

LEASE COMPLIANCE AND ENFORCEMENT GUIDELINES

PURPOSE STATEMENT

To ensure the quality of facilities leased by the State of Maryland so employees will have an appropriate environment in which to provide services to the citizens of Maryland.

INTRODUCTION

The Lease Agreement, Standard Lease Conditions, and General Performance Standards and Specifications (GPS&S) describe in detail the services and requirements of both the Lessor and Lessee. These documents control the compliance requirements of the Department of General Services (DGS), Office of Real Estate Lease (ORE), Compliance and Enforcement Unit (LCEU). Therefore, it is very important that the Agency Contact charged with the responsibility of interfacing with the Lessor of any leased facility be familiar with the above documents.

The Lease Agreement and the GPS&S delineate, at a minimum, the following requirements:

- Environmental Controls - temperature (73°F+/- 2°F) and relative humidity levels (< 50% during the cooling season and \geq 25% during the heating season).
- Hours of Operation - 7:00 A.M. - 7:00 P.M. (Monday - Friday) & 7:00- 2:00 P.M. (Saturday). All environmental controls must be functioning properly and leased facilities must be open to the employees (unoccupied setbacks can only be programmed outside hours of operation 65°F for heating season and 78°F for the cooling season).
- Cleaning Services - quality and frequency of cleaning services that are to be provided by the Lessor must follow the GPS&S.
- Americans with Disabilities Act - compliance with all federal guidelines and international codes for accessibility of leased facilities by all individuals.
- Needed Repairs - Landlords must follow best practices for needed repairs and maintenance and resolve issues and concerns in reasonable response times.
- Ongoing maintenance is required to maintain compliance and for the upkeep of the facility.

GENERAL GUIDELINES FOR PROBLEM AND COMPLAINT RESOLUTION

When problems and complaints arise in leased facilities, all stakeholders must work together to mitigate Tenant concerns and protect the Landlord's investment. For example, heating systems break down in the winter and cooling systems malfunction during the summer that requires unexpected response times and much needed communication between all parties. DGS will assess and make a determination usually within two (2) hours of the outcome of an emergency and 24 hour prioritized responses for priorities and routine workplace malfunctions. Despite everyone's best efforts, these circumstances can and probably will happen at some point in time. Consequently, the LCEU has developed the following general guidelines to be followed in the event problems occur.

Determine The Type of Problem

Emergency: a problem so severe that the safety and well being of State employees is affected and the agency is unable to carry out its mission. These may include environmental issues such as HVAC malfunctions, strong and irritating odors, flooding or severe water infiltration, weather related conditions, restroom facility malfunctions, structural defects, and long term power outages (State Agencies may activate its COOP plan by authorizing eligible employees and staff to change their work status from office to remote teleworking). Under no circumstances should state employees be released from duty without proper "emergency release" approval from the DGS Office of the Secretary.

Priority: a problem that may not disrupt the mission of the agency but requires prompt attention such as ice and snow removal, short term loss of heat and/or cooling, short term power outages, minor roof leaks, and pest infestation.

Routine: preventive or scheduled maintenance items such as poor cleaning services, loose carpet, minor plumbing leaks, lighting, and temperature concerns.

I. Guidelines for **EMERGENCY** Problems

- ▶ Agency shall immediately notify the Landlord and DGS of the emergency and request Landlord's action steps to remedy the problem. The Agency Contact will assess the Landlord's remedy and its impact on the Agency and discuss concerns, if any with DGS LCEU.
- ▶ The Agency Contact's priority will be to protect the staff and clients at the leased space site as the Landlord's corrective action plan is implemented.
- ▶ The Agency will discuss with the DGS LCEU if there is a need for a site visit, potential need to implement the COOP plan, and discuss the real time resolution of the emergency. Once the resolution has been established, Lessor must confirm plan and timeline to the Agency Contact and DGS should be copied,

- ▶ The LCEU will monitor the Lessor's implementation of the resolution along with the Agency Contact until the matter is corrected, and
- ▶ An email for the completion of the corrective measure will be shared with all parties to acknowledge that the matter has been resolved.

