

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

Effective January 27, 2017

SCOPE: This policy applies only to residents of federally-subsidized public housing operated by the Raleigh Housing Authority (RHA).

It does not apply to:

1. applicants for RHA housing, except as specifically provided herein;¹
2. guests of residents 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.

POLICY: RHA shall direct its best efforts toward resolving resident grievances at the lowest possible level of RHA's organizational structure, while providing residents an opportunity for a fair and impartial hearing where resolution of grievances at the staff level is not possible. This policy shall be part of RHA's public housing dwelling lease, 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. The resident shall be afforded an opportunity for a hearing before the Hearing Officer. The grievance policy is applicable only to individual resident issues relating to RHA. It shall not be applicable to disputes between residents that do not involve RHA or to class grievances and shall not be used as means of initiating or negotiating RHA policy changes subject to the Housing Authority Board of Commissioners' approval.

RHA shall 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 made in a timely manner as defined below, the resident shall be deemed to have waived his/her right to a grievance hearing under this policy.

The failure of a resident to participate in any of the stages of the grievance process shall not constitute a waiver of any future rights to a grievance hearing of the same issue. In no event shall the failure to participate in any of the stages of 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.

RHA may deny a resident a grievance hearing concerning 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

¹ 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 12.5

premises by other residents, RHA employees/Board of Commissioners and agency contractors. Eviction will be filed directly to the courts.

IMPLEMENTING POLICY:

A. Informal settlement of grievances by a resident.

The first required step in the grievance process is to attempt an informal settlement. Grievances always originate with a resident, who may present the grievance initially, either orally or in writing. Grievances shall be accepted at the assigned management office. The resident must file the grievance within 10 business days of the RHA's alleged action or failure to act forming the basis for the grievance. 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.

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 10 business days as outlined in the notice of lease termination.

Grievances received by the Central Office Housing Management Department, which have not been informally reviewed by the Property Manager, shall be referred to the site's management office for review and the resident notified of the referral. This requirement may be waived by the Director of Housing Management, if the resident is able to show good cause for bypassing this step in the grievance policy.

RHA shall contact the resident within 10 business days of receipt of the grievance, to meet and discuss the issue informally and to attempt to settle the grievance if possible.

If the resident is not satisfied with the outcome of the informal review, he/she may submit a written request for a formal grievance hearing to the site's management office within **5 business days** of the date of receiving the results of the informal review.

If the resident does not request a hearing within **5 business days**, RHA's disposition of the grievance under the informal settlement of grievances shall become final. The resident's failure to request a hearing shall not constitute a waiver by the resident of his/her right to contest the Housing Authority's action in any subsequent judicial proceeding.

B. Hearing Officer.

The formal grievance hearing shall be conducted by an impartial person appointed by RHA. The Hearing Officer will not become familiar with the case until the grievance is presented before him/her at the day of the hearing.

C. Escrow Deposits for Grievances for Non-Payment.

If a grievance involves the amount of rent owed by the resident, before a hearing is scheduled, the resident must pay into an escrow account with RHA the amount of the rent that is due and owing as of the first of the month proceeding the month in which the act or failure to act took place.

Monthly thereafter, the resident shall deposit the same amount of rent into the escrow account until the complaint is resolved by the decision of the Hearing Officer. Based on the decision from the Hearing Officer, funds from the escrow account shall be disbursed to RHA or the resident. RHA may waive this requirement 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 shall result in termination of the grievance procedure, and all rent owed by the resident shall 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.

D. 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, RHA 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 shall clearly state that the eviction will be filed directly to the courts and no grievance will be permitted.

E. Grievance Hearing.

The resident who has requested the hearing shall be afforded a fair hearing which shall include:

1. the opportunity to examine prior to the hearing any RHA documents, including records and regulations related to the adverse action. The resident shall 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 such document at the hearing;
2. the right to be represented by counsel or other 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 controvert evidence relied upon by RHA, and to confront and cross-examine all RHA witnesses; and
5. a decision based upon the facts as presented at the hearing.

A request to examine RHA documents, records and regulations related to the adverse action, must be received no later than 3 business days prior to the scheduled grievance hearing. An appointment to examine the documents shall 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 out of the management office. Requested copies of documents shall be provided as soon as reasonably possible. Payment for copies shall be due upon receipt.

