



## HOUSING AUTHORITY OF THE CITY OF ANNAPOLIS

### **GRIEVANCE POLICY AND PROCEDURE**

All grievances concerning the obligations of a Complainant and/or members of the Complainant's household and the Housing Authority of the City of Annapolis ("Housing Authority"), in accordance with the dwelling lease and/or regulations of the United States Department of Housing and Urban Development ("HUD"), which adversely affect the Complainant's rights, duties, welfare or status, shall be resolved in accordance with this "Grievance Policy and Procedure".

#### **RIGHT TO A HEARING**

Upon filing a verbal or written request in accordance with this Policy, a Complainant shall be entitled to an informal hearing or a formal hearing before the Hearing Panel as provided herein.

#### **DEFINITIONS**

**COMPLAINANT** shall mean any Tenant, Applicant and/or Section 8 Participant whose grievance is presented to the Housing Authority for an informal settlement or a formal hearing as defined herein.

**ELEMENTS OF DUE PROCESS**, as used in this Policy, shall mean an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:

- Adequate notice to the Complainant of the grounds for terminating the tenancy and for eviction
- Right of the Complainant to be represented by counsel at the expense of the Complainant.
- Opportunity for the Complainant to refute the evidence presented by PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the Complainant may have.

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Grievance Policy and Procedures

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- A decision on the merits.

**GRIEVANCE** shall mean any dispute which a Complainant may have with respect to the Housing Authority's action or failure to act in accordance with Complainant's lease, the Admissions Continued Occupancy Plan (ACOP), Section 8 Administrative Plan or other HACA regulations, or HUD regulations which adversely affect the individual Complainant's rights, duties, welfare or status.

**HOUSING AUTHORITY** or **HACA** or **PHA** shall mean the Housing Authority of the City of Annapolis.

**HEARING PANEL** shall mean a panel of five impartial individuals appointed by the **Board of Commissioners**. At least one panel member shall be a recommendation of the Resident Advisory Board and at least one shall be a representative of the mediation center.

**HUD** shall mean the United States Department of Housing and Urban Development.

**POLICY** shall mean the "Grievance Policy and Procedure" contained herein.

**COMPLAINANT** shall mean the adult person (or persons, other than a live-in aide):

- Who resides in the unit, and who executed the lease with the Housing Authority as lessee of the dwelling unit;
- Who resides in the unit, and is the remaining head of household of the complainant family residing in the dwelling unit.
- Who is an applicant on the public housing and/or section 8 waiting list and a person who is a participant of the Housing Choice Voucher Program.

### **INFORMAL SETTLEMENT**

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Any grievance may be personally presented in writing to the Property Manager within ten (10) business days of the date of notice of the Housing Authority's action or inaction (including, but not limited to, notice of lease termination, notice of rent adjustment, monthly statement of rent, and notice of transfer) so that the grievance may be discussed informally and possibly settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to and signed by the complainant and one copy retained in Housing Authority's in the complainant file and the official Grievance 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 may be obtained if the Complainant is not satisfied.

The failure of the complainant to submit a request for a formal discussion within ten-days (10) of the informal summary results shall terminate the complainant's right to a formal settlement under this Policy. However, such failure shall not constitute a waiver of any right of the complainant to contest the Housing Authority's action or inaction or the disposition of a grievance to a formal hearing to the Board of Commissioners or in an appropriate judicial proceeding. Additionally, each complainant and/ or their respective representative(s) have a right to refer complaints to HUD if the complainant believes HACA's action is based on race, color, religion, sex, sexual orientation, national origin, familial status or disability.

The Property or Program Manager may consider the reason(s) for the failure to submit a timely request or appear and may extend the time by which to submit the request or reschedule the informal discussion in writing, both the Complainant and the HACA representative must agree to the date and time.

### **COMPOSITION AND SELECTION OF HEARING PANEL**

The hearing panel shall consist of a panel of five impartial individuals appointed by the Board of Commissioners. At least one panel member shall be a recommendation of the Resident Advisory Board and at least one shall be a representative of the Mediation Center. The Complainant representative or any other member on the hearing panel shall not be an employee of the HACA or HACA management agents.

