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# Navigating the Texas Eviction Process

A Brief Guide to Procedures, Timelines, and Legal Compliance

Texas Housing Authorities Conference, Fort Worth, Texas, August 2026

Presented by Daniels & Daniels

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# The Legal Framework for Evictions

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| Texas Property Code Chapter 24: | • Statutory requirements for evictions. |
| Rules of Civil Procedure Rule 510: | • Procedural requirements for forcible detainer (eviction) actions. |
| Code of Federal Regulations: | • 24 CFR 966.4(l) governs eviction proceedings |
| Section 4024(c) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Pub. L. No. 116-136, § 4024(c), 134 Stat. 281, 492 (2020)): | • requires a thirty-day notice to vacate |

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# Legal Grounds for Eviction

- Non-Payment of Rent: Most common basis for evictions.

- Lease Violations: Includes unauthorized pets, continuous unapproved guests, or failed housekeeping inspections. Basically, any breach of the tenant obligations listed under 24 CFR 966.4(f).

- Documented Criminal Acts: Drug-related criminal activity engaged in on or off the premises by any tenant, member of the tenant's household or guest, and any such activity engaged in on the premises by any other person under the tenant's control, is grounds for the PHA to terminate tenancy.

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# Step 1: The Lease Termination Notice

## The PHA must give written notice of lease termination if:

- Nonpayment of Rent → 30 Days
- Note that 24 CFR 966.4(l)(3)(ii) has specific requirements for non-payment of rent.
- Threat to Health or Safety → Reasonable time (≤ 30 Days)
  - Considering the seriousness of the situation (not to exceed 30 days)
  - Health or safety of other residents, PHA employees, or persons residing in the immediate vicinity of the premises is threatened
- Drug or Violent Criminal Activity → Reasonable time (≤ 30 Days)
  - If any member of the household has engaged in any drug-related criminal activity or violent criminal activity
  - PHA must immediately terminate the tenancy if the PHA determines that any member of the household has ever been convicted of drug-related criminal activity for manufacture or production of methamphetamine on the premises of federally assisted housing.
- Fugitive Felon or Parole Violator with a Felony Conviction → Reasonable time (≤ 30 Days)
- Other Lease Violations → 30 Days

24 CFR 966.4(l)(3(i): The PHA must give a specific number of days of written notice depending on the reason for the eviction.

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# Step 1: The Lease Termination Notice

## Practice Tips:

**Be specific.**

- Use the who, what, when, where method.
- Also quote the lease provisions that were violated.

**Use Every Applicable Lease Provision.**

- Use your lease provisions to build a strong case.
- If certain conduct can be categorized as a violation under separate lease provisions, use them all.

**Criminal Conduct Cases: Obtain the arrest affidavit through an Open Records Request.**

- If you are terminating for criminal activity, file an Open Records Request for the arrest affidavit to get more details.

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# Step 2: Notice to Vacate (NTV)

Landlords must provide tenants under written leases at least three days' written notice to vacate before filing an eviction suit.

For tenants whose right of possession terminates based solely on nonpayment of rent and who were not previously late or delinquent, written notice must be given as a notice to pay rent or vacate. The tenant must be given the opportunity to cure.

For tenants whose right of possession terminates based on nonpayment of rent and who were previously late or delinquent, written notice may be given as either a notice to pay rent or vacate or a notice to vacate.

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# Step 2: NTV & CARES Act

The CARES Act requires a 30-day notice to vacate for non-payment of rent cases.

Some jurisdictions have held that the 30-day notice requirement applies to all cases, including evictions based on criminal activity.

Our research did not find a Texas case holding that the CARES Act applied to evictions based on criminal conduct or other lease violations.

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# Step 2: CARES Act and Texas Law

When federal law or rules require landlord notice before requiring tenant to vacate, landlords satisfying this section's requirements need not delay filing eviction suits based on federal requirements.

Federal requirements are not grounds for courts to delay or abate eviction suits.

Writs of possession may not be served until the period between notice delivery and writ service equals or exceeds the federally prescribed period. (Tex. Prop. Code § 24.005)

**Why does this matter?**

It appears that the eviction process can proceed during the 30-day CARES Act notice period, as long as the housing authority has complied with the notice requirements of the Property Code.

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# Step 2: Delivery of NTV

## Tex. Prop. Code § 24.005(f)

MAIL:

First class mail

Registered mail

Certified mail

Delivery service

DELIVERY:

Inside the premises, in a conspicuous place

HAND DELIVERY:

To any tenant of the premises who is 16 years of age or older

ELECTRONICALLYY:

If parties have agreed in writing, electronic communication via e-mail or other electronic means

*(f-4) Subsection (f-3) does not apply if the tenant actually receives the notice.

