

# Grievance And Appeals Policy



Created 3/4/2016



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INTRODUCTION

Through PIH Notice 2012-32 Rev. 2, HUD provided guidance that the grievance procedures afforded to families living in Conventional Public Housing before conversion through RAD to Project Based Rental Assistance (PBRA) must be continued after the conversion. The owner has grievance and appeals policies that apply to applicants and others that apply to residents. Please see this Grievance and Appeals Policy for a full explanation of both. Below is the full account of all grievance procedures for applicants and residents of the PBRA property. This Grievance and Appeals policy is incorporated by reference into the House Rules and considered an attachment to the lease.

This policy discusses grievances and appeals pertaining to Owner actions or failures to act that adversely affect PBRA applicants or residents. The policies are discussed in the following two parts:

- Part I: Informal Hearings for PBRA Applicants. This part outlines the requirements and procedures for informal hearings for PBRA applicants.
Part II: Grievance Procedures for PBRA Residents. This part outlines the requirements and procedures for handling grievances for PBRA residents.

PART I: INFORMAL HEARINGS FOR PBRA APPLICANTS

When the owner makes a decision that has a negative impact on an applicant family, the family is often entitled to appeal the decision. For applicants, the appeal takes the form of an informal hearing. HUD

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regulations do not provide a structure for or requirements regarding informal hearings for applicants (except with regard to citizenship status, to be covered in Part II). This part discusses the owner's policies necessary to respond to applicant appeals through the informal hearing process.

### ***INFORMAL HEARING PROCESS [24 CFR 960.208(a) and PH Occ GB, P. 58]***

Informal hearings are provided for PBRA applicants. An applicant is someone who has applied for admission to the PBRA program, but is not yet a resident in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to PBRA are not entitled to the same hearing process afforded residents in the owner grievance procedure [24 CFR 966.53(a) and PH Occ GB, p. 58].

Informal hearings provide the applicant a means to hear the details of the reasons for rejection, and an opportunity to present evidence to the contrary if available and to claim mitigating circumstances if possible.

- **Use of Informal Hearing Process**

The owner will only offer the opportunity of an informal hearing to applicants who have been determined as ineligible for admission.

- **Notice of Denial**

The owner will give an applicant prompt notice of a decision denying eligibility for admission. The notice will contain a brief statement of the reasons for the owner's decision, and will also state that the applicant may request an informal hearing to dispute the decision. The notice must describe how to obtain the informal hearing.

Prior to notification of denial based on information obtained from criminal or sex offender registration records, the family, in some cases, must be given the opportunity to dispute the information in those records which would be the basis of the denial.

- **Scheduling an Informal Hearing**

A request for an informal hearing must be made in writing and delivered to the owner either in person, by fax, by email or by first class mail, by the close of the business day, no later than 15 calendar days from the date of owner's notification of denial of admission.

Owner will send written notice of the informal hearing within 30 business days of the family's request. Owner will make every effort to hold the hearing within 45 calendar days of receiving the request for the hearing.

- **Conducting an Informal Hearing [PH Occ GB, p. 58]**

The informal hearing will be conducted by an appointed Hearing Officer who is a person other than the one who made the decision under review, or a subordinate of this person.

The applicant will be provided an opportunity to present written or oral objections to the decision of the owner.

The Hearing Officer will render a decision on whether admission should be granted or denied.

- **Informal Hearing Decision [PH Occ GB, p. 58]**

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The owner will notify the applicant of owner's final decision, including a brief statement of the reasons for the final decision.

In rendering a decision, the owner will evaluate the following matters:

- Whether or not the grounds for denial were stated factually in the notice.
- The validity of grounds for denial of admission. If the grounds for denial are not specified in the regulations or in the owner's policy, then the decision to deny assistance will be overturned. See the Tenant Selection Plan for a detailed discussion of the grounds for applicant denial.
- The validity of the evidence. The owner will evaluate whether the facts presented prove the grounds for denial of admission. If the facts prove that there are grounds for denial, and the denial is required by HUD, the owner will uphold the decision to deny admission.
- If the facts prove the grounds for denial, the Hearing Officer will make the final decision to deny admissions.

