow this procedure.

### **Federal public housing**

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In federal public housing, you should check your lease for the specific procedure you need to follow to break your lease.<sup>105</sup> It can vary from housing authority to housing authority, but it is usually the same as the procedures for state public housing. Again, you do not need to state any reason for breaking the lease if you follow the procedures in your lease.

### **Breaking your lease sooner than allowed**

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If you have a disability or are the victim of domestic violence, you may be able to break your lease sooner than allowed under your lease. You will need to explain to the housing authority why you need to get out of your lease. Set up a meeting with the housing authority and bring documentation that shows you were the victim of domestic violence or that you have a disability that prevents you from remaining in the apartment. For example, bring documents such as a restraining order, police

report, hospital record, or doctor's letter.

You also may be able to legally end your lease if the housing authority refuses to correct very serious conditions in your apartment. Before you leave, have a local board of health inspect the apartment to document how bad the conditions are.<sup>106</sup>

In addition, if the housing authority's actions or inactions have interfered with what is called your "quiet enjoyment," and you have to move immediately, you may be able to do so without legally breaking your lease. One example of a violation of your right to quiet enjoyment could be excessive noise from other tenants under the housing authority's control.<sup>107</sup>

# How Do Leases Get Changed

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## 29. Can I change my public housing lease?

Yes. You may approach your housing authority at any time and ask that your lease be changed.<sup>108</sup> The housing authority, however, does not have to make changes requested by a tenant. State and federal housing agencies require certain provisions in public housing leases, so the housing authority will not make any changes that violate these requirements. These requirements do not, however, prohibit the addition of new lease provisions. To change the lease, a written *addendum* (or rider) to the lease must be signed by you and your housing authority.<sup>109</sup>

## 30. Can housing authorities change the form lease?

The housing authority may change everyone's lease from time to time by changing the lease form. These changes have to be in writing.

### State public housing

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For state public housing, the lease must be approved by the Department of Housing and Community Development (DHCD). Before submitting a lease for approval, however, a housing authority must consult with your tenant organization. If there is any disagreement between the tenant organization and the housing authority about what is in the lease, the tenant organization may present its position to DHCD.<sup>110</sup>

### Federal public housing

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The housing authority may change the form lease at any time.<sup>111</sup> If the housing authority wants to make a change, it must provide at least 30 days notice to tenants and resident organizations. The notice must explain the changes and the reasons for them and provide an opportunity to tenants to present written comments.

The notice must be delivered or mailed to each tenant or posted in at least three

very noticeable places in each building affected. If there are any changes that you or your tenant organization wants to make, this is an important opportunity to make recommendations. The housing authority must review any comments before adopting a new lease form.<sup>112</sup>

## **Model Leases**

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Both the state and federal housing agencies provide model or sample leases that you can compare your lease to.

**Federal** public housing lease is available at:

[www.hud.gov/offices/pih/programs/ph/rhiip/phgb\\_app4\\_7new.pdf](http://www.hud.gov/offices/pih/programs/ph/rhiip/phgb_app4_7new.pdf).

**State** public housing lease is available at:

[www.state.ma.us/dhcd/components/public/lease.doc](http://www.state.ma.us/dhcd/components/public/lease.doc).

# Endnotes

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<sup>1</sup> Federal: 24 C.F.R. §966.4; State: 760 C.M.R. §6.06(1).

<sup>2</sup> G.L. c. 186, § 15D.

<sup>3</sup> Federal: 24 C.F.R. § 966.4 and § 966.4 (o) & (p); State: 760 C.M.R. § 6.05(5)(q) and § 6.06(1).

<sup>4</sup> 760 C.M.R. § 6.06(6)(i).

<sup>5</sup> Federal: 24 C.F.R. § 966.4(c); State: 760 C.M.R. § 6.04(5) & § 6.06(5)(q).

<sup>6</sup> 24 C.F.R. § 966.4(a)(2).

<sup>7</sup> Federal: 24 C.F.R. § 8.6.

