

Chapter 17

TERMINATION OF ASSISTANCE

[24 CFR 5.902, 5.902, 5.903, 5.905, 982.4, 982.54, 982.552, 982.553, 982.555]

SHA may terminate assistance for a family because of the family's action or failure to act. SHA will provide families with a written description of the family obligations under the program, the conditions under which SHA terminates assistance, and SHA's informal hearing procedures.

A. Grounds for Termination [24 CFR 982.54, 982.552, 982.553]

Form of Denial/Termination

Denial of assistance for an applicant may include any or all of the following:

1. Denial of admission to Housing Choice Voucher Program;
2. Withdrawing a voucher after issuance;
3. Refusing to enter into a HAP Contract or approve a tenancy; and
4. Refusing to process or provide assistance under portability procedures.

Termination of assistance for a participant may include any or all of the following:

1. Refusing to enter into a HAP Contract or approve a tenancy;
2. Terminating Housing Assistance Payments under an outstanding HAP Contract; and
3. Refusing to process or provide assistance under portability procedures.

Denial of Assistance

SHA policies on denying assistance to households based on criminal history or previous history with the Section 8 program are outlined in detail in Chapter 2, Section F. of this Plan. Any reason for denial of assistance may also be grounds for termination of assistance.

Terminations of Assistance for Current Participants

SHA may terminate assistance to a family for any of the following reasons:

1. Failure to comply with a family obligation, including failure to provide information requested by SHA;
2. HUD-mandated terminations for:
 - a) Criminal history;
 - b) Failure to provide consent forms; and
 - c) Ineligible citizenship status.
3. Other violations of federal law or regulation; and
4. No HAP for 180 days.

B. Failure to Comply with Family Obligations

SHA shall terminate assistance if it determines that a family has failed to meet family obligations outlined on the voucher and described in 24 CFR 982.551, as follows:

1. The family must supply any information that SHA or HUD find necessary in the administration of the program, including submission of required evidence of citizenship or eligible immigration status (as provided by 24 CFR part 5). "Information" includes any requested certification, release or other documentation;
2. The family must supply any information requested by SHA or HUD for use in a regularly scheduled re-examination or interim re-examination of family income and composition in accordance with HUD requirements;
3. The family must disclose and verify Social Security Numbers (as provided by 24 CFR 5.216) and must sign and submit consent forms for obtaining information in accordance with 24 CFR 5.230;
4. All information supplied by the family must be true and complete;
5. The family is responsible for an HQS breach caused when the family fails to pay for any utilities which are to be paid by the tenant, or when the family fails to provide and maintain any appliances which are to be provided by the tenant (for tenant-caused damages, see Chapter 12, Section K);
6. The family must allow SHA to inspect the unit at reasonable times and after reasonable notice;
7. The family may not commit serious or repeated violations of the lease;
8. The family must provide proper legal notice to the owner and, at the same time, notify SHA, before the family moves out of the unit or terminates the lease;
9. The family must promptly give SHA a copy of any owner eviction notice;
10. The family must use the assisted unit for residence by the family. The unit must be the family's only residence;
11. The composition of the assisted family residing in the unit must be approved by SHA. The family must promptly inform SHA of the birth, adoption or court-awarded custody of a child. The family must request SHA approval to add any other family member as an occupant of the unit;
12. The family must promptly notify SHA if any family member no longer resides in the unit;
13. If SHA has given approval, a foster child or a live-in aide may reside in the unit. If the family does not request approval or if SHA does not approve the request, the family may not allow a foster child or live-in aide to reside with the assisted family;
14. Members of the household may, with SHA's prior approval, engage in legal profit-making activities in the unit, but only if such activities are incidental to primary use of the unit as a residence by members of the family;
15. The family may not sublease or otherwise receive compensation for anyone's occupancy of the unit;
16. The family may not assign the lease or otherwise transfer the unit;
17. The family must supply any information or certification requested by SHA to verify that the family is living in the unit, or relating to family absence from the unit, including any SHA-requested information or certification on the purposes of family absences. The

- family must cooperate with SHA for this purpose. The family must promptly notify SHA of any absence from the unit for any period in excess of 14 calendar days;
18. The family may not own or have any ownership interest in the unit;
 19. The members of the family may not commit fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
 20. The household members may 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;
 21. The members of the household must not abuse alcohol in a way that threatens the health, safety or right to peaceful enjoyment of other residents and persons residing in the immediate vicinity of the premises; and
 22. An assisted family, or members of the family, may not receive Section 8 tenant-based assistance while receiving another housing subsidy for the same unit or for a different unit, under any duplicative federal, state or local housing assistance program.

