

# **FEDERAL PUBLIC HOUSING GRIEVANCE PROCEDURE**

## 1. Purpose and Scope

The purpose of this subpart is to set forth the requirements, standards and criteria for a grievance procedure to be established and implemented by Public Housing Agencies (PHAs) to assure that a PHA tenant is afforded an opportunity for a hearing if the tenant disputes within a reasonable time any PHA action or failure to act involving the tenant's lease with the PHA or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status.

## 2. Applicability

The PHA grievance procedure is applicable (except as described below in this section) to all individual grievances as defined in Sec. 966.53 of this subpart between the tenant and the PHA.

The PHA excludes from the grievance procedure any grievance concerning a termination of tenancy or eviction that involved:

- (a) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
- (b) Any violent or drug-related criminal activity on or off such premises; or
- (c) Any criminal activity that resulted in a felony conviction of a household member.

The PHA grievance procedure shall not be applicable to disputes between tenants not involving the PHA or to class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners.

## 3. Definitions

The following definitions are applicable to this Grievance Procedure:

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

Complainant shall mean any tenant whose grievance is presented to the PHA at the management office in accordance with Sec. 966.54 and 966.55(a).

Elements of due process shall mean 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 tenant of the grounds for terminating the tenancy and for eviction;
- (2) Right of the tenant to be represented by counsel;
- (3) Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have;
- (4) A decision on the merits.

Hearing officer shall mean a person selected in accordance with Sec. 966.55 of this subpart to hear grievances and render a decision with respect thereto.

Hearing panel shall mean a panel selected in accordance with Sec. 966.55 of this subpart to hear grievances and render a decision with respect thereto.

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 PHA as lessee of the dwelling unit, or, if no such person now resides in the unit.
- (2) Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

Resident organization includes a resident management corporation.

#### 4. Informal settlement of grievance

Any grievance shall be personally presented, either orally or in writing, to the PHA main office so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the tenant and one retained in the PHA's tenant file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a hearing under Sec. 966.55 may be obtained if the complainant is not satisfied.

#### 5. Procedures to obtain a hearing

Request for hearing: The complainant shall submit a written request for a hearing to the PHA within a reasonable time after receipt of the summary of discussion pursuant to Sec. 966.54. For a grievance under the expedited grievance procedure pursuant to Sec. 966.55(g) (for which Sec. 966.54 is not applicable), the complainant shall submit such

request at such time as is specified by the PHA for a grievance under the expedited grievance procedure. The written request shall specify:

- (1) The reasons for the grievance; and
- (2) The action or relief sought.

**Selection of Hearing Officer or Hearing Panel:** A grievance hearing shall be conducted by an impartial person or persons appointed by the PHA, other than a person who made or approved the PHA action under review or a subordinate of such person.

**Failure to request a hearing:** If the complainant does not request a hearing in accordance with this paragraph, then the PHA's disposition of the grievance under Sec. 966.54 shall become final, provided that failure to request a hearing shall not constitute a waiver by the complainant of his right thereafter to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

**Hearing prerequisite:** All grievances shall be personally presented either orally or in writing. The provisions of this subsection may be waived by the hearing officer or hearing panel.

**Escrow deposit:** Before a hearing is scheduled in any grievance involving the amount of rent (as defined in Sec. 966.4 (b) that the PHA claims is due, the family must pay an escrow deposit to the PHA. When a family is required to make an escrow deposit, the amount is the amount of rent the PHA states is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit, the family must deposit the same amount monthly until the family's complaint is resolved by decision of the hearing officer or hearing panel.

A PHA must waive the requirement for an escrow deposit where required by Sec. 5.630 of this title (financial hardship exemption from minimum rent requirements) or Sec. 5.615 of this title (effect of welfare benefits reduction in calculation of family income). Unless the PHA waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest in any appropriate judicial proceeding the PHA's disposition of the grievance.

**Scheduling of hearings:** Upon complainant's compliance of the above, a hearing shall be scheduled by the hearing officer or hearing panel for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the complainant.

#### 6. Procedures governing the hearing.

The hearing shall be held before a hearing officer or hearing panel.