<sup>8</sup> State: 760 C.M.R. 5.16(3). Federal: See HUD's proposed *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (December 19, 2003) which required by *Executive Order* 13166, reprinted at 65 Fed. Reg 50121 (August 16, 2000). See also Department of Justice, final *Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons* (Tuesday, June 18, 2002).

<sup>9</sup> Federal: 42 U.S.C. §1437a-1437e and 24 C.F.R. 960 and 966; State: G.L. c. 121B, §§ 32 & 34, and 760 C.M.R. 5.00 and 6.00.

<sup>10</sup> Federal: 24 C.F.R. § 966.4; State: 760 C.M.R. § 6.06.

<sup>11</sup> Federal: 24 C.F.R. § 5.100 & 966.4(d)(3); State: 760 C.M.R. § 5.03.

<sup>12</sup> 24 C.F.R. § 966.4(b).

<sup>13</sup> Federal: 24 C.F.R. § 966.4(e); State: 760 C.M.R. § 6.06(4).

<sup>14</sup> Federal: 24 C.F.R. § 966.4(f); State: 760 C.M.R. § 6.06(5).

<sup>15</sup> G.L. c. 186, § 15A.

<sup>16</sup> 940 C.M.R. §3.17(3)(a)(3); *Commissioner of Ins. v. Massachusetts Accident Co.*, 310 Mass. 769, 39 N.E.2d 759 (1942).

<sup>17</sup> 24 C.F.R. § 966.6.

<sup>18</sup> 42 U.S.C.A. § 1437d (l)(1).

<sup>19</sup> Federal: 24 C.F.R. § 966.4(f); State: 760 C.M.R. § 6.06(5).

<sup>20</sup> 760 C.M.R. § 606(5).

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<sup>21</sup> 760 C.M.R. § 606(3)(a).

<sup>22</sup> 24 C.F.R. § 5.100.

<sup>23</sup> In federal public housing, this is called an annual “reexamination.” 24 C.F.R. § 960.257(a); see generally *Public Housing Occupancy Guidebook, Chapter 12*. In state public housing, this is called an annual “redetermination.” See 760 C.M.R. § 6.04(4).

<sup>24</sup> 760 C.M.R. § 6.04(5)(a).

<sup>25</sup> 24 C.F.R. § 960.257(b) and (c); see generally *Public Housing Occupancy Guidebook, Chapter 1*.

<sup>26</sup> In federal housing, interim reporting of decreases of income are covered by 24 C.F.R. § 960.257(b), and for Section 8, in 24 C.F.R. § 982.516(b). For state housing, see 760 C.M.R. § 6.04(5)(b).

<sup>27</sup> 760 C.M.R. § 6.04(7); 24 C.F.R. §§ 966.4(c)(4) and 966.53.

<sup>28</sup> 760 C.M.R. § 6.04(7).

<sup>29</sup> 760 C.M.R. § 6.06(3)(g).

<sup>30</sup> Federal: 24 C.F.R. § 966.4(a)(1)(v); State: 760 C.M.R. § 6.06(3)(h).

<sup>31</sup> *Saxton v. Housing Authority of Tacoma*, 1 F.3d 881 (9<sup>th</sup> Cir. 1993).

<sup>32</sup> Federal: 24 C.F.R. § 966.4(c); State: 760 C.M.R. § 6.06(5)(q).

<sup>33</sup> Federal: 24 C.F.R. § 966.4(e); State: 760 C.M.R. § 6.06(4).

<sup>34</sup> Federal: 24 C.F.R. § 966.4(e)(8); State: 760 C.M.R. § 6.06(6).

<sup>35</sup> Federal: 24 C.F.R. § 966.4(e)(8); state: 760 C.M.R. §§ 6.06(7) & (8).

<sup>36</sup> 24 C.F.R. § 966.4(k).

<sup>37</sup> 760 C.M.R. § 6.06(4)(i) & § 6.06(5)(m).

<sup>38</sup> 24 C.F.R. § 966.4(j).

<sup>39</sup> 24 C.F.R. § 966.4(j)(1).

<sup>40</sup> 24 C.F.R. § 966.4(j)(2).

