




Part II

Understanding Landlord-Tenant Law & Subsidized Housing Law

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Due Process in Hud Subsidized Housing

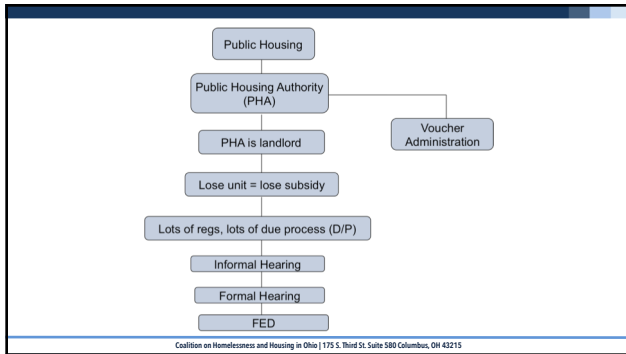
- Application Denials
 - Public Housing
 - Housing Choice Voucher
 - Multi-Family Housing (Project-Based Section 8)
- Terminations
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 - Housing Choice Voucher
 - Public Housing

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Application Denials



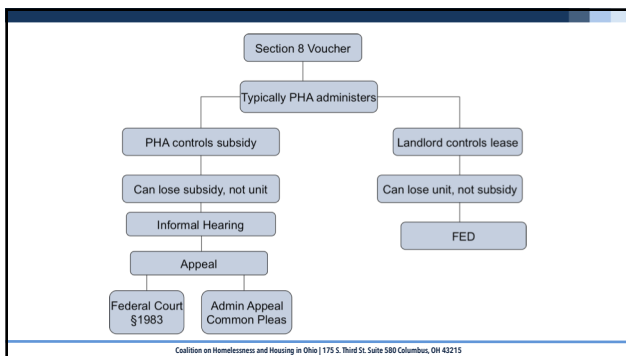
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Public Housing

- Grievance Process
 - PHA must promptly notify applicant of denial and provide basis of decision
 - Informal hearing **only**
 - Applicants get **some** administrative due process, but not as much as participants (tenants)
- We will examine this more closely when we get to terminations

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Housing Choice Voucher

- Grievance Process

- Informal review only (may be a hearing)

- Process:

- Notice – stating grounds and right to a review (not necessarily a hearing)
- Right to review by someone who was not original decision-maker
- Right to present oral or written evidence
- Prompt written decision providing basis of decision



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Housing Choice Voucher: Grievance Process (cont.)

- No right to any hearing (review may be entirely in writing)

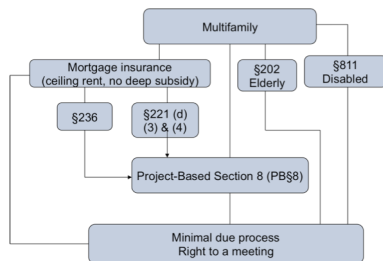
- Check your local HCV (Section 8) Administrative Plan

- Right to appeal to court

- Common Pleas (2506 administrative appeal)
- Federal District Court §1983



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Project-Based Section 8

- Challenging Denials
 - No grievance process
 - Must give written notice
 - Provide notice of an opportunity for a meeting
 - Meeting ≠ grievance
 - Meeting must be "meaningful"
 - Landlord must give written decision

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Application Denials

- The takeaway points
 - **Very few** of the grounds for denial are **mandatory**
 - Lifetime sex offenders (lifetime bar)
 - methamphetamine manufacturers (lifetime bar)
 - current users of illegal drugs
 - Evicted from HUD housing in the last 3 years
 - However, much discretion for authority to deny beyond the mandatory grounds
 - There is always an administrative process to challenge a denial

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Termination Process



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Good Cause Required in all HUD programs

- Remember voucher end-of-initial-lease term exception
 - Good cause is necessary to terminate the HCV (subsidy) but not the lease if at the end of the term.
- Examples of good cause (non-exhaustive):
 - Serious or repeated violations of the lease
 - Nonpayment of rent
 - Serious or repeated violations of the lease
 - Unauthorized occupants
 - Failure to recertify
 - Violation of tenant obligations under state law
 - Some criminal activity or alcohol abuse

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Good Cause Required

- Other good cause:
 - Tenant violations of HQS
 - Failure to pay for damages caused by tenant
 - Disturbing neighbors
 - Destroying property

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Notice

- Many require longer period-of-time before an eviction can be filed
 - In private housing, a landlord must deliver a 3-day notice before filing an eviction.
 - 10 days –Project-Based Section 8 in order to meet with tenant
 - 14 days – for nonpayment in public housing
 - 30 days – other good cause as defined in any program

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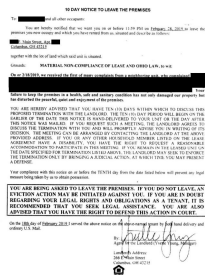
Notice

- Probably will require additional language (usually to inform tenant of additional rights)
- Must state reason, and termination limited to reasons stated
- Specificity
- Strict compliance
- Typically (but not universal) can be combined with state notice (but reconcile language)
- Additional service requirements (first class mail)

