

Policy #11

Policy Governing Grievance Procedures For The Housing Authority of The City of Columbus, Mississippi

I. PURPOSE AND SCOPE

To assure that each Housing Authority Resident is afforded an opportunity for a hearing in Resident disputes, within the established time frame, any Housing Authority action or failure to act involving the Resident's lease with the Housing Authority or the Housing Authority's regulations which may adversely affect the individual Resident's rights, duties, welfare or status. This grievance procedure shall be applicable (except as provided in Section II. below) to all individual grievances, as defined elsewhere in these procedures, between the Resident and the Housing Authority. It is not applicable to disputes between residents not involving the Housing Authority or to class grievances, nor is it intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the Housing Authority's Board of Commissioners. It is not applicable to staff disputes which will be heard by the Executive Director. The Housing Authority will respond promptly to all complaints.

II. DEFINITIONS

- A. "Grievance" shall mean any dispute which a Resident may have with respect to Housing Authority action or failure to act in accordance with the Resident's lease or Housing Authority regulations which adversely affect the individual Resident's rights, duties, welfare, or status.
- B. "Complainant" shall mean any Resident whose grievance is presented to the Housing Authority office in accordance with Sections III and IV below.
- C. "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 Resident of the grounds for terminating the tenancy and for eviction;
 2. Right of the Resident to be represented by counsel;
 3. Opportunity for the Resident 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 defense which the Resident may have; and
 4. A decision on the merits.
- D. "Hearing Officer" shall mean a person selected in accordance with Section IV. B. to hear grievances and render a decision with respect thereto.
- E. "Hearing Panel" shall mean a panel selected in accordance with IV. B. to hear grievance and render decision with respect thereto. The Resident

Council/Committee or members of the Resident Council/Committee may be appointed to serve as a panel.

- F. "Resident" shall mean the adult person(s) (other than a live-in aide):
1. Who resides in the unit, and who executed the lease with the Housing Authority as Resident of the dwelling unit, or if no such person now resides in the unit,
 2. Who resides in the unit, and is 21 years of age and otherwise qualified under the rules of the Authority's policy for residency and who is the remaining head of household of the Resident family residing in the dwelling unit.
- G. "Resident Organization" includes a Resident Council or Resident Advisory Committee.
- H. "Due Process Determination" shall mean a determination by HUD that law of the jurisdiction requires that the Resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit. If HUD has issued a due process determination, the Housing Authority may exclude from the grievance procedure any grievance concerning a termination of tenancy or eviction that involves:
1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or Housing Authority employees, or
 2. Any drug-related criminal activity on or near such premises.
- NOTE: If HUD has issued a due process determination, this Housing Authority may evict the occupants of the dwelling unit through the judicial eviction procedures which are the subject of the determination. In this case, this Housing Authority is not required to provide the opportunity for a hearing under the administrative grievance procedure.

III. INFORMAL SETTLEMENT OF GRIEVANCE

- A. Grievances shall be personally presented, either orally or in writing, to the Housing Authority office, so that the grievance may be discussed informally and possibly settled without a hearing. Every effort should be made to settle without the necessity of a hearing.
- B. A summary of the informal hearing shall be prepared within five (5) working days by the Housing Authority specifying the names of the participants, dates of meetings, the nature of the proposed disposition of the complaint, and the specific reasons therefor, and shall specify the procedures by which a hearing may be obtained. One copy of the summary shall be given to the Resident and one copy retained in the resident's file.
- C. If the Complainant does not request an informal hearing, the Housing Authority's disposition of the grievance shall become final, unless the Hearing Officer or Hearing Panel shall find good cause for complainant's failure, upon the finding of which the Hearing Officer or Hearing Panel may waive complainant's failure. The failure to request an informal hearing shall not constitute a waiver by the complainant of his right thereafter to contest the

Housing Authority's action in disposing of the complaint in an appropriate judicial proceeding.

IV. PROCEDURES TO OBTAIN A HEARING

A. Request For A Hearing. The Complainant shall submit a written request for a hearing to the Housing Authority, within ten (10) working days after receipt of the summary of the informal hearing. For a grievance under the expedited grievance procedure (see paragraph G. below), the Complainant shall submit such request at such time as is specified by the Housing Authority for a grievance under the expedited grievance procedure. The written request shall specify:

1. The reason for the grievance; and
2. The action or relief sought.

B. Selection of Hearing Officer or Hearing Panel. Grievance shall be presented before a Hearing Officer or Hearing Panel selected as follows:

1. A grievance hearing shall be conducted by an impartial person or persons appointed by the Executive Director of the Housing Authority. If the action under review is that of the Executive Director, the "impartial person or persons" referred to in the preceding sentence shall be appointed by the Commissioners of the Housing Authority. This person or persons may be an officer or employee of the Housing Authority, except a person who made or approved the Housing Authority action under review or a subordinate of such person, shall not be eligible to serve as Hearing Officer.

2. The Housing Authority shall consult the Resident organizations, if any, before the Housing Authority appointment of each Hearing Officer or panel member. Any comments or recommendations submitted by the Resident organizations shall be considered by the Housing Authority before the appointment. Members of the Resident organization may serve on the panel.

3. If agreeable by both parties a preferred selection of a hearing officer will be the Executive Director or senior employee of a near by housing authority.