<sup>41</sup> 24 C.F.R. § 966.4(j)(3).

<sup>42</sup> G.L. 186, § 15B(1)(a).

<sup>43</sup> G.L. 186, § 15B(1)(a).

<sup>44</sup> Federal: 24 C.F.R. § 966.4(l)(2); State: 760 C.M.R. § 6.06(6)(c).

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<sup>45</sup> Federal: 24 C.F.R. § 966.53(a); State: 760 C.M.R. § 6.08(4)(a).

<sup>46</sup> 760 C.M.R. § 6.03.

<sup>47</sup> 24 C.F.R. § 5.100.

<sup>48</sup> 760 C.M.R. § 606(3)(c). See 105 C.M.R. § 410.400 Minimum Square Footage requirement in State Sanitary Code.

<sup>49</sup> *Lancor v. Lebanon Housing Authority*, 760 F.2d 361 (1<sup>st</sup> Cir. 1985); *McKenna v. Peekskill Housing Authority*, 647 F.2d 332 (2<sup>nd</sup> Cir. 1981).

<sup>50</sup> Federal: 24 C.F.R. § 982.316; State: 760 C.M.R. § 6.03.

<sup>51</sup> Federal: 24 C.F.R. § 982.402(b)(6); State: 760 C.M.R. § 5.03 (b) (definition of “Family (Household).”

<sup>52</sup> Federal: 24 C.F.R. § 5.609(c)(5); State: 760 C.M.R. 6.05(3)(l) which both exclude from annual income the income of a live-in aide.

<sup>53</sup> 24 C.F.R. § 966.4(l)(2)(i)(B) and 760 C.M.R. § 6.06(6)(d).

<sup>54</sup> 760 C.M.R. § 6.06(6)(d) (for guest’s breach of a material term of the lease) and 760 C.M.R. § 6.06(6) (e)(for guest’s criminal conduct).

<sup>55</sup> 24 C.F.R. § 966.4(f)(11) and 760 C.M.R. § 6.06(5)(c).

<sup>56</sup> In state public housing, criminal conduct is defined by G.L. c. 121B § 32(1-7) and 760 C.M.R. § 6.06(5)(e) and (6)(e). In federal public housing, criminal activity is defined as activity that threatens the health, safety or the peaceful enjoyment of the premises by other residents; see 24 C.F.R. § 66.4(f)(12)(i)(A).

<sup>57</sup> 24 C.F.R. § 966.4(f)(9); 760 C.M.R. § 6.06(5)(h).

<sup>58</sup> 760 C.M.R. § 6.06(5)(i); 24 C.F.R. § 966.4(f)(10); 760 C.M.R. § 6.06(5)(i).

<sup>59</sup> 760 C.M.R. § 6.06(5)(d).

<sup>60</sup> 760 C.M.R. § 6.06(5)(g).

<sup>61</sup> 760 C.M.R. § 6.06(5)(j).

<sup>62</sup> 760 C.M.R. § 6.06(5)(l).

<sup>63</sup> 760 C.M.R. § 6.06(5)(n).

<sup>64</sup> 24 C.F.R. § 966.4(f)(12)(i)(B).

<sup>65</sup> *HUD v. Rucker et al* 122 S.Ct. 1230 (2002).

<sup>66</sup> G.L. c. 121B, § 32C.

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<sup>67</sup> G.L. c. 121B, § 32C.

<sup>68</sup> See, e.g., *Comm. v. Richardson*, 313 Mass. 32 (1943); *Walker v. Georgetown Housing Authority*, 424 Mass. 671 (1997).

<sup>69</sup> *Boston Housing Authority v. Bruno*, 58 Mass.App.Ct.486, 790 N.E.2<sup>nd</sup> 1121 (2203).

<sup>70</sup> 760 C.M.R. § 6.03.

<sup>71</sup> 760 C.M.R. §6.06(5)(j).

<sup>72</sup> 24 C.F.R. § 960.701-707(a)(1) and (2).

<sup>73</sup> 24 C.F.R. § 5.306(1).

