

# **HOUSING AUTHORITY OF THE CITY OF RALEIGH, NORTH CAROLINA GRIEVANCE PROCEDURE**

Effective November 1, 2022

## **I. INTRODUCTION**

This Grievance Procedure is issued according to the U. S. Department of Housing and Urban Development (HUD)'s Code of Federal Regulation (CFR) as found in 24 CFR § 966.50 and RAD Notice: PIH-2012-32 (HA), REV-1, 24 CFR 982.555 the Raleigh Housing Authority's (RHA) Admissions and Continued Occupancy Policy, RHA's federally subsidized lease agreements.

**SCOPE:** This procedure applies only to residents aged 18 and older of federally-subsidized public housing and for public housing converted under HUD's Rental Assistance Demonstration (RAD) to Project Based Voucher (PBV) subsidized housing communities owned and/or managed by the Raleigh Housing Authority (RHA).

It does not apply to:

1. applicants for RHA housing, except as specifically provided herein; <sup>1</sup>
2. guests of residents, unauthorized household members, and live-in aides;
3. residents of Tax Credit Senior Housing Programs;
4. Section 8 Housing Choice Voucher Program participants; or
5. residents of any other non-federally subsidized program unless specially extended to those programs by reference in policies or procedures governing those programs.

## **II. PROCEDURE**

RHA will direct its best efforts toward resolving resident grievances at the lowest possible level of RHA's organizational structure, and provide residents an opportunity for a fair and impartial hearing where resolution of grievances at the staff level is not possible. This procedure is a part of RHA's public housing and all RHA's federally subsidized dwelling lease agreements, by reference.

A grievance is: a dispute a resident may have with respect to RHA action or failure to act in accordance with the Lease or any statute, regulation, policy or procedure that adversely affects the individual resident's rights, duties, welfare or status; or a resident who has a complaint regarding a RHA employee. Through the grievance procedure, a resident will be afforded an opportunity for a hearing before the Hearing Officer. The grievance procedure only applies to individual resident issues relating to RHA or any management firms assigned to its RAD/PBV properties. It does not apply to disputes between residents that do not involve RHA or to class grievances. Grievance procedures will not be used as means of initiating or negotiating RHA policy changes.

RHA will provide an opportunity for a fair and impartial hearing of the grievance provided that the grievance hearing request is made in a timely manner. If no request is made, or if a request is not

<sup>1</sup> When RHA rejects an applicant for the housing program, the Housing Authority will provide an informal hearing, which is not a grievance hearing. The purpose of the informal hearing is to permit the applicant to discuss the reasons for rejection, present contrary evidence, additional proof of eligibility, and claim mitigating circumstances if available. Refer to RHA Admissions and Occupancy Policy, Section 14.5

made in a timely manner as outlined below, the resident will be deemed to have waived his/her right to a grievance hearing under this procedure.

A resident's failure to participate in any of the stages of the grievance process does not constitute a waiver of any future rights to a grievance hearing of the same issue. In no event does a resident's failure to participate in the grievance process or failure to request a grievance hearing constitute a waiver by the resident of his/her right to contest RHA's action in an appropriate judicial proceeding.

If the grievance involves a lease termination for criminal activity or behavior that threatens the health, safety or right to peaceful enjoyment of other residents, employees, or Board of Commissioners, the informal review does NOT apply and the resident must file for a formal grievance hearing within ten (10) business days as outlined in the notice of lease termination.

RHA may deny a resident a grievance hearing if is deemed inappropriate and concerns an eviction or termination of tenancy based upon the resident's involvement in drug-related criminal activity on or off RHA premises or felonious criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents, RHA employees, Board of Commissioners and/or agency contractors. **Such** evictions will be filed directly to the courts.

### III. IMPLEMENTATION

#### A. Informal settlement of resident grievances.

The first required step in the grievance process is to attempt an informal settlement. Informal settlements are beneficial as they may minimize the time and expense associated with a formal hearing. If a dispute is received and deemed appropriate, the request may be referred to the department or office responsible for the matter.

Within ten (10) business days of receipt of the informal settlement request, RHA will contact the requestor to discuss the issue informally and to attempt to settle the grievance if possible. This meeting may be held in person, electronically, or virtually at a mutually agreed upon time and location. Findings of the informal settlement will be provided to the resident in writing within ten (10) business days of the meeting. A copy of the findings will be retained in the resident's file.

