

Hudson Housing Authority

Federal Public Housing Grievance Procedure

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FEDERAL PUBLIC HOUSING GRIEVANCE PROCEDURE

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FEDERAL PUBLIC HOUSING GRIEVANCE PROCEDURE

1.0 RIGHT TO A HEARING

Where required under law, upon the filing of a written request as provided in these procedures, a Tenant of the Hudson Housing Authority's (HHA) federal public housing development shall be entitled to a hearing before a Hearing Officer.

2.0 DEFINITIONS

For the purpose of this Grievance Procedure, the following definitions are applicable:

- A. **"Grievance"** shall mean any dispute which a tenant may have with respect to the Hudson Housing Authority's action or failure to act in accordance with the individual tenant's lease or Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status.

A Grievance will not include any dispute a tenant may have with the Hudson Housing Authority ("Authority") concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the Authority's public housing premises by other tenants or employees of the Authority; or any violent or drug-related criminal activity on or off such premises; or any criminal activity resulting in a felony conviction of a household member.

This grievance process does not apply to disputes between tenants not involving the Hudson Housing Authority or to class grievances.

- B. **"Complainant"** shall mean any tenant whose grievance is presented to the Hudson Housing Authority or at the development management office in accordance with sections 3.0 and 4.0 of this procedure.
- C. **"Hearing Officer"** shall mean an impartial person or persons selected by the Authority, other than the person who made or approved the decision under review, or a subordinate of that person.
- D. **"Tenant "** shall mean the adult person (or persons) other than a live-in aide:
1. Who resides in the unit and who executed the lease with the Hudson Housing Authority as lessee of the premises, or, if no such person now resides in the premises,

2. Who resides in the unit and who is the remaining head of household of the Tenant family residing in the unit.
- E. **"Resident Organization"** includes a resident management corporation.
- F. **"Promptly"** shall mean within 14 calendar days of the grievable event or notice of HHA action.

3.0 PROCEDURES PRIOR TO A HEARING

Any grievance shall be promptly and personally presented, either orally or in writing, to the Hudson Housing Authority office or to the office of the development in which the Tenant resides so that the grievance may be discussed informally and settled without a hearing.

After the grievance has been presented the HHA will schedule a meeting with the Tenant and provide written notice of the same. The informal settlement may be conducted remotely as a reasonable accommodation.

If a Tenant fails to attend the scheduled meeting without prior notice, the HHA will reschedule the meeting if the Tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the Tenant.

A summary of the discussion shall be prepared within fourteen (14) calendar days and one copy shall be given to the Tenant and one retained in the Authority's Tenant file. The summary shall specify the names of the participants, dates of the meeting, the nature of the proposed disposition of the complaint and the specific reasons therefor and shall specify the procedures by which a hearing under these procedures may be obtained if the Tenant is not satisfied.

4.0 PROCEDURES TO OBTAIN A HEARING

4.1 REQUEST FOR HEARING

The Tenant shall submit a written request for a hearing to the Authority or the development office within fourteen (14) calendar days from the date of the mailing of the summary of the discussion pursuant to section 3.0. The written request shall specify:

- A. The reasons for the grievance; and
- B. The action or relief sought.

4.2 *SELECTION OF A HEARING OFFICER*

A grievance hearing shall be conducted by an impartial person appointed by the Hudson Housing Authority other than a person who made or approved the action under review or a subordinate of such person. The Authority will appoint one of the following individuals as Hearing Officer: (1) an Executive Director from a Housing Authority that Administers federal public housing in the Commonwealth of Massachusetts; or (2) An attorney familiar with federal regulations and Massachusetts State laws governing federal public housing including but not limited to laws and regulations with respect to reasonable accommodation in housing.

4.3 *FAILURE TO REQUEST A HEARING*

If the Tenant does not request a hearing in accordance with this section, then the Hudson Housing Authority's disposition of the grievance under section 3.0 shall become final. However, failure to request a hearing does not constitute a waiver by the Tenant of the right thereafter to contest the Hudson Housing Authority's action in disposing of the complaint in an appropriate judicial proceeding.

4.4 *HEARING PREREQUISITE*

All grievances shall be promptly presented in person, either orally or in writing, pursuant to the informal procedure prescribed in section 3.0 as a condition precedent to a hearing under this Section. However, if the Tenant can show good cause why there was failure to proceed in accordance with section 3.0 to the Hearing Officer, the provisions of this subsection may be waived by the Hearing Officer.

4.5 *SCHEDULING OF HEARINGS*

Upon the Tenant's compliance with this section the Hearing Officer shall promptly schedule a hearing for a time and place reasonably convenient to both the Tenant and the Hudson Housing Authority. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the Tenant and the appropriate official.

The Tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HHA may request documentation of the "good cause" prior to rescheduling the hearing.

5.0 PROCEDURES GOVERNING THE HEARING

5.1 FAIR HEARING

The Tenant shall be afforded a fair hearing, which shall include:

- A. The opportunity to examine before the grievance hearing any Authority documents, including records and regulations that are directly relevant to the hearing. The Tenant shall be provided a copy of any such document at the resident's expense. If the Hudson Housing Authority does not make the document available for examination upon request by the resident, the Hudson Housing Authority may not rely on such document at the grievance hearing.
- B. The right to be represented by counsel or other person chosen as the resident's representative and to have such person make statements on the resident's behalf. The hearing may be attended by the HHA and any representatives, and witnesses, the Tenant and any representatives and witnesses, interpreters and anyone else approved for attendance as a reasonable accommodation.
- C. The right to a private hearing unless the Tenant requests a public hearing.
- D. The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by the Authority or development management, and to confront and cross examine all witnesses upon whose testimony or information the Hudson Housing Authority or development management relies; and
- E. A decision based solely and exclusively upon the facts presented at the hearing.
- F. At the hearing, the Tenant must first make a showing of an entitlement to the relief sought and thereafter the Authority must sustain the burden of justifying the Authority action or failure to act against which the complaint is directed.
- G. The Tenant or the Authority may arrange, in advance and at the expense of the party making the arrangement, for a transcript or digital recording of the hearing. Any interested party may purchase a copy of such transcript/digital recording.

5.2 REASONABLE ACCOMMODATIONS

The following accommodation will be made for persons with disabilities:

- A. The Hudson Housing Authority shall provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable

accommodations may include qualified sign language interpreters, readers, accessible locations, remote hearings, or attendants.

- B. If the Tenant is visually impaired, any notice to the Tenant that is required by these procedures must be in an accessible format.

5.3 LIMITED ENGLISH PROFICIENCY.

The HHA will comply with its obligations to ensure equal access to tenants with Limited English Proficiency as it outlined in the HHA's Language Access Plan. This may include the requirement to provide interpretation of associated notices and during participation in the grievance hearing.

5.4 ADDITIONAL EVIDENCE AND CONTINUANCES

The Hearing Officer may request additional evidence or adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the party fails to submit the additional evidence or attend the hearing on the additional date, the Hearing Officer will make the decision based upon the information in the record.

5.5 FAILURE TO APPEAR.

If the Tenant or the HHA fails to appear at a scheduled hearing, the Hearing Officer may make a determination to postpone the hearing for no more than 5 business days or may make a determination that the party has waived his right to a hearing. Both the tenant and the HHA must be notified of the determination by the Hearing Officer.

The HHA has also adopted the following procedures:

If the Tenant fails to appear and was unable to reschedule the hearing in advance, the Tenant must contact the HHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The Hearing Officer will reschedule the hearing only if the Tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities. "Good cause" is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

Both the Hudson Housing Authority and the Tenant shall be notified of the Hearing Officer's decision as to a request to re-schedule late for good cause or as a reasonable accommodation. If the Hearing Officer provides a new date, it shall be done in accordance with the methods used to schedule the initial hearing as set forth previously within this policy.

If the Tenant does not request a re-scheduled hearing late, then the Hudson Housing Authority's disposition of the grievance shall become final.

A determination that the complainant has waived the complainant's right to a hearing will not constitute a waiver of any right the complainant may have to contest the HHA's disposition of the grievance in an appropriate judicial proceeding.

6.0 REMOTE HEARINGS

Upon request of the client as a reasonable accommodation or for extenuating circumstances or if determined necessary by the Authority due to social distancing or other similar requirements as applicable to the Authority, the Authority may provide remote Hearings. The requirements set forth elsewhere in this Policy still apply to these matters except as they are modified herein. Requests for a remote hearing must be made in advance to the Housing Authority and the Tenant must demonstrate why it is necessary as a reasonable accommodation or for extenuating circumstances. The Housing Authority will make the sole determination as to whether the circumstances warrant a remote hearing as a reasonable accommodation or extenuating circumstances.

Remote hearings may be the phone, via video conferencing, or through other virtual platforms. The Authority may use Zoom or a similar platform for electronic hearings but will also offer telephonic remote hearings when the zoom platform is unavailable to the Tenant.

6.1 ACCESSIBILITY

Under Section 504, the ADA, and the Fair Housing Act, PHAs may need to make reasonable accommodations and take appropriate steps to ensure effective communication with individuals with disabilities. The Housing Authority will work with families on a case by case basis to ensure that remote hearings are accessible to them.

