



HOUSING AUTHORITY OF THE COUNTY OF CHESTER

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GRIEVANCE PROCEDURE

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I. Purpose and Right to a Hearing

The purpose of this document is to set forth the requirements, standards and procedures for handling and review of Tenant Grievances presented to the Housing Authority of the County of Chester (HACC), to assure the HACC Tenant a reasonable review and, if requested, a hearing on Tenant complaints regarding HACC's action or failure to act in such a way that affects that Tenant's rights under the lease with HACC or HACC application of its regulations or policies which the Tenant believes to adversely affect the individual Tenant's rights, duties, welfare or status. The Grievance Procedure set forth herein has been adopted by the Board of Commissioners of HACC and is incorporated by reference in all dwelling leases between HACC and its Tenants.

Grievances or appeals concerning the obligations of the tenant or HACC under the provisions of the lease shall be processed and resolved in accordance with the Grievance Procedure of HACC which is in effect at the time such grievance or appeal arises.

Copies of the Grievance Procedure shall be furnished to each Tenant and to all resident organizations. HACC shall provide at least thirty (30) days notice to Tenants and Resident Organizations setting forth any changes to the HACC Grievance Procedure and providing opportunity to submit written comments. Comments submitted shall be considered by HACC before adoption of any Grievance Procedure Changes.

II. Definitions Applicable to the Grievance Procedure: (§ 966.53)

For the purpose of handling and reviewing all individual Tenant complaints, the following definitions are applicable:

A. Grievance: Any dispute a Tenant may have with respect to HACC action or failure to act in accordance with the individual Tenant's lease or HACC regulations that adversely affects the individual Tenant's rights, duties, welfare or status.

B. Complainant: Any Tenant (as defined below) presenting a written complaint or dispute to HACC (at the central office or the development office) in accordance with the requirements presented in this procedure.

C. 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 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 HACC, 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 of the case.

D. Hearing Officer: A person selected in accordance with 24 CFR § 966.550 and this procedure to hear grievances and render a decision with respect thereto.

E. Tenant: The adult person (or persons other than a Live-in aide):

(1) Who resides in the unit, and who executed the lease with HACC 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 the household of the Tenant family residing in the dwelling unit.

F. Resident Organization: An organization of residents, which also may include a resident management corporation and/or a resident council.

III. Applicability of this Grievance Procedure (966.51)

In accordance with the applicable Federal regulations (24 CFR § 966.50) this Grievance Procedure shall be applicable to all individual grievances (as defined in Section I above) between Tenant and HACC with the following two exceptions:

A. Because HUD has issued a due process determination that the unlawful detainer law of the Commonwealth of Pennsylvania provide the basic elements of due process before an eviction from the dwelling unit can occur; the grievance procedure shall not be applicable to any termination of tenancy or eviction that involves:

1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of HACC,

2. Any violent or drug-related criminal activity on or off HACC property; or

3. Any criminal activity that resulted in felony conviction of a household member.
[966.51 (2)(i) (A) (B) and (C)]

B. HACC Grievance Procedure shall not be applicable to disputes between Tenants not involving HACC 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 HACC's Board of Commissioners. [966.51 (b)]

This Grievance Procedure is incorporated by reference in all Tenant dwelling leases and will be furnished to each Tenant and all resident organizations upon request.
[966.52 (b) and (d)]

Any changes proposed in this Grievance Procedure must provide for at least 30 days notice to Tenants and Resident Organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by HACC before any revisions are made to the Grievance Procedure.
[966.52 (c)]

IV. Informal Settlement of a Grievance [966.54]

Any Grievance shall first be presented, either orally or in writing, to the HACC Central Office or to any Site Office within ten (10) business days of the date of the receipt of the notice of the Housing Authority's proposed adverse action (or of the date of the Housing Authority's alleged failure to act), except in the case of a 14-day notice for termination of a tenancy for nonpayment of rent or a 3-day notice for any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the Housing Authority, or a 3 day notice for any drug-related criminal activity in which event the Grievance must be presented within three (3) business days of the receipt of the notice to forestall service of a Summons and Complaint. Failure to request the informal review with the Manager within the above time limits will result in the Complainant forfeiting any further rights to have their grievance heard within the Housing Authority's internal grievance procedure; provided, however, that if the Complainant establishes to the satisfaction of the Hearing Officer that the failure to comply with this requirement was for good cause the Hearing Officer may elect to proceed with a formal grievance hearing.

Grievances related to complaints about operational matters that are received by the HACC's central office will be referred to the person responsible for the management of the development in which the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Executive Director.