If the resident disagrees with the results of the informal hearing, the resident may submit a request for a formal hearing within ten (10) business days of receiving the informal hearing results. If the individual does not request a hearing within the appropriate period of time, the informal settlement of grievances will become final. Resident's failure to request a hearing does not constitute a waiver by the resident of his/her right to contest the Housing Authority's action in any subsequent judicial proceeding.

#### B. Requesting a formal grievance hearing.

Grievances always originate from a resident, who may present the request or complaint either orally or in writing. While it is RHA's preference to have requests submitted in writing via the

request form, it is not mandatory and all requests will be considered any time it is indicated that a formal hearing is being requested. Failure to utilize the preferred form will not exclude the request from being reviewed nor will it result in an automatic denial. Grievance requests will be accepted at the assigned management office during normal business hours. All written requests will be date-stamped at the time of receipt by RHA.

Requests for a grievance hearing must be filed within ten (10) business days of the RHA's alleged action or failure to act forming the basis for the grievance, or within ten (10) business days of informal settlement findings. If the grievance involves allegations of discrimination or harassment against staff, the resident may submit the grievance to the next level of supervision or to the Director of the department.

Resident grievances received by staff located at the central administrative office that have not been reviewed by the Property Manager will be submitted to the site's management office for review. This requirement may be waived if the resident is able to show good cause for bypassing this step in procedure.

#### C. Hearing Officer.

The formal grievance hearing will be conducted by an impartial person appointed by RHA through the Agency's regular procurement process with an appropriate legal background, such as an attorney or paralegal, in the community. RHA will also nominate an impartial executive staff person or their designee to sit as Hearing Officers.

The Hearing Officer will not become familiar with the case until the grievance is presented before him/her at the day of the hearing. RHA staff members who handle lease enforcement or property management issues are not eligible. No person shall be listed as a Hearing Officer unless such person has consented to the appointment.

#### D. Escrow Deposits for Grievances for Non-Payment.

If a grievance involves monies owed by a resident, the resident must pay RHA the amount of monies due as of the first day of the month following the act or failure to act took place before a hearing will be scheduled. Monthly thereafter, the resident must deposit the same amount of rent due until the complaint is resolved by the decision of the Hearing Officer. RHA will hold these payment in an escrow account until a final decision is received.

Based on the decision from the Hearing Officer, funds from the escrow account will be disbursed to RHA or the resident accordingly. This escrow requirement may be waived if the resident is paying minimum rent and the grievance is based on a request for a hardship exemption. Failure to make an escrow deposit when due will result in termination of the grievance procedure, and all rent owed by the resident will become immediately due and payable. Failure to make an escrow deposit, however, does not waive the resident's right to contest RHA's action in any judicial proceeding.

#### E. Expedited Hearing.

If the grievance involves a lease termination for felonious criminal activity or behavior that threatens the health, safety or right to peaceful enjoyment of the premises by the other residents, employees or Board of Commissioners, RHA may, at its sole discretion, use an expedited hearing that prioritizes scheduling the hearing and compresses review times and dates for decisions. Also, based on the severity and cause for a lease termination, at RHA's discretion, the lease termination notice will clearly state that the eviction will be filed directly to the courts and no grievance will be permitted.

#### F. Grievance Hearing.

The resident who has requested the hearing will be afforded a fair hearing which includes:

1. the opportunity to examine prior to the hearing any RHA documents, including records and regulations related to the adverse action. The resident will be allowed to receive copies, at the resident's expense, of any documents relevant to the hearing. If RHA does not make any available and/or requested document accessible for examination, then RHA may not rely on the document at the hearing;
2. the right to be represented by counsel or another person chosen by the resident;
3. a public hearing unless the resident requests a private hearing;
4. the right to present evidence and arguments in support of their positions, to challenge evidence relied upon by RHA, and to question and cross-examine all RHA witnesses;
5. the right to an impartial hearing officer; and
6. a decision based upon the facts as presented at the hearing.

A request to examine RHA documents, records and regulations directly related to the adverse action, must be received no later than three (3) business days prior to the scheduled grievance hearing. An appointment to examine the documents will be scheduled with the Property Manager and/or RHA's attorney for a time and location convenient for both parties. Residents will not be allowed to borrow such documents for review or otherwise take such documents off-site. Requested copies of documents will be provided as soon as reasonably possible and at the resident's expense. RHA's current going rate of copies will be used to determine the monies due and payment for copies will be due upon receipt of the copies.