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The hearing panel shall be informed of the composition of the hearing panel that will hear the complaint. The notice of panel composition shall be sent at the same time as the notice of the date, time, and place of the hearing. A hearing panel member may be disqualified from sitting on the hearing panel if the member (1) is related to Complainant or any witness who appears on behalf of Complainant or HACA, (2) participated in the decision which is the subject of the complaint. The remaining panel members will judge the merit of any objection and may request a panel member to step down. If a hearing panel member is disqualified, the remaining hearing panel members shall decide the issue. A minimum of three panel members shall constitute a quorum.

The members of a hearing panel shall choose from among themselves a Presiding Officer who shall chair meetings of the panel with full authority to control the conduct of panel proceedings.

### PROCEDURE TO OBTAIN A HEARING

**Request for hearing.** The Complainant shall submit a written request for a formal hearing to the Housing Authority or the development site office within ten 10 business days after receipt of the summary discussion in the informal settlement of grievance. The written request shall specify:

- The reason of the grievance; and
- The action of relief sought

**Failure to request a hearing.** If the Complainant does not request a formal hearing or fails to submit a timely request for a hearing, then the Housing Authority's disposition of the grievance under the informal settlement procedure shall become final, provided that failure to request a formal hearing shall not constitute a waiver by the Complainant of his right hereafter to contest Housing Authority's action in disposing of the complaint in an appropriate judicial proceeding.

**Hearing Prerequisite.** All grievances shall be personally presented in writing, pursuant to the informal procedure as a condition precedent to a formal hearing under this Section, provided, that if the Complainant shows good cause why he/she failed to proceed in accordance with the informal settlement procedure to the Hearing Panel, the provisions of this Subsection may be waived by the Hearing Panel.

**Escrow deposit.** Before hearing any grievance involving an amount of monthly rent, the Complainant shall pay to the Housing Authority as an escrow deposit, an amount

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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. Before hearing any grievance involving an amount of retroactive rent, the Complainant shall pay to the Housing Authority as an escrow deposit, an amount equal to the amount of retro-active rent due to the Housing Authority. In the case of monthly rent, the Complainant shall thereafter deposit the same amount of the monthly rent until the complaint is resolved by decision of the Hearing Panel.

HACA will waive the escrow requirement in the case of financial hardship or a welfare benefits reduction where required under 24 Code of Federal Regulation (CFR) 5.630 or 5.615.

Unless the escrow requirement is waived, the failure to make such escrow payments shall result in a termination of the procedure in this Section, provided, that failure to make payment shall not constitute a waiver of any right the Complainant may have to contest the Housing Authority's disposition of the grievance in any appropriate judicial proceeding.

**Scheduling of hearings.** Upon the Complainant's compliance with the requirements of this Section, a hearing shall be scheduled by a Housing Authority staff member promptly within ten (10) days of receipt of the request for hearing, convenient to both the Complainant and the Housing Authority. A written notification specifying the time, place and the procedures governing the hearing shall be mailed to the Complainant by a representative of the Housing Authority.

**Grievance File Management.** Upon receiving a request for a grievance hearing or appeal or review of a HACA decision by a Complainant, the Housing Authority shall create a separate file for the Complainant which shall only contain documents related to the grievance hearing. Each grievance file shall be assigned an individual case number.

### PROCEDURES GOVERNING THE HEARING

The hearing shall be held before a Hearing Panel as defined above.

The hearing shall be held at the Housing Authority's Central Office or another location as determined by the Hearing Panel.

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

- The opportunity to examine before the grievance hearing any Housing Authority documents, including records and regulations that are directly relevant to the hearing. The complainant shall be allowed to copy any such document at the complainant's expense. If the Housing Authority does not make the document available for examination upon request by the Complainant, the Housing Authority may not rely on such document(s) at the grievance hearing.
- The rights 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 and the Hearing Panel agree to a public hearing. This shall not be construed to limit the attendance if persons with a valid interest in the proceedings.
- A decision based solely and exclusively upon the facts presented at the hearing.

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

If the Complainant or the representative of the Housing Authority fails to appear at a scheduled hearing, the Hearing Panel may make a determination to postpone the hearing for a time not to exceed five (5) business days or make a determination that the party has waived their right to a hearing. Both the Complainant and the Housing Authority shall be notified of the determination by the Hearing Panel, 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 Housing Authority's deposition of the grievance to the Board of Commissioners and/or 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's action or failure to act against which the complaint is directed.

