



# Grievance Policy

Updated - November 1, 2024

# **HARTWELL HOUSING AUTHORITY GRIEVANCE PROCEDURE**

## **Scope and Purpose**

The purpose of this grievance procedure is to assure that residents are afforded an opportunity for a hearing if the resident disputes, within a reasonable time, any Hartwell Housing Authority (HHA) action or failure to act involving the resident's lease with the Housing Authority Regulations that adversely affect the individual resident's rights, duties, welfare or status. This grievance procedure is incorporated in the dwelling lease and is a part thereof.

## **Applicability**

This grievance procedure is applicable to all individual grievances as defined in Section 1 between the resident and the Housing Authority, except that this procedure shall not be applicable to any termination of tenancy or eviction that involves:

Any criminal activity which HHA determines threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of HHA; or

Any violent or drug-related criminal activity on or off the premises; or

Alcohol abuse which HHA determines interferes with the health, safety or right to peaceful enjoyment by other residents.

This grievance procedure shall not be applicable to disputes between residents not involving the housing Authority or to class grievance, nor is this procedure intended to be a form for initiating or negotiating policy changes between a group or groups of residents and HHA.

## **Informal Settlement of Grievances**

**Initial Presentation.** Any grievance must be personally presented, either orally or in writing, to the Property Manager within seven (7) business days after the occurrence of the event giving rise to the grievance.

**Informal Conference.** If the grievance is not determined by the Property Manager to fall within one of the two exclusions mentioned in Section B1 (a) and B1 (b) above, then the Property Manager and/or the Executive Director will, within five (5) business days after the initial presentation of the grievance, informally discuss the grievance with the complainant or his/her representatives in an attempt to settle the grievance without the necessity of a formal hearing. If the informal conference cannot occur at the time the grievance is initially presented by the complainant, then the complainant will be promptly notified in writing of the time and place for the informal conference.

**Written Summary.** Within five (5) business days after the informal conference, the Property Manager and/or Executive Director shall prepare a summary of the informal discussion,

and a copy thereof shall be provided to the complainant. The summary shall be in writing and shall specify the names of the participants in the discussion, the date(s) of the discussion, the nature of the proposed disposition of the grievance, and the specific reasons for such disposition. This written summary will also specify the procedures by which the complainant may obtain a formal hearing if not satisfied by the proposed disposition of the grievance. A copy of the written summary shall also be placed in complainant's resident file.

### **Procedure to Obtain a Hearing**

The following procedures apply to the request for a formal grievance hearing under this grievance procedure.

#### **Request For Hearing.**

If the complainant is not satisfied with the results of the informal conference, the complainant must submit a written request for a formal hearing to the Director of Housing within seven (7) business days after the date complainant receives the summary of discussion delivered as required under Section C above.

Complainant's written request for a formal hearing must specify:

The reasons for the grievance; and

The action or relief sought by the complainant; and

If the complainant so desires, a statement setting forth the times at which the complainant will be available for a hearing during the next ten (10) business days; and

If the complainant has failed to attend an informal conference, a request that the hearing officer or panel waive this requirement.

If the complainant fails to request a hearing within seven (7) business days after receiving the written summary of the informal conference, HHA's decision rendered at the informal conference becomes final and HHA is not thereafter obligated to offer the complainant a formal hearing.

#### **Selection of Hearing Officer or Panel.**

All grievance hearings shall be conducted by an impartial person or persons appointed by the Executive Director, Director of Housing or his/her representative(s).

The permanent appointments of persons who shall serve as hearing officers and hearing panel members shall be governed by the following procedures;

HHA shall nominate a slate of persons to sit as permanent hearing officers or hearing panel members.

The slate of potential appointees shall be provided training from HHA's attorney at least annually prior to serving on a grievance hearing panel.

The designation of hearing officers or panel members for particular grievance hearings shall be governed by the following provisions:

All grievance hearings will be held either before a single hearing officer or by a hearing panel.

No person shall accept an appointment, or retain an appointment, once selected as a hearing officer or hearing panelist, if it becomes apparent that such person is not fully capable of impartiality. Persons who are designated to serve as hearing officers or panelists must disqualify themselves from grievances that involve personal friends, relatives, persons with whom they have any business relationship, or grievances in which they have some personal interest. Further, such persons are expected to disqualify themselves if the circumstances are such that a significant perception of partiality exists and is reasonable under the circumstances. If a complainant fails to object to the designation of the hearing officer or panelists on the grounds of empaneled, at the commencement or before the hearing, such objection is deemed to be waived, and may not thereafter be made.

#### Schedule of Hearings.

##### Hearing Prerequisites.

A complainant does not have a right to grievance hearing unless the complainant has satisfied the following prerequisites to such a hearing:

The complainant has requested a hearing in writing.

The complainant has completed the informal conference procedure or has requested a waiver for good cause.

If the matter involves the amount of rent that HHA claims is due under the complainant's lease, the complainant shall have paid to HHA an amount equal to the amount due and payable as of the first (1<sup>st</sup>) of the month preceding the month in which the complained of act or failure to act took place. In the case of situations in which hearings are, for any reason, delayed, the complainant shall thereafter deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer or given by HHA except in cases of extreme and undue hardship to the complainant, determined in the sole and absolute discretion of HHA.

##### Time, Place, Notice.

Upon complainant's compliance with the prerequisites to hearing set forth above, and unless there are extenuating circumstances; a hearing shall be scheduled by the hearing officer or hearing panel for a time not less than seven (7) business days, nor more than twenty (20) business days after complainant has completed such compliance.

A written notice specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant and the Property Manager and/or Director of Housing.