As soon as the grievance is received, it will be reviewed by the management office of the development or to be certain that neither of the exclusions in paragraphs III. A or B above applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to HACC's grievance procedure, with the reason.

If neither of the exclusions cited above apply, a meeting will be scheduled at the earliest time possible time for the complainant and HACC so the grievance may be discussed informally and settled without a hearing.

The Complainant and the Manager shall attempt to resolve the complaint or dispute at this informal discussion. The Complainant and the Manager may each have a maximum of three (3) other persons in attendance at the informal discussion. After the meeting, the Manager shall write a summarized account of the meeting, shall send the original account to the Tenant with a copy to the Tenant's representative, if requested, and place a copy in the Tenant's file stating:

1. the date of the meeting;

2. the pertinent facts discussed;
3. the names of the participants;
4. the proposed disposition of the complaint; and
5. the procedures by which a hearing may be obtained, including the date by which a written request for a hearing must be received, if the Complainant is not satisfied with the Housing Authority proposed disposition.

This account of the proceedings, along with a copy of the Grievance Procedure shall be sent to the Complainant within ten (10) business days after the meeting. The procedures for obtaining the formal grievance hearing are set forth in Section V below.

V. Formal Grievance Hearing

If the complainant is dissatisfied with the settlement arrived at in the Informal Hearing, the complainant must submit a written request for a hearing to the management office of the development where Tenant resides no later than five working days after the summary of the informal hearing is received.

The written request must specify:

1. The reasons for the grievance,
2. The action of relief sought from HACC.

If the complainant requests a hearing in a timely manner, HACC shall schedule a hearing on the grievance at the earliest time possible for the complainant, HACC and the Hearing Officer.

If the complainant fails to request a hearing within five working days after receiving the summary of the Informal Hearing, HACC's decision rendered at the informal hearing becomes final and HACC is not obligated to offer the complainant a formal hearing unless the complainant can show good cause why he failed to proceed in accordance with this procedure. [966.55 (c) and (d)]

Failure to request a grievance hearing does not affect the complainant's right to contest HACC's decision in a court hearing. [966-54 (c)]

VI. Selecting the Hearing Officer [966.55 (b)(2)(ii)]

A Grievance Hearing shall be conducted by an impartial person appointed by HACC after consultation with resident organizations, as described below:

- A. For grievances involving a charge under \$500, the Hearing Officer will be an impartial employee of HACC who was not involved in the original decision.
- B. For all other grievances, The Hearing Officer shall be an impartial person, who shall not be an officer, employee, agent or tenant of HACC. In these cases, the following applies:

1. The Hearing Officer shall be selected from a list of qualified individuals established by the HACC in response to a request for services bid proposal. Said list will have previously been presented to residents and resident organizations for their review and comment. Individuals selected for this list of rotating Hearing Officers will have successful prior experience as a hearing officer, an arbitrator approved by the American Arbitration Association or Federal Mediation and Conciliation Service, a judge or chair of quasi-judicial hearings as well as proven experience in effectively communicating findings and conclusions both orally and in writing.
2. HACC reserves the right to pay the Hearing Officer a stipend for his/her services and to provide training on such areas as the grievance procedure, dwelling lease requirements, and other related policies.

VII. Escrow Deposit Required for a Hearing Involving Rent [966.55 (e)]

Before a hearing is scheduled in any grievance involving the amount of rent which the HACC claims is due under this lease, the complainant shall pay to HACC an amount equal to the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. 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. This requirement will not be waived by the HACC unless the complainant is paying minimum rent and the grievance is based on a request for a hardship exemption or the tenant's welfare benefits have been reduced for welfare fraud or failure to comply with economic self sufficiency requirements. In these cases only, rent need not be escrowed.

If a grievance does not involve rent, payment of the rent must be made in the normal manner without regard to the pending Grievance Hearing. In all cases, the undisputed portion of the rent must remain current until the decision of the Hearing Officer is announced and the Tenant shall be obligated to continue paying rent until the rented premises are vacated as set forth in the Tenant's lease with HACC.

VIII. Scheduling Hearings [966.55 (f)]

When Tenant has satisfied the requirements of Sections V and VII and submits a timely request for a Grievance Hearing, HACC will immediately contact a member of the Hearing Committee to schedule the hearing at the earliest time possible time. The complainant will be notified on a date and time for the hearing.

