

**GRIEVANCE PROCEDURE OF
THE HOUSING AUTHORITY OF THE CITY OF ALLENTOWN (HEREINAFTER
REFERRED TO AS THE “ALLENTOWN HOUSING AUTHORITY”)**

1. PURPOSE AND SCOPE

A. General Statement

To set forth the requirements, standards and criteria to assure that a tenant is afforded an opportunity for a hearing if the tenant disputes within a reasonable time any Housing action, or failure to act, involving the resident’s lease with the Allentown Housing Authority or Allentown Housing Authority regulations; which adversely affect the individual resident’s rights, duties, welfare or status.

B. Incorporation into Lease

This grievance procedure is incorporated into the lease by reference thereto, and is, therefore, binding upon both the tenant and the Allentown Housing Authority.

C. Notice of Proposed Changes to Grievance Procedure

The Allentown Housing Authority shall provide at least thirty (30) days notice to residents and the residents organization setting forth proposed changes in the Allentown Housing Authority grievance procedure, and providing an opportunity to present written comments. Comments shall be considered by the Allentown Housing Authority before adoption of any grievance procedure changes by the Allentown Housing Authority.

D. Obligation to Provide Grievance Procedure to Tenants and Resident Organizations

The Allentown Housing Authority shall furnish a copy of the grievance procedures to each tenant and to the resident organizations.

2. APPLICABILITY

This grievance procedure is applicable to all individual grievances between the tenant and the Allentown Housing Authority, as defined herein.

It is not applicable to:

- (a) Disputes between residents which do not involve the Allentown Housing Authority;
- (b) Class grievances;
- (c) Desires of residents to initiate or negotiate policy changes between a group or groups of residents and the Allentown Housing Authority; or

- (d) Any grievance concerning an eviction or termination of tenancy based upon:
- (1). Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the Allentown Housing Authority's premises for other residents or employees of the Allentown Housing Authority.
 - (2). Any violent drug-related criminal activity on or off Allentown Housing Authority property.
 - (3). Any criminal activity that resulted in felony conviction of a household member.

3. DEFINITIONS

- (a) **"GRIEVANCE"** shall mean any dispute which a tenant may have with respect to Allentown Housing Authority action or failure to act in accordance with the individual tenant's lease, or Allentown Housing Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status.
- (b) **"COMPLAINANT"** shall mean any tenant whose grievance is presented to the Allentown Housing Authority or at the project management office.
- (c) **"ELEMENTS OF DUE PROCESS"** shall mean an eviction action or 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 resident to refute the evidence presented by the Allentown Housing Authority, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defenses which the resident may have;
 - (4) A decision on the merits.
- (d) **"HEARING OFFICER"** shall mean a person selected, in accordance with the provisions herein provided, to hear grievances and render a decision thereto.
- (e) **"HEARING PANEL"** shall mean a panel selected in accordance with the provisions herein provided to hear grievances and render a decision with respect thereto.
- (f) **"TENANT"** shall mean the adult person (or persons) (other than live-in-aides):

- (1) Who resides in the unit, and who executed the lease with the Allentown Housing Authority as lessee of the dwelling unit, or, if no such person now resides in the dwelling unit;
- (2) Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.

(g) **“RESIDENT ORGANIZATION”** includes a resident management corporation.

4. INFORMAL SETTLEMENT CONFERENCE

Any grievance shall be first be presented by the resident, within five (5) working days of the event creating a grievance, either orally or in writing, to the office of the Allentown Housing Authority or to the office of the project in which the complainant resides so that the grievance may be discussed informally in an attempt to settle without a hearing. A summary of such discussion shall be prepared within five working days. One copy shall be given to the resident and one copy shall be retained in the Allentown Housing Authority resident 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, under this procedure, may be obtained if the complainant is not satisfied.

5. PROCEDURES TO OBTAIN A FORMAL HEARING

The complainant shall submit a written request for a formal hearing to the Allentown Housing Authority or the project office within five (5) working days after receipt of the summary of the Informal Settlement Conference. The written request shall specify the reasons for the grievance and the action or relief sought.

6. SELECTION OF HEARING OFFICER

A hearing officer shall be an impartial, disinterested person selected by the Allentown Housing Authority, other than the person who made or approved the Allentown Housing Authority action under review or a subordinate of such person.

The Hearing Officer shall be selected by the Allentown Housing Authority from a pool of hearing officers composed of members of the Lehigh County Bar or the Northampton County Bar. The hearing officer shall be paid on a per diem basis as they serve, at a rate set by the Allentown Housing Authority.

The resident organizations shall be informed of the identity of the proposed hearing officer. Any comments or recommendations will be considered by the Allentown Housing Authority prior to the hearing officer’s appointment.

7. FAILURE TO REQUEST A HEARING

If the complainant does not request a hearing in accordance with the procedures contained herein, the disposition made of the grievance by the Allentown Housing Authority following the informal conference is final; except, that failure by complainant to request a hearing does not

constitute a waiver by the complainant of the right to contest such action in an appropriate judicial proceeding.