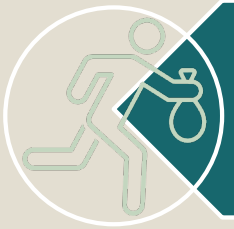
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# Step 3: Filing the Eviction Suit



## Justice Courts:

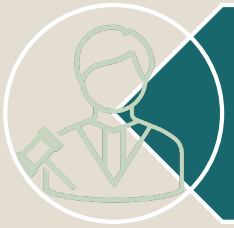
Filings occur strictly within the precise JP precinct hosting the property site.



## Petition Rules:

Details all residents, explicit violations, specify each month rent was unpaid and the amount for each month, as well as any future unpaid rent, and military status.

It should be directed to the Head of Household and all occupants.



## Immediate Possession Bonds:

Although it shortens the wait time for possession, we do not recommend doing this since the bond will be forfeited if the tenant wins.

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# Step 4: Service of Citation

Constable Execution:

Sheriff or constable must execute the citation within five business days from the date the petition is filed.

Secondary Methods:

Taping or posting to front entry areas when active delivery fails twice. Constable must file a sworn affidavit to that effect and judge must authorize.

Tenant Responsibilities:

No written answer is legally required; tenant can just appear at trial and present his case.

Allowed Delays:

Either party may request a trial postponement. The judge, for good cause, may postpone for a maximum of 7 days unless the parties agree to the postponement in writing.

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# Step 5: The Court Hearing

Expedited Timelines:

JP judges normally docket official trials between 10 and 21 days from filing.

Requesting Juries:

Either party may demand trial by jury if requested three days prior to trial.

Critical Proof:

Requires original executed contracts, ledgers, photos, and date-stamped notice receipts.

**Best Practice**:

For each lease violation, list the documents that support the claim.

If you are relying on witnesses, make sure that they are present at the hearing - Remind them at least one day prior to the trial date.

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# Step 6: Judgments & The Appeal Window

The Five-Day Window:

Both parties possess an absolute right to appeal within five calendar days after the date the judgment is signed.

The county court shall hold a trial not later than the 21st day after the date the transcript and original papers are delivered to the county court.

The trial is de novo, meaning the court hears the case as if the justice of the peace court trial never happened.

Missed Windows:

Failing to submit proper appeal bonds converts current trial rulings into final judgments.

**NEW RULE**

- A tenant who files an appeal must affirm, under penalty of perjury, the tenant's good faith belief that the tenant has a meritorious defense and that the appeal is not for the purpose of delay. Tex. Prop. Code § 24.005107
- The goal of this rule is to prevent tenants from appealing for the sole purpose of delaying the eviction.

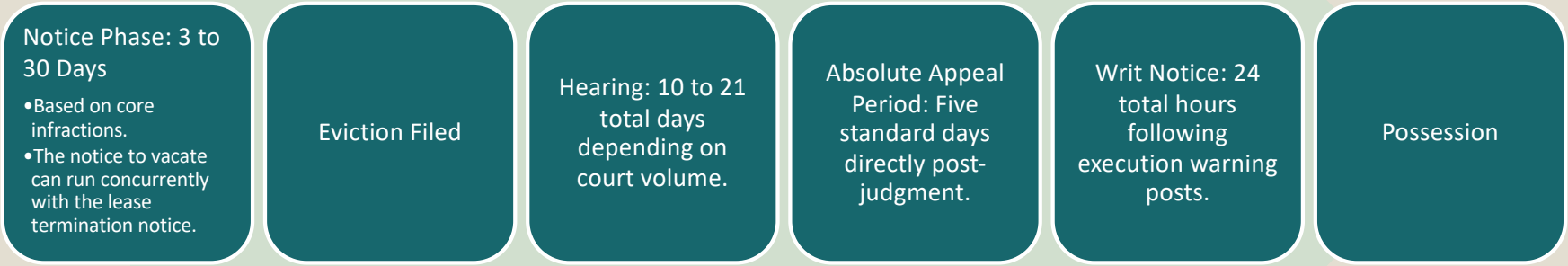
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# Step 7: Writ of Possession

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| • Post-Judgment Remedies | • Issued after six full days pass without active appeals or physical vacancy. |
| • Execution Cost | • Standard flat processing rates are typically around $130.00 across Texas counties. |
| • The 24-Hour Notice | • Authorized constables secure standard warning sheets to doors detailing exact timing. |
| • Physical Lockouts | • An officer may use reasonable force in executing a writ under Tex. Prop. Code § 24.0061 |
| • Weather Rules: | • Clear statutory restrictions stop removal of tenant's property during intense rainfall, sleet, or freezing weather. Property cannot block a public sidewalk, passageway, or street. |

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# Texas Eviction Timeline




Expected Total Run is 21 to 60 total calendar days to complete the process at the JP level. This does not include the appeal process.