The rules of evidence of a judicial proceeding shall not apply in grievance hearings and both oral and written evidence will be permitted. All hearing participants must conduct themselves in an orderly fashion. The Hearing Officer may exclude any disorderly party from the proceedings and grant or deny relief as appropriate. All hearings will be tape recorded.

RHA shall provide reasonable accommodations to allow persons with disabilities to participate in the hearing. At each stage of the grievance procedure, RHA will accommodate the known disability of any Grievant or witness to the extent the accommodation does not create an undue burden upon RHA. Reasonable accommodation may include qualified sign language interpreter, reader, language interpreter, accessible location, and attendants, as appropriate. If RHA cannot provide a language interpreter, the resident will be notified that he/she may bring an interpreter. For residents who are visually impaired, notices required under this policy and procedure shall be in an accessible format.

F. Failure to Appear.

If a resident or RHA staff fails to appear at a scheduled hearing without prior notice or explanation, the Hearing Officer shall dismiss the hearing and declare default, denying the relief requested by the party not appearing.

G. Grievance Hearing Decision.

The Hearing Officer shall issue a written decision within a reasonable time following the hearing. The decision shall state the basis for the Hearing Officer's decision. The decision of the Hearing Officer shall be final and RHA shall 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 RHA 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 shall not constitute a waiver of, nor affect in any manner, any rights the resident may have in any later judicial proceedings.

RESPONSIBILITY: The Housing Management Department shall implement the grievance policy and procedures. Housing Management Central Office shall provide guidance in handling resident grievances, retain independent Hearing Officers, schedule hearings, and mail outcomes of hearings.

PROCEDURE:

A. Expedited Hearing on Lease Terminations.

1. For grievances involving a lease termination based upon 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, an expedited hearing may be used. All written requests will be date-stamped at the time of receipt by RHA.
2. The grievance must be submitted no later than 5 business days as outlined on the lease termination notice. Grievance requests received after this timeframe will not be considered.
3. Housing Management Central Office shall give priority to expedited hearings and shall attempt to schedule such hearings within 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 shall review the issue and attempt to contact the resident within 10 business days to discuss and resolve the grievance informally without a hearing, if possible. If a resident grievance involves an allegation of discrimination or harassment by staff, the grievance shall be referred to the next level of supervision. The grievance must be submitted no later than 10 business days after the RHA's alleged action. Grievance requests received after the timeframe will not be considered. The grievance may be made orally or in writing.
2. After the review of the grievance, the resident shall 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 shall be appointed by RHA in consultation with the Inter Community Council President.

- b. The Housing Management Central Office shall provide information on RHA policies and procedures as needed or requested by the Hearing Officer.

2. Escrow Deposits

- a. If a grievance involves the amount of rent owed by the resident, the resident must pay into an escrow account with RHA, the amount of rent and other charges due as determined by RHA.
- b. The Property Manager notifies the resident of this requirement and the procedures for making the escrow deposits.
- c. The resident shall submit to the Property Manager, either by U.S. mail or hand-delivery a money order or cashier's check made payable to the RHA in the amount due to RHA and monthly thereafter shall deposit the amount of the monthly rent and other charges in the escrow account until the dispute is resolved.
- d. Failure to make an escrow deposit when due shall result in termination of the grievance proceedings. The Property Manager shall notify the resident in writing of the missed deposit and resulting termination of the grievance proceedings.
- e. The RHA Director of Housing Management 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 shall receive the escrowed monies back with any interest due.

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 written request for a formal hearing to the site's management office within 10 business days, as applicable, of the date the result of the informal review or indicate and sign the Summary/Decision of the Informal Settlement Meeting form to request a formal hearing. The original hearing request received by the management office along with the Summary/Decision of the Informal Settlement Meeting letter is forwarded to Housing Management Central Office for scheduling.
- b. The written request shall specify:
 - 1. the reasons for requesting the grievance; and
 - 2. the action or relief sought.

- c. If no hearing request is received, RHA's disposition of the grievance under the informal settlement of grievances shall become final. The resident's failure to request a hearing shall not constitute a waiver by the resident of his/her right to contest RHA's action in any judicial proceeding.
- d. Any written grievance request received by the Housing Management Central Office that was not first considered informally is referred back to the site's management for an informal review and possible settlement without a hearing. A notice shall 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, the Director of Housing Management may waive this requirement. The reason for waiving this requirement will be documented in the file along with the resident's written request for the hearing.
- e. If it is determined the resident has complied with the conditions of the grievance policy, the formal hearing will be scheduled. Written notification specifying the date, time and location of the hearing shall be delivered to the resident, his/her representative (if known), and the appropriate RHA officials.