C. Failure To Request A Hearing. If the Complainant does not request a hearing in accordance with this Section, then the Housing Authority's disposition of the grievance under the informal settlement of grievance procedures prescribed in Section III 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 Housing Authority's action in disposing of the complaint in an appropriate judicial proceeding.

D. Hearing Prerequisite. All grievances shall be personally presented either orally or in writing pursuant to the informal procedure prescribed in Section III as a condition to a hearing under this Section, provided that if the Complainant shall show good cause why he failed to proceed in accordance with Section III to the Hearing Officer or Hearing Panel, the provisions of this paragraph may be waived by the Hearing Officer or Hearing Panel.

E. Escrow Deposit. Before a hearing is scheduled in any grievance involving the amount of rent which the Housing Authority claims is due, the Complainant shall pay to the Housing Authority an amount equal to the amount of 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 or Hearing Panel. These requirements may be waived by the Housing authority in extenuating circumstances. Unless so waived, the failure to make payments shall not constitute a waiver of any right the Complainant may have to contest the Housing Authority's disposition of his grievance in any appropriate judicial proceeding.

F. Scheduling Of Hearing. Upon Complainant's compliance with the hearing prerequisites, a hearing shall be scheduled by the Hearing Officer or Hearing Panel promptly for a time and place reasonably convenient to both the complainant and the Housing Authority. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the Complainant and the appropriate Housing Authority official.

G. Expedited Grievance Procedure. This Housing Authority may utilize an expedited grievance procedure for any grievance concerning a termination of tenancy of eviction that involves:

1. Any criminal 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
2. Any drug-related criminal activity on or near such premises.

NOTE: Procedures concerning a hearing under the expedited grievance procedure shall include expedited notice and scheduling, and an expedited decision on the grievance. Additionally, an informal settlement of the grievance, as prescribed in Section III., is not applicable to a hearing under the expedited grievance procedure.

H. Appeals By Applicant. Applicants who are determined ineligible, who do not meet the PHA's admission standards, or where the PHA 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 hearing. Applicants must submit their request for an informal hearing in writing to the PHA within 5 working days from the

date

of the notification of their ineligibility. If the applicant requests an informal hearing, the PHA will provide an informal hearing within a reasonable time after receiving the request. The PHA will notify the applicant of the place, date, and time. Informal hearings will be conducted by an impartial hearing officer. The person who is designated as the hearing officer cannot be the

evidence person who made the determination of ineligibility or a subordinate of that person. The applicant may bring to the hearing any documentation or s/he wishes and the evidence along with the data compiled by the PHA will be considered by the hearing officer. The hearing officer will make a determination based upon the merits of the evidence presented by both sides. Within 5 working days of the date of the hearing, the hearing officer will mail a written decision to the applicant and place a copy of the decision in the applicant's file.

V. PROCEDURES GOVERNING THE HEARING

- A. The hearing shall be held before a Hearing Officer or Hearing Panel.
- B. The Complainant shall be afforded a fair hearing, which shall include:
 - 1. The opportunity to examine before the grievance hearing any Housing Authority documents, including records and regulations, that are directly relevant to the hearing. The Resident shall be allowed to copy any such document at the residents 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 at the grievance hearing;
 - 2. The right to be represented by counsel or other person chosen as the Resident's representative, and to have such person make statements on the Resident'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 Resident's complaint, to controvert evidence relied on by the Housing Authority, and to confront and cross-examine all witnesses upon whose testimony or information the Housing Authority relies; and
 - 5. A decision based solely and exclusively upon the facts presented at the hearing.
- C. The Hearing Officer of 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.
- D. If the Complainant or the Housing Authority fails to appear at a scheduled hearing, the Hearing Officer or Hearing Panel may make a determination to postpone the hearing for not to exceed five business days or may make a determination that the party has waived his right to a hearing. Both the complainant and the Housing Authority shall be notified of the determination by the Hearing Officer or 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 the Housing

Authority's disposition of the grievance in an appropriate judicial proceeding.

- E. 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.
- F. 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 or Hearing Panel shall require the Housing Authority, 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 or Hearing Panel 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.
- G. The Complainant or the Housing Authority 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.
The Housing Authority shall 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. If the Resident is visually impaired, any notice to the Resident which is required by this grievance procedure shall be in an accessible format.

- H. The Housing Authority shall 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. If the Resident is visually impaired, any notice to the Resident which is required by this grievance procedure shall be in an accessible format.

VI. DECISION OF THE HEARING OFFICER OR HEARING PANEL

- A. The Hearing Officer or Hearing Panel shall prepare a written decision, together with the reasons therefor, within a reasonable time 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 Resident folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the Housing Authority and made available for inspection by a prospective Complainant, his representative, or the Hearing Panel or Hearing Officer.
- B. The decision of the Hearing Officer or 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 Housing Authority Board of Commissioners determines within a reasonable time, and promptly notifies the Complainant of its determination, that:

1. 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;

2. The decision of the Hearing Officer or Hearing Panel is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the Housing Authority.

C. A decision by the Hearing Officer, Hearing Panel, or Board of Commissioners in favor of the Housing Authority 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.

VII. This edition of the Grievance Policy supersedes all previous editions which should be removed from the files.