

**GRIEVANCE PROCEDURE OF
THE HOUSING AUTHORITY OF THE CITY OF
KANSAS CITY, KANSAS**

I. PURPOSE AND SCOPE

To set forth the requirements, standards and criteria to assure that a Tenant is afforded an opportunity for a hearing if the tenant disputes within a reasonable time any Housing Authority action of failure to act involving the resident's lease with the Housing Authority or Housing Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status.

This grievance procedure is incorporated into the lease by reference thereto, and is, therefore, binding upon both the Tenant and the Housing Authority.

The Housing Authority shall provide at least thirty (30) days notice to tenants and resident organizations setting forth proposed changes in the Housing Authority grievance procedure, and providing an opportunity to present written comments. Comments shall be considered by the Housing Authority before adoption of any grievance procedure changes by the Housing Authority.

The Housing Authority shall furnish a copy of the grievance procedures to each tenant and to resident organizations.

II. APPLICABILITY

This grievance procedure is applicable to all individual grievances between the tenant and the Housing Authority, as defined herein.

It is **not** applicable to: a) disputes between Tenants not involving the Housing Authority; b) class grievances; c) desires of tenants to initiate or negotiate policy changes between a group of groups of tenants and the board of Commissioners of the Housing Authority, or d) any grievance concerning an eviction or termination of tenancy based upon: 1. Any activity that threatens the health, safety or right be peaceful enjoyment of the premises by other tenants or employees of the Housing Authority and/or; 2. Any drug-related activity on or off Housing Authority property.

III. DEFINITIONS

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

b. **"Complainant"** shall mean any tenant whose grievance is presented to the Housing Authority or the project management office.

c. **"Elements of Due Process"** shall mean an eviction action or termination of tenancy in a state or local court in which the following procedural safeguards are required:

- (1) Thirty (30) day notice to the tenant of the grounds for terminating the tenancy and for eviction; such notice to be effective on the date received by the tenant and ending thirty (30) days from such date.

- (2) Right of the tenant to be represented by counsel.
 - (3) Opportunity for the tenant to refute the evidence presented by the Housing Authority, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defenses which the tenant may have.
 - (4) Decision on the merits.
- d. **“Hearing Officer”** shall mean person selected, in accordance with the provisions herein provided, to hear grievances and render a decision thereto.
 - e. **“Tenant”** shall mean the adult person or persons (other than live-in-aides)
 - (1) Who resides in the unit, and who executed the lease with the Housing Authority as lessee of the dwelling unit, or , if no such person now resides in the dwelling unit,
 - (2) Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.
 - f. **“Resident Organization”** includes a resident management corporation.

IV. INFORMAL SETTLEMENT OF GRIEVANCE

Any grievance shall be presented by the tenant within five days, either orally or in writing, to the offices of the Housing Authority or to the office of the project in which complainant resides so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within two working days. One copy shall be given to the tenant and one copy shall be retained in the Housing Authority’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 therefor, and shall specify the procedures by which a hearing, under this procedure, may be obtained if the complainant is not satisfied.

V. PROCEDURES TO OBTAIN A FORMAL HEARING

The complainant shall submit a written request for a formal hearing to the Executive Director at the office of the housing Authority within five (5) days after receipt of the summary of the informal meeting. The written request shall specify the reasons for the grievance and the action or relief sought.

VI. SELECTION OF HEARING OFFICER

A hearing officer shall be an impartial, disinterested person selected by the Housing Authority, other than the person who made or approved the Housing Authority action under review or a subordinate of such person.

The Director of Housing Management shall serve as hearing officer in grievances involving Section 8 disputes. The Director of Section 8 shall serve as hearing officer for grievances involving Public Housing tenants. In the event of a conflict of interest, the hearing officer shall be selected from the Johnson County Young Lawyers Association.

VII. FAILURE TO REQUEST A HEARING

If the complainant does not request a hearing in accordance with the procedures contained herein, the disposition made of the grievance by the Housing Authority is final; except, that failure to request a hearing does not constitute a waiver by the complainant of the right to contest such action in an appropriate judicial proceeding.

