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# GRIEVANCE POLICY

## I. INTRODUCTION

The purpose of this policy is to establish procedures for the format used in responding to grievances filed by applicants and residents, respectively, concerning decisions made by the Housing Authority of the City of Hartwell. The Housing Authority of the City of Hartwell shall be referred to as the Public Housing Authority (PHA).

Informal reviews are conducted when an applicant files a grievance and the grievance cannot be informally resolved. Hearings are conducted when grievances filed by applicants/residents cannot be informally resolved. Hearings are conducted at the request of public housing applicants/residents. This policy is posted in the Landlord's Office where copies are available upon request. Appropriate provisions of this grievance policy have been incorporated into the lease. As required, the implementation of this policy is subject to a 30 day hearing and comment period from the residents.

## II. DEFINITIONS

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

- A. **Resident** - the adult person (or persons) other than a live-in aide who resides in the unit and who executed the lease with the PHA as lessee of the premises, or, if no such person now resides in the premises it will be who resides in the unit and who is the remaining head of household of the resident family residing in the unit.
- B. **Complainant** - any resident whose grievance is presented to the Hartwell Housing Authority or at the development management office in accordance with sections 3.0 and 4.0 of this procedure.
- C. **Grievance** - any dispute which a resident may have with respect to the PHA's action or failure to act in accordance with the individual resident's lease or Authority regulations which adversely affect the individual resident's rights, duties, welfare or status. Grievance does not include any dispute a resident may have with the PHA concerning a termination.
- D. **Hearing Officer** – an impartial person(s) selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training.
- E. **Elements of Due Process** - an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:
  - 1. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;
  - 2. Right of the applicant/resident to be represented by counsel;
  - 3. Opportunity for the resident to refute the evidence presented by the Authority including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the resident may have; and
  - 4. A decision on the merits.
- F. **Resident Organization** - a resident management corporation.
- G. **Promptly** - within the time period indicated in a notice from the PHA of a proposed action which would provide the basis for a grievance if the applicant/resident has received a notice of a proposed action from the agency.



### **III. INFORMAL RESOLUTION OF A GRIEVANCE**

The PHA shall make every effort to informally resolve a grievance presented by an applicant/resident. Any grievance shall be promptly and personally presented, either orally or in writing, to PHA's office so that the grievance may be discussed informally and resolved without an informal review or a hearing.

A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the resident and one retained in the PHA's resident file. The summary shall specify the names of the participants, dates of the meeting, the specific reasons for the grievance and the proposed disposition of the grievance. The applicant/resident will be advised of the procedures by which a formal hearing may be requested if he/she is not satisfied with the results of proposed resolution in the informal review.

### **IV. INFORMAL REVIEWS**

If the PHA determines that an applicant does not meet the criteria for receiving public housing assistance, the PHA will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision and state that the applicant may request an informal review of the decision within 10 business days of the denial. The PHA will describe how to obtain the informal review.

The informal review may be conducted by any person designated by the PHA, other than a person who made or approved the decision under review or subordinate of this person. The applicant must be given the opportunity to present written or oral objections to the PHA decision. The PHA must notify the applicant of the final decision within a reasonable time after the informal review, including a brief statement of the reasons for the final decision.

Families may be admitted to public housing pending INS citizenship verification. Once admitted, the family is a participant family and any grievance filed as a result of verification of citizenship will be considered a hearing. The participant family may request a hearing after the family has notification of an INS decision on their citizenship status on appeal, or in lieu of a request of appeal to the INS. The participant family must make this request within 30 days of receipt of the INS appeal decision. For the participant families, the hearing process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision.

### **V. REQUEST FOR A FORMAL HEARING**

The applicant/resident may submit a written request for a formal hearing to the PHA within 14 calendar days from the date of the mailing of the summary of the discussion pursuant to the informal review conducted to resolve the grievance. The written request shall state the reasons for the grievance and the action or relief sought. Before the Landlord shall schedule a Grievance Hearing for any grievance concerning the amount of rent he Landlord claims is due, the Resident must first bring his or her rent account current by paying to the Landlord an amount equal to the amount of rent due and payable as of the first of the month preceding the month in which the act or failure to act took place.