The owner will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 15 calendar days of the informal hearing to the applicant and his or her representative, if any.

If the informal hearing decision overturns the denial, processing for admission will resume. The owner will make every effort to resume the screening process for reinstated applicants within 20 calendar days of the hearing decision.

If the family fails to appear for their informal hearing, the denial of admission will stand and the family will be so notified.

The applicant may request that the Hearing Officer consider a request for Reasonable Accommodations under the Fair Housing Act and Section 504 with respect to past conduct (see below).

If the basis for the denial relates to family violence, the applicant may qualify for an exception under the Violence Against Women Act Amendments.

The Notice of Denial letter will include information for the resident regarding who to contact for legal representation.

### ***REASONABLE ACCOMMODATION FOR PERSONS WITH DISABILITIES [24 CFR 966.7]***

Persons with disabilities may request reasonable accommodations to participate in the informal hearing process and the owner must consider such accommodations. The owner must also consider reasonable accommodation requests pertaining to the reasons for denial if related to the person's disability. See the Reasonable Accommodation Policy for more detail pertaining to reasonable accommodation requests.

### ***HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]***

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the

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requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the owner's hearing is pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the owner's informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

- **Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]**

The notice of denial or termination of assistance for noncitizens must advise the family of any of the following that apply:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a resident, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the owner either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

- **United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]**

When the owner receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the following process will be observed:

- The owner will notify the family of the results of the USCIS verification within 10 calendar days of receiving the results.
- The family will have 30 days from the date of the owner's notification to request an appeal of the USCIS results. The request for appeal must be made by the family in writing directly to the USCIS.
- The family must provide the owner with a copy of the written request for appeal and proof of mailing within 10 calendar days of sending the request to USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the owner, of its decision. When the USCIS notifies the owner of the decision, the owner must notify the family of its right to request an informal hearing.

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The owner will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

- **Informal Hearing Procedures for Applicants [24 CFR 5.514(f)]**

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, an applicant family may request that the owner provide a hearing. The request for a hearing must be made either within 30 days of receipt of the owner's notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

- **Informal Hearing Officer**

The owner must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision.

- **Evidence**

The family will be provided the opportunity to examine and copy at the family's expense or \$.10 per page, at a reasonable time in advance of the hearing, any documents in the possession of the owner pertaining to the family's eligibility status or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

The family will be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the owner, and to confront and cross-examine all witnesses on whose testimony or information the owner relies.

- **Representation and Interpretive Services**

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or the owner, as may be agreed upon by the two parties. If the family does not arrange for their own interpreter, the owner is still obligated to provide oral translation services in accordance with its LEP Plan.

- **Recording of the Hearing**

The family is entitled to have the hearing recorded by audiotape. The owner will not provide a transcript of an audio taped informal hearing.

- **Hearing Decision**

The owner must provide the family with a written notice of the final decision, based solely on the facts presented at the hearing, within 10 business days of the date of the informal hearing. The notice must state the basis for the decision.

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- **Retention of Documents [24 CFR 5.514(h)]**

The owner must retain for a minimum of 5 years the following documents that may have been submitted to the owner by the family, or provided to the owner as part of the USCIS appeal or the owner's informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision

### **PART II: GRIEVANCE PROCEDURES FOR PBRA RESIDENTS**

#### ***REQUIREMENTS [24 CFR 966.52]***

Owner must have a grievance procedure in place through which residents of PBRA are provided an opportunity to grieve any owner action or failure to act involving the lease or owner policies that adversely affect their rights, duties, welfare, or status.

The owner grievance procedure will be incorporated by reference in the House Rules.

The owner will provide at least 30 days notice to residents and resident organizations setting forth proposed changes in the owner's grievance procedure, and providing an opportunity to present written comments. Comments submitted must be considered by the owner before adoption of any grievance procedure changes by the OWNER.