The rules of evidence of a judicial proceeding does not apply in grievance hearings and both oral and written evidence will be permitted. All hearing participants must conduct themselves in an orderly fashion and according to the Hearing Officer's direction. Failure to comply with the directives of the Hearing Officer may exclude any disorderly party from the proceedings and grant or deny relief of the disorderly party as appropriate.

#### G. Records and Retention.

All formal grievance hearings will be recorded by audiotape or other means. A record of the hearing including requests, scheduling documents and other items will be maintained by RHA for at least six (6) months from the date of the hearing. A copy of findings and the written decision of the Hearing Officer will be retained by RHA for at least two (2) years from the date of the hearing, or as otherwise deemed necessary by any laws or regulations. Interested parties may arrange for a copy of the formal hearing record in advance of or following the hearing, at the requesting party's expense.

#### H. Reasonable Accommodations.

RHA provides reasonable accommodations to allow persons with disabilities to participate in all parts of the hearing process. At each stage of the grievance procedure, RHA will accommodate a known disability of any Grievant or witness to the extent the accommodation does not create an undue burden on RHA. Reasonable accommodation may include qualified sign language interpreter, reader, language interpreter, or accessible location as appropriate.

If a language interpreter is requested for the hearing, the resident will be notified that he/she may bring an interpreter or that RHA will provide an interpreter at no cost to the resident. For residents who are visually impaired, notices required under this procedure will be provided in an accessible format.

#### I. Failure to Appear.

If a resident or RHA staff fails to appear within fifteen (15) minutes of the scheduled hearing without prior notice or explanation, the Hearing Officer may dismiss the hearing and declare default, denying the relief requested by the absentee party.

#### J. Grievance Hearing Decision.

The Hearing Officer will issue a written decision within a reasonable time after the hearing. This decision will be based solely and exclusively upon the facts presented at the formal hearing. The decision of the Hearing Officer will be final and RHA will not take any actions inconsistent with the decision unless the Board of Commissioners determines, and promptly notifies the resident of its determination, that:

1. the grievance does not concern RHA action or failure to act in accordance with or involving the resident's lease or regulations which adversely affect the resident's rights, duties, welfare or status; or
2. the decision of the Hearing Officer is contrary to applicable Federal, State, or local law, HUD regulations or requirements.

A decision by the Hearing Officer or Board of Commissioners in favor of RHA does not constitute a waiver of, nor affect in any manner, any rights the resident may have in any later judicial proceedings.

#### K. Responsibility.

The Housing Management Department implements the grievance process and procedures. Housing Management will provide guidance in handling resident grievances, retaining independent Hearing Officers, scheduling hearings, and mailing the outcomes of hearings.

For RAD-PBV communities: The Housing Management Department implements the grievance process and procedures for residency disputes. The Leased Housing Department implements the grievance process and procedures for subsidy disputes. The appropriate Department's staff will provide guidance in handling resident grievances, retaining independent Hearing Officers, scheduling hearings, and mailing the outcomes of hearings.

### IV. PROCEDURES

#### A. Expedited Hearing on Lease Terminations.

1. An expedited hearing may be used for grievances involving a lease termination based on criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of the other residents, RHA employees or Board of Commissioners, or drug-related criminal activity on or off RHA property.
2. The grievance request must be submitted no later than five (5) business days as outlined on the lease termination notice. Grievance requests received after this timeframe will not be considered.
3. Staff will give priority to expedited hearings and will attempt to schedule hearings within ten (10) business days of receiving the hearing request.
4. Based on the severity and cause for the lease termination notice, at RHA's discretion, the eviction will be filed directly to the courts and no grievance is permitted.

#### B. Informal Settlement.

1. Staff will review the issue and attempt to contact the resident within ten (10) business days to discuss and resolve the grievance informally if possible. If a resident grievance involves an allegation of discrimination or harassment by staff, the grievance will be referred to the next level of supervision. The informal grievance must be submitted no later than ten (10) business days after the RHA's alleged action. Grievance requests received after the timeframe will not be considered. The informal grievance request can be made orally or in writing.
2. After the review of the grievance, the resident will be notified of the decision and the procedures by which a formal grievance may be considered if the resident is not satisfied.

