

EFFECTIVE ENFORCEMENT

BUILD SUCCESS WITH effective enforcement. Someone who smokes where smoking is prohibited is violating the policy. Enforcement of the smoke-free policy is similar to enforcement of other building policies, like noise or pet restrictions. Be consistent, fair, positive, and pragmatic.

Planning for success

To be effective, a smoke-free policy should include a formal process that ensures consistent, appropriate follow-up to violations.

Enforcement process

The smoke-free housing policy should outline each step in the enforcement process. Usually this process includes:

- Verbal warning: Informal warnings for suspected but unsubstantiated smoking reports can be provided by speaking directly with the resident in question.
- First violation/written warning: Depending on the policy, the first written warning may lead to a lease violation. If a violation has been substantiated by staff, a private conference with the resident can be held to review the purpose of the policy (to protect the health of residents and staff) and its requirements (where smoking is and is not allowed). The resident signs a formal agreement, sometimes called a Management Agreement, that documents the smoking violation and the consequences of violating the policy again (this can be useful if there are further violations and the case goes to court). The signed agreement is entered into the resident's file.
- Second violation: The smoker, in a private conference with staff, is given another formal violation, and this is entered into the resident's file.
- Referral for legal action: A majority of housing agencies that participated in Building Success research required a specific number of lease violations before escalating the situation to court.

Documenting each step in the process is important to build evidence in case legal action is required. Some larger housing agencies found it helpful to track violation reports and staff response with a tracking document.

Enforcement challenges

Monitoring and enforcing the smoke-free policy can be challenging. It is important to be persistent and patient.

Inconsistent enforcement, or the perception of differential treatment of residents by staff, may increase resentment about the policy and make it more difficult to enforce. Staff training can help ensure consistent enforcement efforts.

Most housing staff see their jobs as housing people, not evicting them. Consider speaking with staff about the benefits of healthy, smoke-free homes for residents and the importance of consistency in enforcement.

Evidence of smoking is often hard to find. Smokers know when staff are less likely to be around, and housing management is required to provide advance notice before entering a unit, unless there is an emergency situation.

- Secondhand smoke detectors may be a useful resource; however, they can be expensive and difficult to use to pinpoint the exact location of a violation. GASP (Group to Alleviate Smoking Pollution) of Colorado has compiled a list of available secondhand smoke detectors (<http://mysmokefreehousing.org/word/DevicesandTeststoDetectSmoking.htm>).

Efforts to enhance effectiveness

At any point during the enforcement process, it can be helpful to:

- Work with the resident to identify and, if possible, address barriers to policy adherence
- Provide information about cessation resources
- Distribute policy reminders to all residents when there are reports of smoking violations
- Let residents know how to report violations and what to expect from the enforcement process. Residents are often the “eyes and ears” of enforcement efforts.

Resources

Change is in the Air: An Action Guide for Establishing Smoke-Free Public Housing and Multifamily Properties (HUD) www.hud.gov/sites/documents/SFGUIDANCEMANUAL.PDF

HUD memo on medical marijuana www.hud.gov/sites/documents/MED-MARIJUANA.PDF

Implementing HUD’s Smoke-free Rule (HUD)

www.hud.gov/sites/documents/SMOKEFREE_GUIDEBK.PDF

Instituting Smoke-free Housing: Final Rule www.federalregister.gov/documents/2016/12/05/2016-28986/instituting-smoke-free-public-housing

Questions and Answers on HUD’s Smoke Free Public Housing Proposed Rule (HUD)

www.hud.gov/sites/documents/FINALSMOKEFREEQA.PDF

Smoke-free Policy Recommended Checklist (HUD)

www.hud.gov/sites/documents/2_SMOKEF_POLICYCHECKLIST.PDF

US Surgeon General Report www.surgeongeneral.gov/library/reports/secondhand-smoke-consumer.pdf

PHA Staff Tips (HUD) www.hud.gov/sites/documents/1_HUD_SMOKEFREE_TIPS.PDF

The Building Success project supports efforts to implement smoke-free policies by sharing practical ideas and insights from housing providers and residents who went smoke-free. Learn more at www.BuildingSuccessSmokefree.org.