



SMOKE-FREE POLICY COMPLIANCE AND ENFORCEMENT FAQs

A Guide for Public Housing Providers

Thoughtful planning and preparation before and during the implementation of a smoke-free policy will improve compliance and reduce the need for enforcement. This FAQ sheet is a supplement to Live Smoke Free's "Promoting Smoke-Free Policy Compliance" handout (accessible at www.smokefreepublichousingproject.org) and is intended for public housing agencies (PHAs) implementing a smoke-free policy in compliance with the United States Department of Housing and Urban Development's (HUD) smoke-free housing rule.

If a PHA posts signs, are they required to be posted in multiple languages?

It is recommended that PHAs use translators and translated materials whenever possible and appropriate. According to HUD, signs must be accessible to all residents and visitors, and must be posted in multiple languages if appropriate for residents of the PHA, in accordance with HUD's current guidance on limited English proficiency. Using visual images are also helpful to improve clarity.

Can a PHA ask prospective residents if they smoke?

HUD has issued guidance stating that PHAs may not ask prospective residents if they smoke or keep separate waiting lists for smokers. However, PHAs must inform prospective residents of the building's smoke-free policy. PHAs may also

wish to promote their smoke-free status as an amenity on advertisements and promotional materials to inform prospective residents.

How can a PHA enforce this policy in a positive manner without being seen by residents as the “smoking police”?

It is important to consistently use positive messaging when discussing and enforcing a smoke-free policy. Emphasize that the policy makes the community healthier, cleaner, and safer. Focus messages on the smoke, not the smoker. Regularly thank residents for compliance with a written or verbal “thank you” to help frame your enforcement approach in a positive way.

Does HUD’s smoke-free rule prohibit the use of marijuana?

Although HUD’s smoke-free rule does not address the use of marijuana, marijuana is still illegal under federal law and prohibited by HUD. Smoking marijuana is grounds for a PHA to deny housing or terminate a tenancy¹.

Are PHAs required to accommodate disabled residents who smoke?

Although PHAs are required to reasonably accommodate residents with disabilities, HUD has stated unequivocally that “smoking in a unit is not a reasonable accommodation.” Some PHAs have accommodated residents who smoke and have mobility issues by moving them closer to an elevator or door so they can more easily access the outdoors. Accommodations that present an undue financial or administrative burden are not considered reasonable. For more information on this topic, please see the Public Health Law Center’s fact sheet “Smoke-Free Public Housing: Reasonable Accommodations.”²

¹ <https://www.hud.gov/sites/documents/MED-MARIJUANA.PDF>

² PHLC’s reasonable accommodations sheet <https://publichealthlawcenter.org/sites/default/files/resources/Smoke-Free-Public-Housing-Reasonable-Accommodations-2017.pdf>

What are some strategies to help individual residents comply with a smoke-free policy?

Some residents may find it easier to comply with the rule if:

- Management provides additional reminders or signage inside the unit.
- The resident has easy access to free nicotine replacement therapy (e.g. patches, gum, lozenges, etc.) to help them get through cravings when they can't or don't want to go outside. Free resources are often available from state quitlines (1-800 QUIT NOW).
- The resident is allowed to move to a unit that is closer to building entrances.
- Management agrees to paint or clean the unit. This encourages the resident to smoke outside in order to keep their unit fresh and clean.
- Management assists the resident in developing a buddy system for a resident who can't or doesn't want to go outside alone. A buddy system can also benefit a resident who is at home alone with a child and needs a friend to babysit.
- See Live Smoke Free's "Promoting Smoke-Free Policy Compliance" for additional tips.



Have there been any eviction cases due to smoke-free policy violations?

In rare instances, public housing residents have faced eviction due to failure to comply with a smoke-free policy. In most cases, the resident was evicted for a variety of lease violations, including smoking violations. In some cases, leases

have been terminated due to smoking violations before reaching eviction stages. PHAs should use a graduated enforcement approach and work with residents to comply before terminating a lease or evicting for smoking violations. Examples of graduated enforcement policies can be found in HUD's "Change is in the Air" guide (see pages 46-47.) HUD states in its rule that "termination of assistance for a single incident of smoking, in violation of a smoke-free policy, is not grounds for eviction."

Does enforcement of this rule put residents at greater risk of homelessness?

HUD's goal is to provide "safe, decent, and sanitary housing for vulnerable populations nationwide." A graduated approach to enforcement of the smoke-free rule is recommended so that each resident has adequate support and opportunity to comply with the rule. Eviction, while a possibility, will ideally only occur in rare instances.

Can a PHA use smoking monitors to detect if a resident is smoking inside his/her unit?

There are several passive nicotine monitors available that may help PHAs identify when smoking has occurred.³ However, Clean Air for All cannot attest to their efficacy or recommend a particular brand. Keep in mind that other in-unit factors can impact the efficacy of passive nicotine monitors. There are also less intrusive ways to promote compliance and successfully enforce your policy. If a PHA chooses to use a passive nicotine monitor, compliance with Fair Housing laws must be taken into consideration. For example, placing monitors in every unit rather than just some may be a better practice.

³ <http://mysmokefreehousing.org/word/DevicesandTeststoDetectSmoking.htm>



Who can I contact to request additional assistance?

Contact Clean Air for All at info@smokefreepublichousingproject.org or 651-646-3005 for additional assistance. Depending on your geographic location, we may connect you with a partner who can provide local assistance. More information is available at:

- www.smokefreepublichousingproject.org
- https://www.publichealthlawcenter.org/topics/tobacco-control/smoke-free-tobacco-free-places/housing/public-subsidized-housing_
- https://www.hud.gov/program_offices/healthy_homes/smokefree