Definition of “Promptly”

The term “promptly” when used with the family obligations always means within 10 business days.

Lease Violations

The following criteria will be used to decide if a serious or repeated violation of the lease will result in termination of assistance:

1. If the owner initiates termination of the tenancy, or terminates the tenancy, through court action for serious or repeated violation of the lease;
2. If the owner notifies the family and SHA of termination of tenancy for serious or repeated lease violations, and the family moves from the unit without notice prior to the completion of court action;
3. If there are police reports, neighborhood complaints or other third-party information verifying serious or repeated violations of the lease;
4. If the family moves from the unit without providing notice to SHA and the owner; or
5. If the family fails to pay rent when due.

Proposed Additions to the Family

SHA will deny a family’s request to add additional family members who are:

1. Persons who have been evicted from public housing;
2. Persons who have previously violated a family obligation listed above and in 24 CFR 982.551 of HUD regulations;
3. Persons who have been part of a family whose assistance has been terminated for cause under the Certificate or Voucher program;
4. Persons who have engaged in drug-related criminal activity or violent criminal activity;

5. Persons who have committed fraud, bribery or any other corrupt or criminal act in connection with any federal housing program;
6. Persons who currently owe rent or other amounts to SHA or to another PHA in connection with Section 8 or public housing assistance under the 1937 Housing Act;
7. Persons who have engaged in or threatened abusive or violent behavior toward residents, the public or SHA personnel;
8. Persons who cannot provide verification of their assigned SSN; or
9. Persons who contend to have eligible immigration status, but cannot provide verification.

(Refer to Chapter 14, Recertifications, for further information on adding people to a subsidized family.)

Family Member Moves Out

Families are required to notify SHA if any family member leaves the assisted household. When the family notifies SHA, they must furnish the following information:

1. The date the family member moved out;
2. Verification of the family member's new address (e.g., a copy of a new lease or utility bill), or, if this documentation is not available, a statement from the head of household as to why it cannot be obtained; and
3. A statement as to whether the family member is temporarily or permanently absent.

Limitation on Profit-Making Activity in Unit

Any business activity that results in the family's inability to use any of the living areas in the unit, such as a bedroom utilized for a business which is not available for sleeping, is prohibited.

Any use of the unit for a business that is not incidental to its use as a dwelling unit is prohibited.

Any illegal business or business not permitted by zoning is prohibited.

Interest in Unit

The owner may not reside in an assisted unit whether he or she is a member of the assisted family or not.

Missed Appointments and Deadlines [24 CFR 982.551, 982.552 (c)]

It is a family obligation to supply information, documentation, and certification as needed for SHA to fulfill its responsibilities. SHA schedules appointments and sets deadlines in order to obtain the required information. The family obligations also require that the family allow SHA to inspect the unit, and appointments are made for this purpose.

A participant who fails to keep an appointment, or to supply information required by a deadline without notifying SHA, may be sent a Notice of Termination of Assistance for failure to provide

required information, or for failure to allow SHA to inspect the unit. The Notice will include information about requesting a hearing.

Requirement to Provide Information and Keep Appointments

The family will be given information about the requirement to keep appointments and the number of times appointments will be rescheduled, as specified in this Plan.

Appointments will be scheduled and time requirements (deadlines) will be imposed for the following events and circumstances:

1. Deadline for scheduling eligibility interview;
2. Appearance at eligibility interview for admissions;
3. Completion of verification procedures;
4. Attendance at voucher issuance and briefings;
5. Attendance at Housing Quality Standards (HQS) inspections;
6. Completion of recertifications; and
7. Requests for appeals.

Generally, acceptable reasons for missing appointments or failing to provide information by deadlines are:

1. Medical emergency;
2. Family emergency; or
3. Other good cause, as determined by SHA.

Procedure When Appointments are Missed or Information Not Provided

For most purposes in this Plan, the family will be given two opportunities before being issued a notice of termination or denial for breach of a family obligation.

The notice may be rescinded if the family offers to cure and the family does not have a history of non-compliance.

C. Terminations of Assistance for Criminal History [24 CRF 982.553(a)]

SHA shall terminate assistance for participants with the following history:

1. Eviction in last 3 years from federally assisted housing for illegal drug activity: SHA shall terminate assistance for participants who have been evicted from public or other federally assisted housing due to drug-related activity within the last three years. [24 982.553(a)]
 - a) Definition of drug-related criminal activity: Drug-related criminal activity means 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.