8. HEARING PREREQUISITE

All grievances shall be personally presented either orally or in writing pursuant to the informal procedure prescribed in **SECTION IV** above; except, that if complainant shows good cause for failure to comply with **SECTION IV**, the provisions of this section may be waived by the hearing officer.

9. ESCROW DEPOSIT

Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which the Allentown Housing Authority claims is due, the complainant shall pay to the Allentown Housing Authority an amount equal to the amount of the rent claimed due and payable as of the first of the month proceeding the month in which the act or failure to act took place. Complainant thereafter shall deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer.

Provision for payment of rent, as above, may be waived by the Allentown Housing Authority in the extenuating circumstances defined in 24 C.F. R. §§ 5.630 and/or 5.615. Unless so waived, failure to make an escrow deposit shall result in termination of the grievance procedure; however, termination of the procedure shall not constitute a waiver of any right of the complainant to contest the Allentown Housing Authority's disposition of the grievance in any appropriate judicial proceeding.

10. SCHEDULING OF HEARINGS

Upon complainant's compliance with all the grievance procedures, a hearing shall be scheduled by the hearing officer for a time and place reasonably convenient to both the complainant and the Allentown Housing Authority. All hearings shall be held at the offices of the Allentown Housing Authority, at Gross Towers, 1339 West Allen Street, Allentown, Pennsylvania, 18102, unless complainant has submitted an acceptable reason to the hearing officer for another location.

A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant and the appropriate Allentown Housing Authority official by first class mail.

11. PROCEDURES GOVERNING THE HEARING

The hearing shall be held before the hearing officer. The complainant shall be afforded a fair hearing, including:

- (a) The opportunity before the hearing, to examine and, at the expense of the complainants, to copy all Allentown Housing Authority documents, records, and regulations, that are directly relevant to the hearing. Any document not made

available after request therefore by the complainant may not be relied upon by the Allentown Housing Authority at the grievance hearing;

- (b) The right to be represented by counsel or other person chosen as the tenant's representative, and to have such person make statements on the tenant's behalf;
- (c) The right to a private hearing unless the complainant requests a public hearing;
- (d) The right to present evidence and arguments in support of his/her complaint, to controvert evidence relied upon by the Allentown Housing Authority or project management, and to confront and cross-examine all witnesses on whose testimony or information the Allentown Housing Authority or project management relies; and
- (e) A decision based solely and exclusively upon the facts presented at the grievance hearing.

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

If the complainant or the Allentown Housing Authority fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for a period not to exceed five (5) working days or to make a determination that the party waived his/her right to a hearing. Both the complainant and the Allentown Housing Authority shall be notified of the determination by the hearing officer, provided that a determination that the complainant has waived his/her right to a hearing shall not constitute a waiver of any right the complainant may have to contest the Allentown Housing Authority's disposition of the grievance 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 Allentown Housing Authority must sustain the burden of justifying the Housing Authority action or failure to act against which the complainant is directed.

The hearing shall be conducted informally by the hearing officer and oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The hearing officer shall require the Allentown Housing Authority, complainant, counsel and other participant to conduct themselves in an orderly fashion. Failure to comply with the directions of hearing officer to obtain and maintain order may result in exclusion from the proceedings or a decision adverse to the interests of the disorderly party, granting or denying relief sought as appropriate.

The complainant or the Allentown 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 Allentown Housing Authority shall provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include, but are not limited to qualified sign language interpreters, readers, accessible locations, or attendants.

If the resident tenant is visually impaired, any notice to the resident tenant which is required under these procedures shall be in an accessible format, designed to give actual notice.

12. DECISION OF THE HEARING OFFICER

The hearing officer shall prepare a written decision, together with the reasons therefore, within ten (10) working days after the hearing. A copy of the decision shall be sent to the complainant and the Allentown Housing Authority. The Allentown Housing Authority shall retain a copy of the decision in the tenant's folder. A copy of such decision with all names and identifying references deleted, shall be maintained on file by the Allentown Housing Authority and made available for inspection by a prospective complainant, his/her representative, or hearing officer.

The decision of the hearing officer shall be binding on the Allentown Housing Authority, which Housing Authority shall take all actions, or refrain from any actions, necessary to carry out the decision unless the Allentown Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination that:

- (a) The grievance does not concern Allentown Housing Authority action or failure to act in accordance with or involving the complainant's lease or Allentown Housing Authority regulations, which adversely affect the complainant's rights, duties, welfare or status; or
- (b) The decision of the hearing officer is contrary to applicable federal, state or local law, HUD regulations or requirements of the Annual Contribution Contract between HUD and the Allentown Housing Authority.

A decision of the hearing officer or the Allentown Board of Housing Commissioners in favor of the Allentown 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 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 this matter.