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Sample 10 Day Notice



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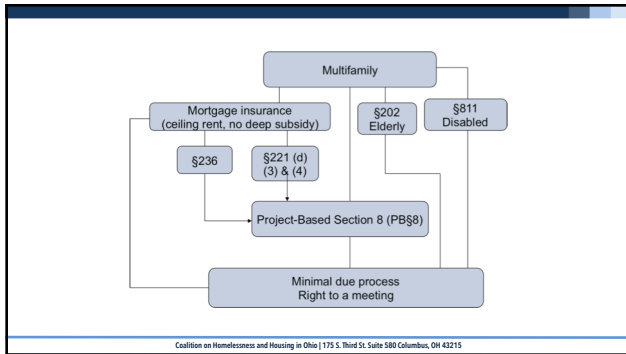
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Due Process

- Most federal programs require some **administrative** due process **in addition** to state court due process
- Exception – voucher program
 - Subsidy termination by PHA only requires an informal hearing by PHA, but tenant may appeal termination to court
 - Tenancy termination by landlord only requires landlord to use state court eviction process; see R.C. Chapter 1923
 - Termination of “vouchers” in Continuum of Care (CoC) programs is convoluted and confusing.

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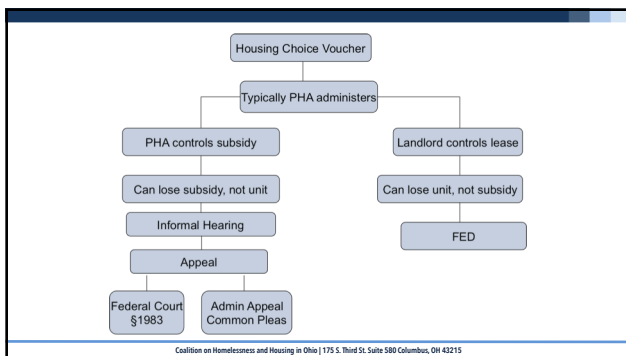
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Multi-Family

- Due Process
 - Same as process for admission denials
 - Section 8 Project-Based – 24 C.F.R. Part 247, HUD Handbook 4350.3 Chapter 8, Section 8-6
 - Tenant may request a meeting with landlord to discuss termination
 - Landlord must meet with tenant if so requested
 - Purpose is to resolve termination disputes without litigation
 - Meeting must be "meaningful"
 - Must still go to court

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Housing Choice Voucher

- Termination of voucher (subsidy)
 - Termination of voucher ≠ eviction
 - Tenancy termination conducted by landlord using state court eviction procedures
 - PHA determines termination of voucher
 - Informal hearing (only)

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Housing Choice Voucher

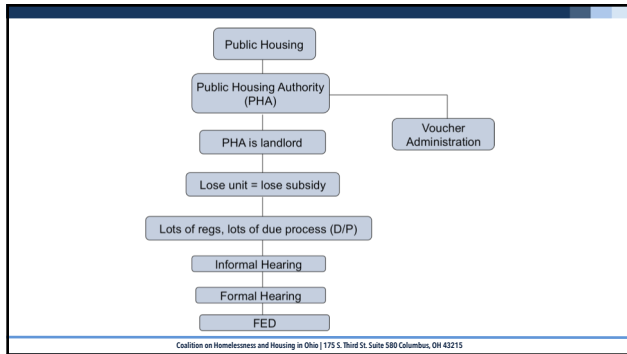
- PHA can terminate HCV, but tenant may remain in the unit
- LL can terminate lease/evict tenant, but tenant may keep subsidy(HCV) **and move**
- Some violations by tenant may lead to termination of HCV and lease, but they are done separately

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Housing Choice Voucher

- Hearing Rights
 - Notice of hearing with explanation of grounds
 - Discovery – right to see relevant PHA documents before hearing
 - Bring an attorney (if tenant can find one)
 - Hearing officer must be neutral
 - Provide evidence
 - **Decision based on evidence presented at the hearing**
 - Written decision that provides reason for decision
 - If tenant loses, tenant must appeal and file in state or federal court

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Public Housing

- Multi-layered administrative due process
 - Informal “hearing” – usually with site manager
 - Formal hearing – independent Hearing Officer (HO), but HO may be employee of PHA not connected to termination decision
 - HO may = panel

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Public Housing (cont.)



- Informal Hearing
 - Really not a hearing – settlement conference
 - Typically meeting with property manager
 - Opportunity to resolve problem quickly and easily
 - Must issue written summary → who, what, where, when, final result

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Public Housing (cont.)

• Formal Hearing

- Notice
 - Reason for termination
 - Right to a hearing
 - How and when to request hearing
- Written request for hearing



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Public Housing: Formal Hearing (cont.)

- Hearing Rights
 - Neutral hearing officer (but may be PHA employee)
 - Promptly scheduled
 - Opportunity to examine PHA records relevant to a hearing
 - Bring an attorney (if tenant can find one)
 - Have a private hearing
 - Provide evidence
 - Decision based solely and exclusively upon the facts presented at the hearing
 - Written decision that provides reasons for the decision

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Public Housing (cont.)

- Exclusion from grievance process if allegations concern:
 - Criminal activity that threatens health, safety or peaceful enjoyment of premises of other tenants or PHA employee
 - Violent or drug-related criminal activity
 - Criminal activity where household member convicted of felony
- If tenant wins grievance, termination process is over (most of the time)
- If tenant loses, PHA must still go to court to evict under Ohio law, so another chance to defend
- Tenant may also affirmatively request a grievance hearing for any "adverse action" (denial of medical deduction, increase in rent, etc)

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Questions?

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- Housing Information line: 888-485-7999 or rentinfo@cohhio.org

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