- b) Evidence of rehabilitation or permanent absence of criminal from household: SHA may, however, admit the household if it determines that:
 - i. The evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program approved by SHA; or
 - ii. The circumstances leading to the eviction no longer exist (for example, the criminal household member has died or is imprisoned).
 - a) Evidence of rehabilitation: SHA’s standards for evidence of rehabilitation under this section may take into consideration documented evidence of rehabilitation for drug-related offenses if the applicant can provide all of the following:
 - i. Evidence of completion of a recognized drug treatment program;
 - ii. Commitment of appropriate services by a recognized service provider; and
 - iii. No re-offense in the two-year period preceding the issuance interview.
2. Current use of illegal drugs: SHA shall terminate assistance to households if it determines that a household member is currently engaged in illegal drug use.
 3. Methamphetamine production in federally assisted housing: SHA shall terminate assistance to a household if any household member has been convicted of the manufacture or production of methamphetamine on the premises of federally assisted housing.
 4. Sex-offenders: SHA shall terminate assistance to a household if any household member is subject to a lifetime registration requirement under a State sex offender registration program. Because Washington State has no lifetime registration requirement, SHA will deny admission to any sex-offender for the duration of any Washington State sex-offender registration requirement.
 5. Pattern of abuse of alcohol: SHA shall terminate assistance to a household if it has cause to believe that a 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.

Definitions

“Covered person,” for purposes of 24 CFR 982 and this chapter, means a tenant, any member of the tenant’s household, a guest or another person under the tenant’s control.

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

“Drug-related criminal activity” means 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.

“Guest,” for purposes of this chapter and 24 CFR 5, subpart A and 24 CFR 982, means a person temporarily staying in the unit with the consent of a tenant or other member of the household

who has express or implied authority to so consent on behalf of the tenant. The requirements of 24 CFR 982 apply to a guest as so defined.

“Household,” for the purposes of 24 CFR 982 and this chapter, means the family and PHA-approved live-in aide.

“Other person under the tenant’s control,” for the purposes of the definition of “covered person” and for 24 CFR 5 and 982 and for this chapter, means that the person, although not staying as a guest (as defined in this chapter) in the unit, is, or was at the time of the activity in question, on the premises because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for lawful commercial purposes is not under the tenant’s control.

“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.

Criminal/Credit Checks

SHA may at any time obtain a criminal history and/or credit check for any member of a participant household for the purpose of determining whether a family meets SHA’s standards for continued participation in the program outlined in this chapter.

Standards for Violations

SHA will consider the use of a controlled substance or alcohol to be a pattern if there is more than one incident in a three-month period.

Engaged in or engaging in “violent criminal activity” means any act by an applicant, a participant, a household member, a guest, or other covered person, in the preceding five years, which involved 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, regardless of whether the activity results in the arrest or conviction of the applicant, participant, or household member.

The existence of the above-referenced behavior by any household member, guest or covered person, may be grounds for denial or termination of assistance, regardless of the participant’s knowledge of the behavior.

In evaluating evidence of past and current behavior, SHA will give fair consideration to the seriousness of the activity with respect to how it would affect other residents, and/or the likelihood of favorable conduct in the future which could be supported by evidence of rehabilitation.

Standards for Terminating Assistance for Illegal Use or Possession for Personal Use of Illegal

Drugs

Assistance to a family may be terminated if any member of the family uses or possesses illegal drugs, provided that the use or possession occurred no more than one year prior to the date that the family is notified that assistance will be terminated.

Assistance may not be terminated if the family member can demonstrate that he or she:

1. Has an addiction to a controlled substance, has a record of such an impairment, or is regarded as having such an impairment; and
2. Is recovering, or has recovered, from such an addiction, and does not currently use or possess controlled substances.

A family member who has engaged in the illegal use of drugs may be required to submit evidence of participation in, or successful completion of, a treatment program as a condition to being allowed to reside in the unit.

D. Termination for Failure to Submit Consent Forms

SHA shall terminate the assistance for a family if any member of the family fails to sign and submit consent forms for obtaining information required by SHA, including HUD Form 9886. This denial is required pursuant to 24 CFR 982.552(b).

E. Termination for Non-Eligible Immigration Status [24 CFR 5.514, 5.516, 5.518]

SHA must terminate assistance when required to do so under the regulations establishing citizenship or eligible immigration status.

Applicant and participant families, in which all members are neither U.S. citizens nor eligible immigrants, are not eligible for assistance. The assistance of any such participant families shall be terminated. SHA shall, on request, provide such applicants or families a hearing.

Assistance may not be terminated while confirmation from the Department of Homeland Security of the participant family's eligible immigration status is pending.

False or Incomplete Information

SHA will verify eligible status, then continue, deny, terminate, or prorate assistance as appropriate.