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The hearing shall be conducted informally by the 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 Panel shall require the Housing Authority, the Complainant, the Complainant's counsel and other participants or spectators to conduct them in an orderly fashion. Failure to comply with the directions of the Hearing Panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly party by granting or denying the relief sought, as appropriate.

The Housing Authority will provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodation may include a certified sign language interpreter, reader, and accessible locations and attendants.

If the complainant is visually impaired, any notice to the complainant that is required under this Policy will be in an accessible format and/or an agreeable format for both parties.

### **DECISION OF THE HEARING PANEL**

The Hearing Panel shall prepare a written decision, together with the reasons therefore, within a ten (10) days from the date 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 complainant's Grievance and Complainant folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by Housing Authority and made available for inspection by a prospective complainant, their representative, or the Hearing Panel. All requested documents such as; recording, transcript and copies from the file will be at the Complainant expense based on reasonable cost associated with the request.

### **APPEALS**

If the decision is in favor of HACA, the Complainant may appeal this decision to the Board of Commissioners in writing within ten (10) working days of Complainant Complainant's of the date of the letter rendering the decision.

The decision of the Hearing Panel 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 decision of the panel is contrary to applicable Federal, State, or local law, HUD

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regulations or requirements of the Annual Contributions Contract between HUD and the Housing Authority. If such determination is made, the Executive Director shall notify the Complainant within (15) working days of receipt of the Hearing Panel's decision to include the complainant's right to appeal to the Board of Commissioners, HUD and/or to the appropriate judicial court for review.

A decision by the panel in favor of the Housing Authority or which denies the relief requested by the Complainant in whole or part shall not constitute a waiver of, nor affect in any matter whatever, the rights of the Complainant to a trial or judicial review in any proceedings, which may thereafter be brought in the matter.

### **PHA EVICTION AND/OR DENIAL ACTIONS**

If a complainant has requested a hearing in accordance with the Policy on a complaint involving a Housing Authority notice of termination of tenancy and the Hearing Panel uphold the Housing Authority's action to terminate the tenancy, the Housing Authority shall not commence an eviction action to State or local court until it has served a notice to vacate to the complainant, and in no event shall the notice to vacate be issued prior to the decision of the Hearing Panel having being mailed or delivered to the Complainant. Such notice to vacate must be in writing and specify that if the complainant fails to quit (leave) the premises within the applicable statutory period or on the termination date appropriate action will be brought against the respective complainant and he/she may be required to pay court costs and attorneys' fees.

### **APPLICABILITY**

This grievance procedure is applicable to all individual grievances which a Complainant may have with respect to the Housing Authority's action or its failure to act in accordance with the individual Complainant's Lease, HUD and/or Housing Authority regulations which adversely affects the individual Complainant's rights, duties, welfare, or status except that this procedure shall not be applicable to any termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other complainants or employees of the Housing Authority;
- Any violent or drug-related criminal activity on or off such premises;

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- Any criminal activity that resulted in felony conviction of a household member.

HUD has determined that the Maryland procedure for: (1) and action for summary eviction in District Court under MD Code Ann., Real Property, Sections 8-401 to 403; (2) An eviction for ejectment in Circuit Court under MD. Code Ann., Cts. 7 Jud. Proc. 4-402; and (3) An action for ejectment in Circuit Court under MD Rules Ann. Ch. 1100, T40 to T46 comports with due process. Pursuant to 42 U.S.C. 1437d(k) and 25 C.F.R. Section 966.51 the Authority is not required to afford an opportunity for a hearing in the above circumstance, and the Authority has excluded from the grievance procedure terminations of tenancy/evictions as set forth above.

This Policy shall not be applicable to disputes between Complainants not involving Housing Authority or to class grievances. This Policy is not intended as a forum for initiating or negotiating policy changes between a group or groups of Complainants and Housing Authority's Board of Commissioners.

### **NOTICES**

All notices under this grievance 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 Complainant is visually impaired, any notice hereunder delivered to such Complainant shall be in an accessible format.

### **MODIFICATION**

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

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