

**GRIEVANCE PROCEDURES
FOR LOW RENT PUBLIC/ASSISTED AND NON-PUBLIC HOUSING
(INCLUDING EVICTION PROCEDURES
FOR NON-PUBLIC HOUSING)**

of the

**Housing Opportunities Commission
(HOC)**

of

Montgomery County, Maryland

**Adopted 1972
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I. INTRODUCTION

A. Purpose

HOC's Grievance Procedure was adopted to ensure that certain HOC residents are afforded an opportunity for an Informal Hearing where complaints against alleged arbitrary, unfair, or illegal practices can be aired and resolved. The procedure also provides an opportunity for an informal hearing if the Resident files a Grievance based on perceived HOC action or failure to act involving the Resident's lease, recertification, eviction or termination of assistance for Housing Choice Voucher Rental Assistance Program participants, which adversely affects the individual Resident's or Participant's rights, duties, welfare or status.

The Procedure applies to Residents in Public Housing and Participants in the Housing Choice Voucher Program. Reasonable accommodations shall be provided to persons with disabilities to allow for full participation in all stages of the process.

Applicant appeals of Public Housing, Opportunity Housing, and the Housing Choice Voucher Program will be adjudicated by the Hearing Board Officer under the Procedure for Applicant Appeals.

Grievances may be initiated by the following:

1. Residents of public housing properties (rental and homeownership).
2. Participants of Housing Choice Voucher Program only in matters relating to termination of assistance or reasonable accommodation.

Residents, however, **may not** use the Grievance Procedure for the following circumstances:

- non-payment of rent, unless administrative error by HOC;
- breach of agreement to pay outstanding debts owed HOC;
- any criminal activity (as identified in the Lease or applicable HUD regulations) by a resident or participant, or a member of the household; and/or,
- any drug-related criminal activity (as identified in the Lease or applicable HUD regulations) by a resident, or a member of the household on or near the premises as evidenced by an arrest and/or conviction of a crime related to the use, sale, possession, distribution or manufacture of controlled dangerous substances.
- Criminal activity directly relating to domestic violence, dating violence, or stalking engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination if the tenant or immediate member of the tenant's family is a victim of that domestic violence, dating violence, or stalking. The Housing Opportunities Commission may bifurcate a lease in order to

terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

B. Definitions

1. Office Conference – First-level informal discussion of the issues conducted by program staff. Office conference will not be conducted in matters involving criminal or drug related activity.
2. Complainant – The resident or participant who initiates the Grievance.
3. Dating violence - Means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of a relationship can be determined based on the length and type of relationship and the frequency of interaction between the persons involved in the relationship.
4. Domestic violence - Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Montgomery County, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Montgomery County.
5. Grievance – A request to appeal a decision regarding any dispute which a Resident or Participant (only in the termination of assistance) may have with respect to an HOC action or failure to act in accordance with the individual resident's lease or HOC regulations that adversely affects the individual's rights, duties, welfare or status.
6. Hearing Officer - The individual appointed by the HOC to conduct the Housing Choice Voucher Informal Hearing who is neither the person who made or approved the decision, nor a subordinate of that person. The Officer may be a independent contractor, volunteer or HOC management or other officials as the HOC may from time-to-time designate.
7. Lease Enforcement Panel – A panel comprised of the Directors of Housing Management and Resident Services or other designees of the Executive Director.
8. Program Staff - The HOC Resident Manager and Resident Counselor assigned to the property; or the Rental Assistance Specialist and Resident Counselor who work with the participant.

9. Resident/Participant – Any qualified occupant residing in housing accommodations owned and/or managed by HOC or participating in the Housing Choice Voucher Rental Assistance Program.
10. Stalking - Means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.
11. Supervisory Case Conference – The informal hearing with Resident Services and Property Management or Rental Assistance Supervisory staff as applicable; the review after the program staff determination of issue.
12. Supervisory Staff – Staff that review program staff determination.

II. INFORMAL CONFERENCE ON EVICTION FROM PUBLIC HOUSING

(Eviction of residents of Public Housing is also discussed in HOC's "Admissions and Continued Occupancy Policy for Public Housing", Section 20.2.)

