

**Termination of Assistance and Criminal Activity—
Section 8 Housing Choice Voucher Program, 24 CFR Part 982¹**

What?	Who?	Where?
“Drug-related criminal activity”: illegal manufacture, sale, distribution or use of a drug, or possession of a drug with intent to manufacture, sell, distribute, or use the drug 24 CFR 5.100, 24 CFR 982.553(b)	Engaged in by Section 8 participant or listed household member	Anywhere
“Violent criminal activity” —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—see 24 CFR 5.100, 24 C.F.R. 982.553(b)	Engaged in by Section 8 participant or listed household member	Anywhere
Other criminal activity that threatens health, safety, or right to quiet enjoyment of other residents or neighbors —see 24 CFR 982.551(l) ²	Engaged in by Section 8 participant or listed household member	In the immediate vicinity of the premises

¹ While the list of grounds for termination in the Section 8 regulations is exclusive—see, for example, Hill v. Richardson, 740 F.Supp. 1393 (S.D. Ind. 1990); Cain v. Allegheny Hous. Auth., 986 A.2d 947 (Pa. Cmwlth. 2009)—the owner may have a lease which has additional provisions having to do with other criminal activity than that described below. Either a housing authority or a court may find that the tenant has committed a serious or repeated lease violation, and the housing authority is permitted or required to pursue termination on that separate basis. See 24 C.F.R. §§ 982.551(e) (family obligation not to engage in serious or repeated lease violation) and 982.552(2)(2) (mandatory termination for those evicted for serious lease violations).

² In Costa v. Fall River Hous. Auth., 453 Mass. 614 (2009), the Court rejected the argument that this was not a basis for termination since it was not one of the specific grounds for termination authorized in 24 C.F.R. § 982.553(b). The Court based this on an amicus curiae brief submitted by HUD and found that it had to defer to HUD’s interpretation. The issue may still be open in other jurisdictions.

**Termination of Assistance and Criminal Activity—
Mass. Rental Voucher Program (760 CMR Part 49)**

What	Who	Where
Not illegally use drugs-- see 760 CMR 49.03(2)(k)	Participant or any household member	Anywhere
Not engage in criminal activity which would interfere with or threaten the right of other tenants or housing authority employees to be secure in the persons or property, or with the rights of other tenants to peaceful enjoyment of their apartments and common areas— see 760 CMR 49.03(2)(f)	Participant or any household member	Related to impact on other tenants or housing authority employees

**Eviction from Federal Public Housing (24 CFR § 966.4),
Section 8 Project-Based Multifamily Housing (24 CFR § 5), or
Section 8 Tenant-Based Voucher Program (24 CFR § 982.310)³**

What?	Who?	Where?
Ever convicted of drug related criminal activity for manufacture/production of methamphetamine <i>See 24 CFR 966.4(l)(5)(i)(A)</i>	Tenant or household member	The conviction must have been associated with a federally assisted tenancy
Drug-related criminal activity <i>See 24 CFR 966.4(l)(5)(i)(B); 24 CFR 982.310(c)(1); 24 CFR 5.858</i>	1. Other person under tenant or household member’s control 2. Tenant, household member, or guest	1. On the premises 2. For public housing, <u>on or off the premises</u>.⁴ For Section 8 (tenant-based or project-based), <u>on or near the premises</u>.
Illegal drug use or pattern of illegal drug use that affects health, safety, or right to peaceful enjoyment of other residents <i>24 CFR 966.4(l)(5)(i)(B) 24 CFR 982.310(c)(1); 24 CFR 5.858</i>	Tenant or household member	On the premises
Criminal activity that threatens health, safety, or right to peaceful enjoyment of other tenants or persons residing in immediate vicinity <i>24 CFR 966.4(l)(5)(ii)(A) 24 CFR 982.310(c)(2)(i) 24 CFR 5.859(a)</i>	Tenant, household member, guest, or other person under tenant or household member’s control	Connected to the premises
Violent criminal activity	1. Person under tenant or	1. On the premises

³ It should be noted that while these are the grounds in the regulations, it may be that a PHA or owner may state additional grounds in its lease related to criminal activity, and a court may find this to be “other good cause”. See, for example, *Lowell Hous. Auth. v. Melendez*, 449 Mass. 34 (2007) (good cause not limited to criminal activity at or near complex which inherently poses health/safety risk).

⁴ However, if the criminal activity did not take place on or adjacent to public housing property, the tenant should have grievance rights (for drug-related or other criminal activity) before the matter is taken to court. See M.G.L. c. 121B, § 32; *Boston Hous. Auth. v. Geneva Perez*, Boston Housing Ct. No. 05-SP-01780(Winik, J., Aug. 5, 2005). Similarly, even if the activity took place on or adjacent to public housing property, if it is a marijuana offense, the tenant has grievance rights under M.G.L. c. 121B, § 32. These grievance rights extend to both state and federal public housing. See *Spence v. Reeder*, 382 Mass. 398, 418-419 (1981). A housing authority may also choose to provide grievance rights even if not required by state or federal law, so it’s important to review the housing authority’s grievance procedure.

24 CFR 982.310(c)(2)(i)	household member's control 2. Tenant, household member, or guest	2. On or near the premises
Fleeing to avoid prosecution, custody, or confinement after conviction for a felony, or in violation of a condition of probation or parole <i>24 CFR 966.4(l)(5)(ii)(B)</i> <i>24 CFR 982.310(c)(2)(ii)</i> <i>24 CFR 5.859(b)</i>	Tenant	Anywhere