Once the Hearing Officer has agreed upon the hearing date and time, the complainant, the manager of the development in which the complainant resides, and Hearing Officer shall be notified in writing. Notice to the complainant shall be in writing, either personally delivered to complainant or sent by first class. The written notice will specify the time, place and procedures governing the hearing.

IX. Procedures Governing the Hearing [966.56]

A. The Grievance Hearing shall be held before a Hearing Officer as described above in Section VI. The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:

1. The opportunity to examine before the hearing any HACC documents, including records and regulations that are directly relevant to the hearing. The Tenant shall be allowed to copy any such document, at the Tenant's expense. If HACC does not make the document available for examination upon request by the complainant, then HACC may not rely on such document at the Grievance Hearing.
2. The right to appear at the Grievance Hearing and to be represented by counsel, or other person chosen as the Complainant's representative, and to have such a person make statements on the Complainant's behalf. The counsel or other person chosen by the Complainant to be the Complainant's representative will only be permitted to appear on behalf of the Complainant if the Complainant is physically present at the Grievance Hearing.
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 HACC, and to confront and cross examine all witnesses upon whose testimony or information HACC relies; and
5. A written decision based solely and exclusively upon the fact presented at the hearing. [966.56 (b)]

B. The Hearing Officer may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in another proceeding. [966.56 (c)]

C. If either the Complainant or HACC fails to appear at a scheduled hearing, the Hearing Officer may continue the hearing for a period not to exceed five (5) business days for documented good cause or may determine that the non-appearing party has waived the right to a hearing. Both the Complainant and HACC shall be notified of the decision of the Hearing Officer; provided, however, that a determination that the Complainant has waived the right to a hearing shall not constitute a waiver of any right the Complainant may have to contest HACC's disposition of the Grievance in an appropriate judicial proceeding. [966.56 (d)]

D. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and, thereafter, HACC must sustain the burden of justifying the action or failure to act against which the complaint is directed. [966.56 (e)]

E. The hearing shall be conducted informally by the Hearing Officer. 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. Irrelevant and unduly repetitive evidence shall be excluded. Challenges to the admissibility of evidence shall be determined solely by the Hearing Officer in its reasonable discretion. [966.56 (f)]

F. The Hearing Officer shall require HACC, 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. [966.56 (f)]

G. The complainant or HACC may arrange in advance, at expense of the party making the arrangement, for a transcript of the hearing. If proceedings at a hearing are reported or recorded, the record so made shall be made reasonably available to either party with the expense of reviewing or copying the record of a hearing to be paid by the party requesting the review or copy. [966.56 (g)]

X. Decision of the Hearing Officer [966.57]

A. The Hearing Officer shall prepare a written decision, together with the reasons for the decision within ten working days after the hearing. A copy of the decision shall be sent to the complainant and HACC.

HACC shall retain a copy of the decision in the Tenant's file. A copy of the decision with all names and identifying references deleted, shall also be maintained on file by HACC and made available for inspection by a prospective complainant, his representative, or the Hearing Officer.

B. The decision of the Hearing Officer shall be binding on HACC which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the HACC's Board of Commissioners determines within a reasonable time, not to exceed thirty (30) days, and promptly notifies the Complainant in writing of its determination, that;

1. The Grievance does not concern HACC's action or failure to act in accordance with or involving the Complainant's lease or HACC regulations, in a way which adversely affected the Complainant's rights, duties, welfare or status;

2. The decision of the Hearing Officer is contrary to Federal, state, or local laws, to the United States Housing Act of 1937, as amended, to Department of Housing and Urban Development regulation and requirements, to HACC's regulations and policies, or to the Annual Contributions Contract in effect on the date of the hearing.

C. A decision by a Hearing Officer in favor of HACC, or which denies the relief requested by the Complainant in whole or in part, or a determination by the Housing Authority Board of Commissioners under Subsection X.B., paragraphs 1 and 2 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.

XI. Reasonable Accommodation in the Grievance Procedure

HACC will provide reasonable accommodation for a person with disabilities throughout the grievance process. This includes, but is not limited to, accommodating residents with disabilities by accepting grievances by mail or having HACC staff reduce an oral request to writing, providing accommodations in the hearing by providing qualified sign language interpreters, readers, and/or accessible locations. [966.56 (d)]

XII. Review Request From Applicants For Housing

Applicants who are determined ineligible, who do not meet HACC's admission standards, or where HACC does not have an appropriate size and type of unit in its inventory will be given written notification promptly, including the reason for the determination.

Ineligible applicants will be promptly provided with a letter detailing their individual status, stating the reason for their ineligibility, and offering them an opportunity for an informal review.