The Zoom platform has the following accessibility features:

- (a) Ability to add live closed captions
- (b) Produce an automated transcript
- (c) Keyboard Accessibility including specific keyboard shortcuts
- (d) Screen Reader support

6.2 *TECHNOLOGY BARRIERS*

If the Tenant does not have proper technology access which will allow the individual to fully participate and this cannot be remedied, then the remote hearing will be postponed, or an in-person alternative will be provided.

6.3 *MATERIALS*

All materials being presented, whether paper or electronic, will be provided to the Tenant prior to the remote hearing or remote briefing. (See also “Discovery” below)

6.4 *PRIVACY PROTECTION*

The Authority will not transmit sensitive PII via an unsecured information system (e.g., electronic mail, Internet, or electronic bulletin board) without first encrypting the information. In the alternative the HHA may send this information via first class mail.

6.5 *DISCOVERY*

The Authority may request and copy any of the individual’s or Tenant’s documents at the Authority’s own expense in accordance with the applicable regulations. Additionally, the individual or Tenant must be given the opportunity to examine any Authority documents that are directly relevant to the hearing prior to the remote hearing. This may include transmitting documents electronically or by mail that would normally be exchanged at the Authority’s office.

6.6 *COMMUNICATIONS*

All families will be afforded the opportunity to communicate ask questions and questions witnesses as applicable in remote hearings.

6.7 *NOTIFICATION OF REMOTE HEARING*

When a remote hearing is scheduled, the letter notifying the Tenant of the remote hearing will indicate:

- (a) The manner in which the remote hearing will be held including information as to how to access the remote hearing;
- (b) That the Tenant may contact the HA if they have barriers to participation due to technical issues. If that is the case the HA will postpone the remote hearing of necessary and attempt to address the technical issues. Other options will be

discussed including the option of an in person hearing if that is necessary under the circumstances;

- (c) That the HA will provide technical assistance during the remote hearing; and
- (d) The manner for Tenant and HA receipt of documents for the remote hearing.

6.6 TECHNICAL ISSUES DURING THE REMOTE HEARING

If any Tenant, Tenant representative, advocate, witness, Authority representative, or the hearing officer is unable to effectively utilize the videoconferencing platform, the remote hearing will be conducted by telephone conferencing call-in. If that does not resolve the issued the matter will be continued to a new date.

7.0 DECISION OF THE HEARING OFFICER

The Hearing Officer shall prepare a written decision, together with the reasons therefor, within a reasonable time after the hearing. A copy of the decision shall be sent to the Tenant and the Hudson Housing Authority. The Authority shall retain a copy of the decision in the resident's folder. The Authority must maintain a log of all Hearing Officer decisions and make that log available upon request of the Hearing Officer, a prospective complainant, or a prospective complainant's representative.

The decision of the Hearing Officer shall be binding on the Hudson Housing Authority who shall take all actions, or refrain from any actions, necessary to carry out the decision unless the Hudson Housing Authority's Board of Commissioners determines:

- A. The grievance does not concern Hudson Housing Authority action or failure to act in accordance with or involving the resident's lease or Authority regulations, which adversely affect the resident's rights, duties, welfare or status.
- B. The decision of the Hearing Officer is contrary to applicable Federal, State, or local law, HUD regulations, or requirements of the Annual Contributions Contract between the Authority and the U.S. Department of Housing and Urban Development.

A decision by the Hearing Officer or Board of Commissioners in favor of the Hudson Housing Authority or which denies the relief requested by the Tenant in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the Tenant may have to a trial do novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

8.0 SPECIFIC HEARINGS NOT SUBJECT TO THIS GRIEVANCE POLICY

8.1 *INFORMAL HEARING PROCEDURES FOR DENIAL OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS*

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules.

A family may request that the Hudson Housing Authority provide for an informal hearing after the family has notification of the INS decision on an appeal, or in lieu of request of appeal to the INS¹. The family must make this request within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision in accordance with 24 CFR 5.514 (e). These will be governed by the federal regulations concerning *Restriction on Assistance to Noncitizens*. This policy does not apply to those determinations.

8.2 *INFORMAL HEARING PROCEDURES FOR PUBLIC HOUSING APLLICANTS*

This policy addresses HHA Grievances applicable to federal Public Housing Tenants and is it not intended to address Informal Hearings for denial of applicants.

9.0 MODIFICATIONS AND NOTICE

The HHA will provide at least 30 days' notice to Tenants and resident organizations setting forth proposed changes in the HHA grievance procedure, and providing an opportunity to present written comments. Comments submitted will be considered by the HHA before adoption of any grievance procedure changes by the HHA.

The HHA shall furnish a copy of the grievance procedure to each Tenant and to resident organizations.

¹ HUD regulations still reference the term INS (Immigration and Naturalization Services) this is now known as U.S Citizenship and Immigrations Services.