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# HOUSING CHOICE VOUCHER TERMINATIONS

Brief Overview

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# Mandatory Grounds for Termination

24 CFR § 982.552 sets out the following mandatory grounds for termination:

Eviction for Serious Lease Violations: Repeated non-payment of rent qualifies

Methamphetamine Conviction: Must involve manufacturing of methamphetamine on premises

Lifetime Sex Offender Registration

Failure to Sign Consent Forms

Failure to Document Citizenship

Failure to meet the eligibility requirements concerning individuals enrolled at an institution of higher education as specified in 24 CFR 5.612.

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# Permissive Grounds for Termination

24 CFR § 982.553 sets out the following permissive grounds for termination:

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| Violating "Family Obligations": Failing to fulfill any rules listed under 24 CFR § 982.551, such as failing to report income changes, missing scheduled inspections, or allowing unauthorized guests to live in the unit. |
| Fraud and Corruption |
| Drug or Alcohol Abuse |
| Violent Criminal Activity |
| Unpaid Housing Debt |
| Engaging in or threatening violent or abusive behavior toward PHA personnel. |

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# Notice of Termination

The notice should provide specific facts related to the termination.

| Insufficient Notice | Sufficient Notice |
|---|---|
| Generic allegation | Specific facts |
| No date | Includes dates |
| No Policy citation | References Administrative Plan |
| No CFR support | Includes CFR support |

Insufficient Notice:

You are being terminated for violating family obligations as allowed under 24 CFR 982.552(c)(1)(i).

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# Sufficient Notice:

The Housing Authority was made aware that your partner was residing with you.

These acts and/or failure to act violate the Housing Authority HCV Administrative Plan for failing to comply with family obligations, specifically:

- The composition of the assisted family residing in the unit must be approved by the PHA.

PHA Policy

- The request to add a family member must be submitted in writing and approved prior to the person moving into the unit. The PHA will determine eligibility of the new member in accordance with the policies in Chapter 3.

These acts and/or failure to act also violate 24 CFR 982.551(b)(4)

- Requires that any information supplied by the family must be true and accurate and 24 CFR 982.551(h)(2 which requires the family to request housing authority approval to add any other family member as an occupant of the unit.

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# Informal Hearing

Please make sure that your notice tracks your Administrative Plan.

If your Administrative Plan states that an informal hearing request must be made within 15 Days of receipt of the notice, then your notice cannot say that a hearing may be requested within 10 days from the date of the notice.

**Best Practice**: If your Administrative plan states that an informal hearing may be requested within X days from receipt of the notice, we suggest you change that to x days from the date of the notice.

It is very difficult to refute when a person received a notice by regular mail, so you may have to accept a request for an informal hearing that you think is late. It is always best to specify a date.

**Example:** You may request an informal hearing within 10 days from the date of this notice, which is August 24, 2026, by 5:00 PM.

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# Informal Hearing Documents

The participant has a right to inspect any documents that the PHA intend to use at the informal hearing. If the PHA does not produce the document, it may not use it at the informal hearing. The participant is responsible for copying costs.

The housing authority also has the right to inspect any documents that the participant may use at the informal hearing, if the housing authority's procedures provide for this. Check your HCV Administrative Plan to see if it provides for this.

Note that "documents" includes records and regulations. If you are relying on the CFR or your Administrative Plan, make the relevant provisions available.

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# Miscellaneous Reminders

Include the VAWA forms any time that you take adverse action against a tenant or HCV participant.

Don’t wait too long between the lease violation notice and the violation. If the tenant has been caught smoking marijuana on the property on January 3, 2026, don’t wait until February 20, 2026, to issue a three-day lease termination/notice to vacate.

Document and take action on every lease violation. Lease terminations are for serious or **repeated** violations of the lease.

Treat every tenant equally, unless they have a reasonable accommodation. If you are letting Tenant A have her sister stay with her for 60 days without adding her to the lease because you wanted to be nice to the tenant, then you had better be prepared to let other tenants do the same. Otherwise, you may subject the housing authority to a Fair Housing Discrimination claim.

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# Miscellaneous Reminders Cont'd

Include the standard language regarding HUD making a determination that the judicial eviction process meets due process requirements if you are not providing a grievance hearing.

Ask for attorney's fees and costs in the notice to vacate and in the petition for eviction.

Specify the court in which you file an eviction process in your notice to vacate.

EXAMPLE:

The Housing Authority will immediately proceed with an action for forcible detainer (eviction) pursuant to Tex. Property Code §24.001 et seq. and Texas Rules of Civil Procedure 510.1 et seq., in the Justice of the Peace Court of _____ County, Precinct _ if you fail to vacate the premises. The Housing Authority will seek attorney's fees and costs pursuant to Section __ Termination of Lease, paragraph C, which states:

[ insert applicable lease language here]

Should the Housing Authority prevail, a writ of possession will be requested.

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# Questions?




- Evictions
- Fair Housing
- EEOC Matters
- Governance Issues
- Open Records
- Employment Law
- Policy Drafting
- Contract Disputes

We look forward to partnering with you!

Thank you for the opportunity to present today.