<sup>74</sup> 24 C.F.R. § 960.707(a).

<sup>75</sup> 24 C.F.R. § 960.707(b)(1)-(6).

<sup>76</sup> 24 C.F.R. § 960.707(c).

<sup>77</sup> 760 C.M.R. § 6.03.

<sup>78</sup> See *Public Housing Occupancy Guidebook*, 16.1.

<sup>79</sup> 24 C.F.R. § 5.303(a)(1).

<sup>80</sup> Federal: 24 C.F.R. § 5.309; State: 760 C.M.R. § 6.07.

<sup>81</sup> 760 C.M.R. § 6.07(1).

<sup>82</sup> 760 C.M.R. § 6.07.

<sup>83</sup> 24 C.F.R. § 5.309.

<sup>84</sup> 24 C.F.R. § 5.315(c)(1)(i).

<sup>85</sup> 24 C.F.R. § 5.318.

<sup>86</sup> 24 C.F.R. § 5.318.

<sup>87</sup> 12 U.S.C. § 1701r-1(c).

<sup>88</sup> 24 C.F.R. § 5.321(b).

<sup>89</sup> 24 C.F.R. § 5.303(a).

<sup>90</sup> 24 C.F.R. § 5.303(a)(1)(i-iii).

<sup>91</sup> 24 C.F.R. § 5.312 and § 5.380.

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<sup>92</sup> The federal Fair Housing Act requires "reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford a handicapped person equal opportunity to use and enjoy a dwelling." 42 U.S.C. §3604(f)(3)(B). See 24 C.F.R. §100.204. The concept of "reasonable accommodations" was drawn from §504 of the Rehabilitation Act of 1973, 29 U.S.C. §794 (see 53 Fed. Reg. 45003, November 7, 1988), which prohibits discrimination against disabled people in federally assisted housing.

State law, at G.L. c. 151B, §4(7A), also includes the failure to make reasonable accommodations as an act of illegal discrimination. This means, as under the federal law, that a person with a disability has a right to expect her landlord to reasonably adjust rules or policies when necessary to allow her to live comfortably in her home.

<sup>93</sup> 760 C.M.R. §6.07(3).

<sup>94</sup> *Spence v. Gormley*, 387 Mass. 258 (1982), and *BHA v. Bell*, 428 Mass. 108, 697 N.E.2d 130 (1998).

<sup>95</sup> 760 C.M.R. § 6.06(6)(c) and (d).

<sup>96</sup> G.L. c. 121B, § 32; G.L. c. 139, § 19.

<sup>97</sup> 760 C.M.R. § 6.06(6)(j).

<sup>98</sup> 24 C.F.R. § 966.4(f)(12)(iii).

<sup>99</sup> 42 U.S.C. § 1437(d)(L)(5); 24 C.F.R. § 966.4(l).

<sup>100</sup> 24 C.F.R. § 966.4(l)(5)(i)(A).

<sup>101</sup> 24 C.F.R. § 966.4(l)(5)(i)(B).

<sup>102</sup> 24 C.F.R. § 966.4(l)(5)(ii)(A).

<sup>103</sup> 24 C.F.R. § 966.4(l)(5)(iii).

<sup>104</sup> 760 C.M.R. § 6.06(6)(a).

<sup>105</sup> 24 C.F.R. § 966.4(l)(1).

<sup>106</sup> *Boston Housing Authority v. Hemingway*, 363 Mass. 184, 199-200, 293 N.E.2<sup>nd</sup> 831, 843 (1973).

<sup>107</sup> *Blackett v. Olanoff*, 371 Mass. 714, 358 N.E.2<sup>nd</sup> 817 (1977).

<sup>108</sup> 24 C.F.R. § 966.4(a)(4).

<sup>109</sup> 24 C.F.R. § 966.4(o).

<sup>110</sup> 760 C.M.R. §6.06(1).

<sup>111</sup> 24 C.F.R. §§ 966.4(a)(3) and 966.5.

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<sup>112</sup> 24 C.F.R. §§ 966.3 and 966.5.

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