#### C. Formal Grievance Hearing.

## 1. Hearing Officer

- a. The Hearing Officer will be appointed by RHA in consultation with the Inter-Community Council President.
- b. The appropriate staff members will provide all necessary information on RHA policies and procedures as needed or requested.

## 2. Escrow Deposits

- a. If a grievance involves the amount of monies owed by the resident, the resident must pay the owner the amount of monies due into a RHA escrow account.
- b. Staff notifies the resident of this requirement and the procedures for making the escrow deposits.
- c. The resident will submit to RHA staff, either by U.S. mail or hand-delivery, a money order or cashier's check made payable to their property's owner in the amount due at the time of scheduling. Monthly thereafter, the amount of the monthly rent and other charges will be deposited in the escrow account until the dispute is resolved.
- d. Failure to make an escrow deposit when due will result in termination of the grievance proceedings. Staff will notify the resident in writing of the missed deposit and resulting termination of the grievance proceedings.
- e. RHA may waive the escrow requirement in extenuating circumstances.
- f. After the decision of the Hearing Officer, the escrow account balance is disbursed in accordance with the decision. If the decision is in favor of the resident, he/she will receive the escrowed monies back and interest accrued if any.

## 3. Obtaining a Hearing

- a. If the resident is not satisfied with the outcome of the informal review of the grievance, he/she may submit a request for a formal hearing to their management office within ten (10) business days from the date of the informal settlement findings, or indicate and sign the Summary/Decision of the Informal Settlement Meeting form to request a formal hearing. The hearing request received by the management office along with the Summary/Decision of the Informal Settlement Meeting letter is forwarded to central administrative staff for scheduling.
- b. Requests for a formal hearing must specify:
  1. the reason(s) for requesting the grievance or dispute; and
  2. the action or relief being sought by the resident.

- c. If a formal hearing request is not received within the specified time frame, RHA's disposition of the grievance from the informal settlement findings will become final. The resident's failure to request a hearing does not constitute a waiver by the resident of his/her right to contest owner's action in any judicial proceeding.
- d. Any formal grievance request received by staff that was not first considered informally by the Property Manager will be referred back to the site's management for an informal review and potential settlement. A notice will be sent to the resident advising them that an informal review is the first required step in the grievance process. If it is determined the resident has good cause for bypassing the informal review, this requirement may be waived. The reason for waiving this requirement will be documented in the file along with the residents request for the hearing.
- e. If it is determined the resident has complied with grievance procedure conditions, a formal hearing will be scheduled. Written notification specifying the date, time and location of the hearing will be delivered to the resident, his/her representative (if known), and the appropriate RHA officials.

#### 4. Accommodations

- a. The Property Manager will receive all requests for accommodation by a resident will be shared with the Housing Management Central Office staff responsible for scheduling the hearing.

#### 5. RHA Witnesses

- a. It is the responsibility of the Property Manager to identify its witnesses for the hearing. Possible witnesses may include but are not limited to residents, police officers, service providers, contractors and other staff members.
- b. Upon request, RHA may reimburse resident witnesses for travel expenses, such as bus fare or taxi fare.

#### 6. The Hearing

- a. Central administrative staff will coordinate with the Hearing Officer to schedule hearing dates, times and locations. Staff will provide the receptionist at 900 Haynes Street a list of residents who are scheduled for a hearing.
- b. The resident, his/her counsel, or other representatives must sign-in at the receptionist desk and may be asked to wait in lobby areas as necessary, until called on by the Hearing Officer.
- c. Individuals appearing for the hearing must sign-in at the receptionist desk and may be asked to wait until called on by the Hearing Officer.