In the event of an emergency situation, the Procedure for Release of State Employees Under Emergency Conditions (Rev. 1999), established jointly by the DGS and the Department of Budget and Management (DBM) may become an alternative to the Agency's COOP Plan.

The Agency Contact will then work with the DGS LCEU (telephone numbers listed below) which will work with the Landlord, Agency Contact and appropriate Agency Head to determine if closure is absolutely necessary and fill out the appropriate authorization form (see link) that has to be approved by DGS's Secretary or Deputy Secretary before the actual release is announced.

II. Guidelines for **PRIORITY** Problems

- ▶ Agency shall immediately notify the Landlord for remedy and request a written response. After several attempts, the Agency can then notify the LCEU to discuss the problem so that the LCEU can review the lease file for previous complaints of the same or similar nature and respond to the request by reaching out to the Landlord.
- ▶ Agency Contact/the LCEU will request that an approach for the corrective measure be taken by the Landlord and shared with all parties by email,
- ▶ If the Lessor is reluctant to respond, the LCEU will enforce the terms of the Lease Agreement, Standard Lease Conditions and GPS&S. Once the Lessor is made aware of these documents, a corrective action plan and timeline should be developed by the same.
- ▶ The Agency Contact will then receive a corrective action plan and tentative timeline from the Lessor by email to confirm action that will be taken,
- ▶ The Agency and the LCEU will monitor Lessor's implementation of the resolution until the matter is corrected, and
- ▶ An email of the completed corrective action will be shared with all parties to acknowledge that the matter has been resolved.

III. Guidelines for **ROUTINE** Problems

- ▶ The Agency Contact will contact the Lessor directly. The first contact typically will be by telephone supported by an email to notify the Lessor of the problem or complaint. It is good policy for the Agency Contact to record a memo to the lease file of the date, time and nature of Lessor's response to the complaint. For example, "Lessor indicated lights in room xxx will be replaced within 3 days,"
- ▶ In the event the Lessor does not respond as previously indicated, the Agency Contact should call again and follow up with an e-mail or memo to the Lessor. The written notice should state the nature of the problem and when the first request for corrective measure was requested,

► In the event the Lessor fails to respond to the second request, the Agency Contact should follow the same procedures outlined under Priority Guidelines.

SUMMARY

It is not possible to address every lease enforcement situation as it occurs. However, if these guidelines are followed and the proper documentation and communication is maintained, lease compliance and enforcement issues can typically be resolved quickly. The LCEU has dedicated one staff member to maintain files and follow up on all lease compliance and enforcement matters brought to its attention. The LCEU strongly believes that day-to-day routine complaints can be efficiently handled by the Agency Contact by following the above guidelines. The LCEU has the authority to take strong remedies against non responsive Lessors, but past history affirms that compliance and enforcement issues that escalate to the Office of Real Estate for action and resolution take longer to resolve when there is no supporting agency documentation, such as file memos, emails and/or correspondence to the Lessor made by the Agency Contact.

In extreme cases, the DGS LCEU will write a certified cure letter to an unresponsive Landlord on behalf of the Agency. This action always has to be supported by the Lease Agreement, General Performance Standards & Specifications and the State Standard Lease Conditions.

The LCEU hopes these guidelines are helpful and assist you in your role as the leased space Agency Contact. If appropriate for the situation, please see the emergency release form at the end of this document for final release determinations. This policy and procedure can be downloaded from the Department of General Services Office of Real Estate's web page under the real estate section:

https://dgs.maryland.gov/Documents/RealEstate/LeaseComp_EnforceGuide.pdf. Please be assured that the DGS ORE LCEU stands ready to support and answer any of your questions and make recommendations to assist you in your daily operations.

Emergency Contact Information

Contact Lew Shapiro (410) 206-0206 (24 hours) (410) 767-4364 (Office)
Anthony Faust (443) 721-8050 (24 hours) - (410) 767-4330 or reach out to LCEU team members through the lease compliance email address: dgs.leasecompliance@maryland.gov.

**Refer to CDC for emergency COVID-19 Pandemic guidelines.