VIII. HEARING PREREQUISITE

All grievances shall be personally presented either orally or in writing pursuant to the informal procedure prescribed in Section IV above; except, that if complainant shows good cause for failure to comply with said Section IV the provisions of this section may be waived by the hearing officer.

IX. ESCROW DEPOSIT

Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which the Housing Authority claims is due, the complainant shall pay to the management office an amount equal to the amount of the rent claimed due and payable as of the first of the month preceding the month in which the act or failure to act took place. Complainant thereafter shall deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer.

Provision for payment of rent, as above, may be waived by the Housing Authority in extenuating circumstances. Unless so waived, failure to make such payments shall result in termination of procedures; except, that such failure and termination of procedures shall not constitute a waiver of any right of the complainant to contest the Housing Authority's disposition of the grievance in any appropriate judicial proceeding.

X. SCHEDULING OF HEARING

Upon complainant's compliance with all of this grievance procedure, or upon formal waiver by the Housing Authority of any of the requirements hereof, which as stated herein may be waived, a hearing shall be scheduled by the hearing officer for a time and place reasonably convenient to both the complainant and the Housing Authority.

A written notification specifying the time, place, and the proceedings governing the hearing shall be delivered by first class mail or the appropriate Housing Authority official.

XI. EXCLUSIONS FROM GRIEVANCE PROCEDURE

The Housing Authority **does** exclude from this grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

- a. any activity that threatens the health, safety, or right to peaceful enjoyment of the Housing Authority's public housing premises by other residents or employees of the Housing Authority, or
- b. any drug-related criminal activity on or off such premises.

XII. PROCEDURES GOVERNING THE HEARING

The hearing shall be held before a hearing officer. The complainant shall be afforded a fair hearing providing the basic safeguards of due process including:

- a. The opportunity before the hearing, to examine, and at the expense of the complainant, to copy all documents, records, and regulations, that are directly relevant to the hearing. Any document not made available after request therefore by the complainant may not be relied upon by the Housing Authority at the grievance hearing;
- b. 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;
- c. The right to a private hearing unless the complainant requests a public hearing;
- d. The right to present evidence and arguments in support of his/her complaint, to controvert evidence relied upon by the Housing Authority or project management, and to confront and cross-examine all witnesses on whose testimony or information the Housing Authority or project management relies; and
- e. A decision based solely and exclusively upon the facts presented at the grievance hearing.

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

If the complaint or the Housing Authority fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for not to exceed five (5) working days or to make a determination that the party waived his/her right to a hearing. Both the complainant and the Housing Authority shall be notified of the determination by the hearing officer **provided**, that a determination that the complainant has waived his/her right to a hearing shall not constitute a waiver of any right the complainant may have to contest the Housing Authority'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 Housing Authority must sustain the burden of justifying the Housing Authority action or failure to act against which the complaint is directed.

The hearing shall be conducted informally by the hearing officer 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 Housing Authority, complainant, counsel and other participants 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 a decision adverse to the interest a of the disorderly party and granting or denial of relief sought, as appropriate.

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

The Housing Authority shall provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodations may include, but are not limited to, qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required under these procedures shall be in an accessible format, designed to give actual notice.

XIII. DECISION OF THE HEARING OFFICER

The hearing officer shall prepare a written decision, together with the reasons therefore, within ten days after the hearing. A copy of the decision shall be sent to the complainant and the Housing Authority. The Housing Authority 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 be maintained on file by the Housing Authority and made available for inspection by a prospective complainant, his/her representative, or hearing officer.

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

- a. The grievance does not concern Housing Authority action or failure to act in accordance with or involving the complainant's lease or Housing Authority regulations, which adversely affect 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 Contribution Contract between HUD and the Housing Authority.

A decision of the hearing officer of Board of Commissioners in favor of the Housing Authority of 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.

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