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

- (1) The opportunity to examine before the grievance hearing any PHA documents, including records and regulations, that are directly relevant to the hearing. (For a grievance hearing concerning a termination of tenancy or eviction, see also Sec. 966.4 (m).) The tenant shall be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.
- (2) The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf;
- (3) The right to a private hearing unless the complainant requests a public hearing;
- (4) The right to present evidence and arguments in support of the tenant'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
- (5) A decision based solely and exclusively upon the facts presented at the hearing.

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

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer may make a determination that the party has waived his right to a hearing. Both the complainant and the PHA shall be notified of the determination by the hearing officer. Provided, that a determination that the complainant has waived his right to a hearing shall 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.

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

The hearing shall be conducted informally by the hearing officer or 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 proceedings. The hearing officer shall require the PHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

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Accommodation of persons with disabilities.

- (1) The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.
- (2) If the tenant is visually impaired, any notice to the tenant which is required under this subpart must be in an accessible format.

#### 7. Decision of the hearing officer

The hearing officer shall prepare a written decision, together with the reasons therefore, within a reasonable time after the hearing. A copy of the decision shall be sent to the complainant and the PHA. The PHA shall retain a copy of the decision in the tenant's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the PHA and made available for inspection by a prospective complainant, his representative, or the hearing officer.

The decision of the hearing officer or hearing panel shall be binding on the PHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the PHA Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination, that

- (1) 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 affect the complainant's rights, duties, welfare or status;
- (2) 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, hearing panel, or Board of Commissioners, in favor of the PHA or which denies the relief requested by the complainant in whole or in part shall 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.

Approved by the Tenant Organization ~~November 20, 2003~~

Approved by the Board of Directors November 25, 2003

File: Id Grievance Procedure- Federal

**Salem Housing Authority  
Grievance Panel**

Salem Housing Authority Member (s)

Dennis King  
Salem Police Department  
95 Margin Street  
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Effective -March 1, 2015  
Term expires -Feb. 28, 2018

Frances Grace (Alternate)

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Effective -March 1, 2015  
Term expires -Feb. 28, 2018

Local Tenants Organization Member(s)

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Effective -March. 1, 2015  
Term expires -Feb. 28, 2018

Susan Bonner (Alternate)

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Effective -March 1, 2015  
Term expires -Feb. 28, 2018

Third Member(s)

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Term expires -Feb. 28, 2018

Lawrence Feffer (Alternate)

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Effective -April 30, 2015  
Term expires -Feb. 28, 2018

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Dominic R. Marraffa, Chairman  
Robert J. Jalbert, Vice Chairman  
John A. Boris, Second Vice Chairman  
William J. Farrell, Treasurer  
Gary C. Stirgwolt, Assisrnc Treasurer  
  
Carol A. MacGown, Executlve Director

EXTRACT FROM THE MINUTES OF THE  
REGULAR MEETING OF THE BOARD MEMBERS OF THE  
SALEM HOUSING AUTHORITY HELD ON THE  
25th DAY OF NOVEMBER, 2003

The BOARD MEMBERS of the SALEM HOUSING AUTHORITY met in their REGULAR meeting at 27 Charter Street in the City of Salem, MA on Tuesday, November 25, 2003 at 6:00 p.m., the place, hour, and date duly established for the holding of such meeting.

The Chairman called the meeting to order and upon a roll call, the following answered present:

Dominic R. Marraffa  
Robert J. Jalbert  
John A. Boris  
William J. Farrell  
Gary C. Stirgwolt

And the following were absent:

The Chairman declared a quorum present.

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RESOLUTION

The following resolution was introduced by Chairman Dominic R. Marraffa, read in full, and considered:

Robert J. Jalbert moved to approve the new Federal Public Housing Grievance Policy. Gary C. Stirgwolt seconded the motion and the vote was as follows:

Ayes	Nays
Dominic R. Marraffa	
Robert J. Jalbert	
John A. Boris	
William J. Farrell	
Gary C. Stirgwolt	

The motion was approved unanimously.

The Chairman thereupon declared the motion carried and said resolution adopted.