### **Procedures Governing Hearings**

#### **Fair Hearings.**

The hearings shall be held before a hearing officer or hearing panel as described above in Section D. The complainant shall be afforded a fair hearing that shall include:

The opportunity to examine, before the hearing, any HHA documents, including records and regulations that are directly relevant to the hearing.

The complainant will be allowed to copy any such documents at resident's expense. If HHA does not make the documents available for examination upon request by the complainant, HHA may not rely on such document at the grievance hearing.

The right to be represented by counsel or other person chosen as the complainant's representative and to have such person make statements on the complainant's behalf.

The right to a private hearing unless the complainant requests a public hearing. The right to present evidence and arguments in support of the complainant's complaint, to controvert evidence relied on by HHA and to confront and cross examine all witnesses upon whose testimony or information HHA relies; and

A decision solely and exclusively upon the facts presented at the hearing.

#### **Prior Decision in Same Matter.**

The hearing panel or officer may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in another proceeding.

#### **Failure to Appear.**

If the complainant or HHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for a period not to exceed five (5) business days or may make a determination that the party failing to attend has waived his/her right to a hearing. In such event, the hearing officer shall notify the complainant and HHA of the determination.

The failure to attend a grievance hearing shall not constitute a waiver of any right for which the complainant may have to contest HHA's disposition of the grievance in an appropriate judicial proceeding.

#### **Required Showing of Entitlement to Relief.**

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter HHA must sustain the burden of justifying the action or failure to act against which the complaint is directed by HHA.

#### **Informality of Hearing.**

The hearing shall be conducted informally by the hearing officer of hearing panel, and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceeding.

#### **Decision of the Hearing Officer or Hearing Panel**

At or subsequent to the completion of the grievance hearing, the hearing officer or panel shall make a determination as to the merits of the grievance and the following provisions shall govern:

##### **Written Decision.**

The hearing officer or panel shall prepare a written decision, together with the reasons for the decision within ten (10) business days after the completion of the hearing.

A copy of the decision shall be sent to the complainant and HHA. HHA shall retain a copy of the decision in the complainant's resident folder.

A copy of such decision, with all names and identifying references deleted shall also be maintained on file by HHA and made available for inspection by any prospective complainant, his/her representative, or the hearing officer or panel.

##### **Binding effect.**

The written decision of the hearing officer or panel shall be binding upon HHA who shall take all actions, or refrain from any actions, necessary to carry out the decision unless HHA decides, within a reasonable time, and properly notifies the complainant of its determination, that:

##### **Continuing Right of Complainant to Judicial Proceedings.**

A decision of the hearing officer or panel or HHA in favor of HHA or which denies the relief requested by the complainant, the decision of the hearing officer or panel violates

clearly established laws and/or HUD regulations in whole or in part, shall not constitute a waiver of, nor affect in any way the rights of the complainant to a trial or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

## **Notices**

All notices under this grievance procedure shall be deemed delivered: (1) upon personal service therefore upon the complainant or an adult member of the complainant's household, (2) upon the date receipted for or refused by the addressee, in the case of certified or registered U.S. Mail, or (3) on the second day after the deposit thereof for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail.

If a resident is visually impaired, any notice hereunder delivered to such resident shall be in an accessible format.

## **H. Expedited Grievance Procedure**

HHA will follow expedited grievance procedures for any grievance concerning a termination of tenancy or eviction that involves any criminal or violent behavior that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of HHA, or any drug-related criminal activity on or near such premises. Such procedures will provide for an expedited notice of hearing request, an expedited scheduling of the hearing, and for an expedited decision on the grievance. The tenant will have three (3) business days to make their request in writing. The hearing officer will have three (3) business days to schedule the hearing, and three (3) business days to render a decision. All other aspects of the expedited grievance process shall be the same for other grievances.

## **I. Modification**

This grievance procedure may not be amended or modified except by approval of a majority of the Board of Commissioners, present at a regular meeting or a special meeting called for such purposes. Further, in addition to the foregoing, any changes proposed to be made to the grievance procedure must provide for at least thirty (30) days advance notice to residents and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by HHA, before final adoption of any amendments hereto.

## **J. Definitions**

The following definitions of terms shall be applicable to this grievance procedure:

**Grievance:** Any dispute that a resident may have with respect to the Commission's action or failure to act in accordance with the individual resident's lease or Commission regulations that adversely affect the individual resident's rights, duties, welfare or status.

**CFR:** The Code of Federal Regulations that contains the federal regulation governing this grievance procedure.

**Complainant:** Any resident whose grievance is presented to the Director of Housing in accordance with the requirements set forth in this procedure.

**Drug-Related Criminal Activity:** The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sell, distribute, or use a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. Section 802) as from time to time amended.

**Elements of Due Process:** The following procedural safeguards are required to be followed in an eviction action or a termination of tenancy in a state or local court:

Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;

Right of the resident to be represented by counsel;

Opportunity for the resident to refute the evidence represented by the Housing Commission, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense that the resident may have;

A decision on the merits.

**Hearing Officer:** An impartial person selected in accordance with 24 CFR Section 966.55 and this grievance procedure to hear grievances and render decisions with respect thereto.

**Hearing Panel:** A panel selected in accordance with 24 CFR Section 966.55 and this procedure to hear grievances and render decisions with respect thereto.

**HUD:** The United States Department of Housing and Urban Development.

**Notice:** As used herein, the term notice shall, unless otherwise specifically provided, mean written notice.

**Resident:** The adult person (or persons) other than a live-in aide.

**Resident Organization:** An organization of residents that includes any resident council.

**Business Days:** Monday through Friday of each week, except for legal holidays recognized by the federal government.