1. All evictions and terminations will be conducted in accordance with Federal, state, and local laws and regulations, and the resident's lease, as applicable.
2. Program staff will inform the Resident in writing, by Certified Mail, return receipt requested, of the lease or program violation, the consequences of continuing violations and the date, time and location for case conferences, if appropriate. The resident may bring interested parties to the case conference.

The conference may be held in absence of the resident/participant if the resident fails to appear.

3. If the resident requests a review of the initial determination, a letter is mailed to the Resident identifying the specific issues and notifying of the scheduling of a Supervisory Case Conference.

Following the conference, a letter is mailed by Certified Mail to the resident/ identifying any resolutions agreed to or staff recommendations.

4. If appropriate, Supervisory Staff may enter into an alternative agreement with the resident in lieu of a recommendation for eviction/ termination.
 - a. If an agreement is reached for the payment of outstanding debts owed to HOC, both parties will execute a standard form agreement to be approved by the Director of Housing Management. If the agreement is broken by the resident, HOC may proceed to court as stipulated in the agreement for judgment against the resident and may repossess the unit.
 - b. If a satisfactory agreement is not reached for the payment of outstanding debts, HOC may proceed to issue a Notice to Vacate. This shall not, however, constitute a waiver of the Resident's right to grieve HOC's action or contest the action in an appropriate judicial proceeding.

c. Supervisory staff may recommend to counsel that HOC bifurcate a lease in order to terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant.

5. If Supervisory staff determines that eviction or termination is appropriate, they will prepare a written recommendation. The recommendation must be accompanied by supporting documentation including but not limited to:
 - the applicable lease sections/ program rules pertaining to the violations;
 - all related correspondence;
 - case conference summaries;
 - notes of telephone calls;
 - service and/or other agreements;
 - statement of facts; and/or
 - chronology of staff actions.

III. EVICTION

1. In a case where Supervisory Staff has recommended eviction, the matter must be forwarded for Lease Enforcement Panel approval.
2. When the Lease Enforcement Panel has reached a decision to evict, the case file will be sent to HOC's attorney with written authorization to send the resident a notice to vacate, or other written notice that HOC intends to terminate tenancy.
3. The Attorney representing HOC will send a written Notice to Vacate to the resident indicating that a decision to evict has been reached.
 - a. The notice will specify that if the resident fails to vacate the premises within the applicable statutory period or on the termination date stated in the notice, whichever is later, appropriate action will be brought against him/her and he/she may be required to pay court costs and attorney fees.

IV. TERMINATION OF ASSISTANCE THROUGH THE HOUSING CHOICE VOUCHER PROGRAM

(Termination from the Voucher program is also discussed in Chapters 15 and 19 of the Housing Choice Voucher Administrative Plan.)

1. If appropriate, supervisory staff may permit an owner or manager receiving Housing Assistance Payments to bifurcate a lease in order to terminate assistance to any individual who is a tenant or lawful occupant and who

engages in criminal acts of physical violence against family members or others without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also a tenant or lawful occupant. The composition of the voucher household would be revised to reflect this change.

2. Informal Hearing Procedures

In compliance with agency policies, HOC staff will review relevant information to determine if termination referral warrants the issuance of a termination letter.

If warranted, HOC staff will send the termination letter to the participant family. The letter will detail the basis for the termination and the options the family has to contest it, including how to request an informal hearing.

When the HOC receives a request for an informal hearing, the hearing shall be scheduled within 30 days. The notification of hearing will inform the family of:

The date and time of the hearing;

The location where the hearing will be held;

The family's right to bring evidence, witnesses, legal or other representation at the family's expense; and,

The right to view any documents or evidence in the possession of HOC, upon which HOC based the proposed action and at the family's expense, to obtain a copy of such documents prior to the hearing. Requests for such documents or evidence must be received no later than 10 days before the hearing date.

The Informal Hearing shall be conducted by the Hearing Officer.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The Hearing Officer shall issue a written determination to the participant no later than 30 days after the conclusion of the hearing.

The determination letter will state that the internal appeals process is closed and will state that the client may seek judicial or other remedies outside the agency's procedures.