SHA will deny or terminate assistance based upon the submission of false information or upon misrepresentation.

Procedure for Denial or Termination

If the family (or any member) claimed eligible immigrant status and the INS primary and secondary verifications failed to document the status, the family may make an appeal to the INS and request a hearing with SHA either after the INS appeal or in lieu of the INS appeal.

After SHA has made a determination of ineligibility, the family will be notified of the determination and the reasons and informed of the option for prorated assistance (if applicable).

F. Zero (\$0) Assistance Tenancies: No HAP for 180 days

SHA is required to terminate assistance for participants, if the family is living in a unit under contract and 180 days (or 12 months, depending on the HAP Contract used) have elapsed since SHA's last Housing Assistance Payment was made. (See Chapter 16, Contract Terminations.)

For HAP Contracts executed on or after October 2, 1995 [24 CFR 982.455]: The family may remain in the unit at \$0 assistance for up to 180 days after the last HAP. If the family is still in the unit after 180 days, the assistance will be terminated. If, within the 180-day period, an owner's rent increase or a decrease in the family's Total Tenant Payment causes the family to be eligible for a Housing Assistance Payment, SHA will resume assistance payments for the family.

In order for a family to move to another unit during the 180 days, the rent for the new unit will have to be high enough to necessitate a Housing Assistance Payment.

G. Procedures for Termination of Assistance [24 CFR, 982.555]

Housing Authority Discretion [24 CFR 982.552(c) (2)]

In deciding whether to deny or terminate assistance because of action or failure to act by members of the family, SHA has discretion to consider all of the circumstances in each case, including the seriousness of the case. SHA will use its discretion in reviewing the extent of participation or culpability of individual family members and the length of time since the violation occurred. SHA may also review the family's more recent history and record of compliance, and the effects that denial or termination of assistance may have on other family members who were not involved in the action or failure to act.

SHA may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in, or were culpable for the action or failure to act, will not reside in the unit. SHA may permit the other members of a family to continue in the program.

Notice

In any case where SHA decides to terminate assistance to the family, SHA must give the family written notice which states:

1. The reason(s) for the proposed termination;
2. The effective date of the proposed termination;

3. The family's right, if they disagree, to request a hearing to be held before assistance is terminated; and
4. The date by which a request for a hearing must be received by SHA.

SHA will simultaneously provide written notice of the contract termination to the owner so that it will coincide with the termination of assistance. The notice to the owner will not include any details regarding the reason for termination of assistance.

Required Evidence

If the family requests a hearing, SHA shall be required to establish, by a preponderance of the evidence, that a termination for criminal activity is justified. SHA may terminate assistance whether the household member has been arrested or convicted for such activity or not.

“Preponderance of 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. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

“Credible evidence” may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence can be considered credible evidence.

Other credible evidence includes documentation of drug raids or arrest warrants.

Confidentiality of Criminal Records

If SHA proposes to terminate assistance for criminal activity as shown by a criminal record, SHA will furnish to the family, upon request, a copy of any public record background check (e.g, AIR, WSP, and WATCH reports).

As a condition of SHA's agreement with the Seattle Police Department, SHA may not make or furnish copies of confidential police reports. SHA may show the participant SHA's copy of the police report. Parties to the police report may obtain their own copies of the police report at their own expense at the local police department.

SHA will maintain the confidentiality of any criminal record received and take reasonable precautions to ensure that such records are not misused or improperly disseminated. Such records shall be destroyed when the purpose for which they were requested has been accomplished.

All criminal reports, while needed, will be housed in a locked file with access limited to individuals responsible for screening and determining eligibility for initial and continued assistance and to upper level management.

Misuse of the above information by any employee will be grounds for termination of

employment.

Behavior Resulting From A Disability

If termination is based upon behavior resulting from a disability and SHA receives a request for a reasonable accommodation, SHA will delay a decision on the denial or termination pending a decision on the request for reasonable accommodation.

H. Option Not To Terminate for Misrepresentation [24 CFR 982.551, 982.552(c)]

If the family has misrepresented any facts that caused SHA to overpay assistance, SHA may terminate assistance or offer to continue assistance provided that the family executes a repayment agreement and makes payments in accordance with the agreement and/or reimburses SHA in full.

I. Misrepresentation in Collusion with Owner [24 CFR 982.551, 982.552 (c)]

If the family intentionally, willingly, and knowingly commits fraud or is involved in any other illegal scheme with the owner, SHA will deny or terminate assistance.

In making this determination, SHA will carefully consider the possibility of overt or implied intimidation of the family by the owner and the family's understanding of the events.