Applicants must submit their request for an informal review to HACC within 10 working days from the date of the notification of their ineligibility.

If the applicant requests an informal review, HACC will schedule a meeting at the earliest time possible for the applicant and HACC. HACC will notify the applicant of the place, date, and time.

An impartial manager will conduct the informal meeting. The manager who conducts the meeting cannot be the person who made the determination of ineligibility or a subordinate of that person.

The applicant may bring to the meeting any documentation or evidence s/he wishes and the evidence along with the data compiled by HACC will be considered by the manager.

The manager will make a determination based upon the merits of the evidence presented by both sides. Within 10 working days of the date of the review, the manager will mail a written decision to the applicant and place a copy of the decision in the applicant's file.

The Grievance Procedures for Public Housing tenants do not apply to HACC determinations that affect applicants.

XIII. Hearing and Appeal Provisions for “Restrictions on Assistance to Non-Citizens”

Assistance to the family may not be delayed, denied or terminated on the basis of immigration status at any time prior to the receipt of the decision on the INS appeal.

Assistance to a family may not be terminated or denied while the HACC hearing process is pending, but assistance to an applicant may be delayed pending the outcome of the hearing.

INS Determination of Ineligibility

If a family member claims to be an eligible immigrant and the INS SAVE system and manual search do not verify the claim, HACC notifies the applicant or participant within ten days of their right to appeal to the INS within thirty days or to request an informal hearing with HACC either in lieu of or subsequent to the INS appeal.

If the family appeals to the INS, they must give HACC a copy of the appeal and proof of mailing or HACC may proceed to deny or terminate. The time period to request an appeal may be extended by HACC for good cause.

The request for a HACC hearing must be made within ten days of receipt of the notice offering the hearing or, if an appeal was made to the INS, within ten days of receipt of that notice.

After receipt of a request for an Informal Hearing, the hearing is conducted as described in the "Grievance Procedures" section of this chapter for both applicants and participants. If the Hearing Officer decides that the individual is not eligible, and there are no other eligible family members, the HACC will:

1. Deny the applicant family
2. Defer termination if the family is a participant and qualifies for deferral
3. Terminate the participant if the family does not qualify for deferral.

If there are eligible members in the family, HACC will offer to prorate assistance or give the family the option to remove the ineligible members.

All other complaints related to eligible citizen/immigrant status:

1. If any family member fails to provide documentation or certification as required by the regulation, that member is treated as ineligible. If all family members fail to provide, the family will be denied or terminated for failure to provide.
2. Participants whose termination is carried out after temporary deferral may not request a hearing since they had an opportunity for a hearing prior to the termination.
3. Participants whose assistance is pro-rated (either based on their statement that some members are ineligible or due to failure to verify eligible immigration status for some members after exercising their appeal and hearing rights described above) are entitled to a hearing based on the right to

- a hearing regarding determinations of Tenant Rent and Total Tenant Payment.
4. Families denied or terminated for fraud in connection with the non-citizens rule are entitled to a review or hearing in the same way as terminations for any other type of fraud.

XIV. PROPOSED ADVERSE ACTIONS/EVICTION ACTIONS.

A. In the case of proposed adverse actions other than a proposed lease termination, HACC shall not take the proposed action until the time for the Tenant to request a grievance hearing has expired, and (if a hearing was timely requested by the Tenant) the grievance process has been completed.

B. If the Grievance involves a HACC notice of termination of tenancy (including any concurrently served notice to vacate required under state or local law), the tenancy shall not terminate until the time for the Tenant to request a grievance hearing has expired, and (if a hearing was timely requested by the Tenant) the grievance process has been completed.

C. After completion of the grievance procedure, an unlawful detainer action will commence if the Tenant does not voluntarily vacate in accordance with the decision of the Hearing Officer.

XV. Expedited Hearing Process for Criminal Activities Not Involving Violence, Drugs, or Risk To Health Or Safety

These modified and expedited procedures apply when HACC has served a notice to terminate tenancy or otherwise initiate eviction proceedings, which is based on criminal activity which is not activity which threatens the health safety or right to peaceful enjoyment of the premises of other Tenants or employees of HACC; any violent or drug-related criminal activity on or off of HACC property; or any criminal activity that resulted in felony conviction of a household member,

Informal Hearing: The request for an Informal Hearing must be made in writing within three (3) business days of the date of service of HACC's termination notice. The hearing should be held at the earliest opportunity by HACC. A summary of the meeting shall be prepared within a reasonable time and one copy given to the resident and one copy retained in the resident's file.