- d. The Hearing Officer will arrange the seating for the hearing, giving consideration to any known disabilities, hearing impairments, mobility limitations, safety concerns, and other concerns as necessary.
- e. If personal safety concerns are expressed by staff, arrangements may be made to address the concerns including requesting Police Officers to be present during the hearing.
- f. The Hearing Officer will call all parties present to the hearing and assign the placement of the parties. The Hearing Officer is responsible for maintaining control and order in the hearing and may exclude any disorderly party from the proceedings, adjourn the hearing, or grant/deny relief being sought by any disruptive parties as appropriate.
- g. The hearings will be recorded by the Housing Authority.
- h. RHA will have the burden of justifying its actions or failure to act in accordance with RHA or HUD policies, procedures, regulations, or other applicable rule and agreement. RHA must also show how the proposed action or inaction justifies the relief being sought by RHA in the grievance hearing.
- i. RHA will present its case first, providing details of the tenancy, the events leading to the action taken, and any supporting documentation or testimony.
- j. Following RHA's case, the resident will present his/her grievance, reasons for contesting RHA's action or inaction, and may provide additional information, testimony and supporting documentation as necessary.
- k. At the discretion of the Hearing Officer, any oral or written evidence relevant to the facts and issues in the grievance may be received without regard to its admissibility under the rules of evidence in judicial proceedings. The Hearing Officer may limit or otherwise restrict the testimony of witnesses based on the relevance of their testimony, and the number of witnesses present. The Hearing Officer may exclude witnesses whose testimony is or will be duplicative.
- l. Both parties are allowed to ask questions of the other party's statements, respond to questions or accusations, and provide copies of relevant paperwork and statements. All questions and responses must be addressed to the Hearing Officer and not directly to the opposing party.

#### 7. Late to Appear/Failure to Appear

- a. If a party appears within fifteen (15) minutes of the hearing's scheduled start time, or calls and notifies RHA of their tardiness at least thirty (30) minutes prior to the scheduled hearing start time, the Hearing Officer may, in his/her discretion, postpone the hearing to start at a later time. When considering a postponement, the Hearing

Officer will consider whether the tardiness was avoidable, due to good cause, or the party's fault.

b. If a party fails to appear at a scheduled hearing within fifteen (15) minutes of the scheduled hearing time, without prior notice or explanation, the Hearing Officer may dismiss the hearing and declare a default on the absentee party. Waiver of the resident's right to a hearing does not constitute a waiver of the resident's right to contest, in any judicial proceedings, RHA's decision(s) that gave rise to the grievance hearing.

#### 8. Decision of the Hearing Officer

a. The Hearing Officer will prepare a written decision within the twenty (20) business days following the hearing. This decision will either affirm or reject RHA's action, state the reasons of the decision, and provide a ruling on the relief being sought. A longer decision period may be allowed in extenuating circumstances. A copy of the decision will be sent to RHA. Central administrative staff will send a copy of the decision to the resident and the Property Manager.

A copy of the decision will be maintained in the resident's file. A copy of the decision, with all names and identifying references deleted, will also be maintained on file for a two-year period by RHA. The decisions will be available for inspection by any other resident and his/her representative, or the Hearing Officer.

Once a hearing decision has been received, staff will immediately move to act in accordance with the results. No further extensions of time beyond the grievance period will be given to residents to delay charges, extend evictions, or any other items determined by the hearing.

- b. The decision of the Hearing Officer is not be subject to any administrative appeal unless the Board of Commissioners determines and promptly notifies the resident of its determination that:
1. the grievance does not concern RHA action or failure to act in accordance with or involving the resident's lease or RHA regulations that adversely affects the resident'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.
- c. In the event the Board of Commissioners determines that the decision of the Hearing Officer is improper, the Board will specify the precise nature of its objection and the laws and regulations that it believes are being violated. In considering any decision of the Hearing Officer, the Board will provide notice and an opportunity to be heard to the resident and his/her representative. The hearing will be held within thirty (30) days of the notification.

d. A decision by the Hearing Officer or Board of Commissioners in favor of RHA, or one that denies the relief requested by the resident in whole or in part, does not constitute a waiver of, nor affect in any manner whatever, any rights the resident may have to judicial review in any judicial proceedings which may be brought about afterwards.

#### 9. Eviction Actions

If the Hearing Officer upholds an action to terminate tenancy, then RHA staff will immediately resume actions necessary to proceed with the eviction after receiving hearing results that upheld the decision. Staff will not commence an eviction action in the District Court/Small Claims until it has served a notice the hearing's decision upheld the decision to terminate the lease requiring the resident to vacate the premises. Such notice will be provided to the resident in writing from the appropriate Department Director and provide the date that the resident must vacate the premises. If the resident fails to vacate by the specified date, then RHA will file appropriate judicial action to terminate the resident's lease agreement and regain possession of the rental property.

I, \_\_\_\_\_, have received a copy of the Raleigh Housing Authority's Grievance Procedure.

Resident's Signature \_\_\_\_\_ Date \_\_\_\_\_

Resident's Signature \_\_\_\_\_ Date \_\_\_\_\_

Manager's Signature \_\_\_\_\_ Date \_\_\_\_\_