4. Accommodations

- a. The Property Manager shall receive all requests for accommodation by a resident and is to be shared with the Housing Management Central Office staff who schedules the hearing.

5. RHA Witnesses

- a. It is the responsibility of the Property Manager to identify witnesses for the hearing, which may include residents, police officers or other staff members.
- b. RHA may reimburse resident witnesses for travel expenses, such a bus fare or taxi fare.

6. The Hearing

- a. The Housing Management Central Office staff will coordinate with the Hearing Officer to schedule the date, time and location for the hearing. Housing Management staff will provide the receptionist at 900 Haynes Street a list of residents who are scheduled for a hearing.
- b. The resident and his/her counsel or other representatives must sign-in at the receptionist desk and may be asked to wait in the lobby area on the 2nd floor, until called by the Hearing Officer.

- c. Witnesses who will be presenting at the hearing for RHA must sign-in at the receptionist desk and may be asked to wait in the lobby area on the 2nd floor, until called by the Hearing Officer.
- d. The Hearing Officer shall arrange the seating for the hearing, giving consideration to any issues of disability, i.e., making appropriate space available for persons in wheelchairs, and safety concerns.
- e. If personal safety concerns are expressed by staff, the presence of a City of Raleigh Police Officer may be present during the hearing or other arrangements may be made to address the safety concerns.
- f. The Hearing Officer shall call the parties 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 or deny relief as appropriate.
- g. The Hearing Officer shall tape record the proceedings.
- h. RHA shall have the burden of proving that the resident violated the lease, RHA policies, or other applicable rule or agreement and the proposed action is justified and in compliance with RHA policies and HUD regulations.
- i. RHA shall first present its case, providing details of the tenancy, the events leading to the action taken, and any supporting documentation or testimony.
- j. Following RHA, the resident presents his/her grievance, and reasons for contesting RHA's action or inaction, and may provide additional information, testimony and supporting documentation.
- 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 final 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 the resident appears within 15 minutes of the hearing's scheduled start time, or calls notifying RHA within 30 minutes of the scheduled hearing time that he/she will

be late, through no fault of their own, the Hearing Officer may, in his/her discretion, allow the hearing to start at a later time.

b. If the resident of RHA fails to appear at a scheduled hearing more than 15 minutes after the scheduled hearing time, without prior notice or explanation, the Hearing Officer shall dismiss the hearing and declare a default on the part of RHA or a waiver of the resident's right to a hearing. Waiver of the resident's right to a hearing shall 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 shall prepare a written decision within 20 business days of the conclusion of the hearing, affirming or rejecting RHA's action and setting forth the reasons therefore. A longer time may be allowed in extenuating circumstances. A copy of the decision shall be sent to the Housing Management Central Office. Housing Management Central Office staff will send a copy of the decision to the resident and copy the Property Manager. The Property Manager shall retain a copy of the decision in the resident's file. A copy of the decision, with all names and identifying references deleted, shall also be maintained on file for a two-year period by RHA. The decisions shall be available for inspection by any other resident and his/her representative, or the Hearing Officer.
- b. The decision of the Hearing Officer shall 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 shall specify the precise nature of its objection and the laws and regulations that it believes are contravened. In considering any decision of the Hearing Officer, the Board shall provide notice and an opportunity to be heard to the resident and his/her representative. The hearing shall be held within 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, shall 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 thereafter be brought in the matter.

9. RHA Eviction Actions

If the Hearing Officer upholds the RHA's action to terminate the tenancy, RHA shall not commence an eviction action in the District Court/Small Claims until it has served a notice to vacate on the resident. Such notice to vacate will be in writing from the Director of Housing Management and specify the date in which the resident must vacate the premises prior to appropriate judicial action being brought against the resident.

I, _____, received a copy of the Raleigh Housing Authority's Grievance Procedure.

Resident's Signature _____ Date _____

Resident's Signature _____ Date _____

Manager's Signature _____ Date _____