When the PHA is required to afford the Resident the opportunity for a hearing in accordance with the PHA's Grievance Policy for a grievance concerning the Lease termination, the tenancy shall not terminate until the time for the Resident to request a grievance hearing has expired, and the grievance process has been completed in a timely manner.

### **VI. SELECTION OF A HEARING OFFICER**

An impartial person appointed by the Executive Director shall conduct a grievance formal hearing. The Hearing Officer shall be a person other than the one who made or approved the action under review or a subordinate of such person.



The PHA shall submit a list of prospective Hearing Officers. This list shall be provided to any existing resident organization for such organization's comments or recommendations and shall be posted on the official bulletin board in the administrative office.

The Hearing Officer is not required to have any legal training. The Executive Director shall select Hearing Officers who are most likely familiar with very low-income housing programs and government regulations whenever possible.

The PHA must maintain a log of hearing officer decisions and make the log available to the hearing officer, prospective complaints and his/her representative. The log must include the date of the hearing decision, the general reason for the grievance hearing (failure to pay rent, community service and self-sufficiency noncompliance, etc.) and whether the decision was in the favor of the complainant or the PHA.

## **VII. SCHEDULING THE HEARING**

Upon the applicant/resident's compliance with these procedures in filing a grievance, the Hearing Office shall promptly schedule a hearing for a time and place reasonably convenient to both the applicant/resident and the PHA. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the applicant/resident and the appropriate agency official.

The hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the PHA and held before a hearing officer. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate PHA official.

## **VIII. PROCEDURES GOVERNING THE HEARING**

The applicant/resident shall be provided a fair hearing that includes:

- A. The opportunity to examine before the grievance hearing any PHA documents, records and regulations that are directly relevant to the hearing. The applicant/resident shall be provided a cope of any such document at the applicant/resident's expense. If the PHA does not make the document available for examination upon request, the PHA may not rely on such document at the hearing;
- B. The right to be represented by counsel or other persons chosen as the applicant/resident's representative and to have such person make statements on the behalf;
- C. The right to a private hearing unless the applicant/resident requests a public hearing;
- D. The right to present evidence and arguments in support of the applicant/resident's complaint, to controvert evidence relied on by the PHA, and to confront and cross-examine all witnesses upon whose testimony or information the PHA relies; and
- E. A decision based solely and exclusively upon the facts presented at the hearing.

The Hearing Officer may render a decision without holding a hearing if the Hearing Officer determines that the issue has been previously decided at another hearing. If the complainant of the PHS fails to appear at the scheduled hearing, the hearing officer may make a determination to postpone the heating for not more than 5 business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer. 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 PHA's disposition of the grievance in an appropriate judicial proceeding.



## **IX. ACCOMMODATIONS FOR DISABLED APPLICANT/RESIDENTS**

The PHA shall provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants. If an applicant/resident is visually impaired, any notice to the applicant/resident that is required by this procedure must be in an accessible format.

## **X. FAILURE TO REQUEST A HEARING**

If the applicant/resident does not request a hearing in accordance with this procedure, the PHA shall make final disposition of the grievance. Failure to request a hearing does not constitute a waiver by the applicant/resident of the right thereafter to contest disposal of the grievance in an appropriate judicial proceeding.

## **XI. DECISION OF THE HEARING OFFICER**

The Hearing officer must prepare a written decision, including the reasons for the decision within a reasonable time after the hearing. A copy of the decision must be sent to the complainant and the PHA. The PHA must retain a copy of the decision in the resident's file. The decision of the hearing officer will be binding on the PHA unless the PHA Board of Commissioner determines that:

- A. The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease on PHA regulations, which adversely affects the complainant's rights, duties, welfare or status; or
- 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 HUD and the PHA.

A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part will not constitute a waiver of, nor affect in any manner whatever, any rights the complainant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

## **XII. PHA LOG OF THE HEARINGS**

The PHA 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. At a minimum, the log must include the date of the hearing decision, the general reason for the grievance hearing (failure to pay rent, community service and self-sufficiency noncompliance, etc.) and whether the decision was in favor of the complainant of the PHA.