#### ***DEFINITIONS [24 CFR 966.53; 24 CFR 966.51(a)(2)(i)]***

There are several terms used by HUD with regard to PBRA grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – any dispute which a resident may have with respect to OWNER action or failure to act in accordance with the individual resident's lease or OWNER regulations which adversely affect the individual resident's rights, duties, welfare or status.
- **Complainant** – any resident whose grievance is presented to the OWNER or at the project management office.
- **Due Process Determination** – 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.
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or local court in which the following procedural safeguards are required:
  - Adequate notice to the resident of the grounds for terminating the tenancy and for eviction.
  - Right of the resident to be represented by counsel.
  - Opportunity for the resident to refute the evidence presented by the OWNER including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have.

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- A decision on the merits.
- **Hearing Officer/Panel** – a person/panel selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto.
- **Resident** – the adult person (or persons) (other than a live-in aide).
  - Who resides in the unit, and who executed the lease with the OWNER as lessee of the dwelling unit, or, if no such person now resides in the unit.
  - Who resides in the unit, and who is the remaining head of household of the resident family residing in the dwelling unit.
- **Resident Organization** – includes a resident management corporation.

### ***APPLICABILITY [24 CFR 966.51]***

Potential grievances could address most aspects of an owner's operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual resident issues relating to the owner. It is not applicable to disputes between residents not involving the owner. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the owner.

This property is located in Texas, which is a due process state. Therefore, the owner will not offer formal grievance hearings for lease terminations involving criminal activity that resulted in a felony arrest or conviction of a household member or that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the owner, for violent criminal activity or for drug-related criminal activity on or off the premises.

The judicial eviction procedure used by OWNER is a forcible detainer lawsuit in the appropriate Justice Court pursuant to Chapter 24 of the Texas Property Code. HUD has determined that this eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations.

### ***INFORMAL SETTLEMENT OF GRIEVANCE [24 CFR 966.54]***

The owner will accept requests for an informal settlement of a grievance either orally or in writing, to the main office or to the PBRA Manager's office where the resident resides within 10 calendar days of the grievable event.

Within 10 calendar days of receipt of the request the owner will arrange a meeting with the resident at a mutually agreeable time and confirm such meeting in writing to the resident.

The owner will automatically schedule informal settlement conferences for all residents who have failed to make payment of rent on time. The date and time of the informal settlement conference is stipulated on the 14-Day Notice of Lease Termination.

If a resident fails to attend the scheduled informal settlement conference for no good cause, the owner will not reschedule the appointment and the resident will waive their right to a formal hearing.

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If a resident fails to attend the scheduled meeting without prior notice, the owner will reschedule the appointment only if the resident can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family. In addition, the owner will take into consideration the family's obligations such as work schedule, medical appointments or school attendance when scheduling and rescheduling the informal settlement conference.

The owner will provide the resident with a summary of the informal settlement within 5 business days. The summary is provided to the resident whether or not the resident appeared for the informal settlement conference. One copy will be given to the resident and one copy will be retained in the owner's resident file.

The summary will specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied. But note, formal grievance hearings will not be offered for lease terminations involving criminal activity or drug activity.

For owners who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

### ***PROCEDURES TO OBTAIN A HEARING [24 CFR 966.55]***

- **Requests for Hearing and Failure to Request [24 CFR 966.55(a), (c), and (d)]**  
Residents must attend an informal settlement meeting prior to requesting a grievance hearing, unless the resident can show good cause for failure to proceed with the informal settlement process.

The resident must submit a written request for a grievance hearing to owner within 5 business days of the resident's receipt of the summary of the informal settlement. If the resident has shown good cause for failure to request an informal settlement conference, the resident must make the request for a grievance hearing within 15 calendar days of the grievable event.

If the complainant does not request a hearing, the owner's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the owner's action in disposing of the complaint in an appropriate judicial proceeding [24 CFR 966.55(c)].

- **Escrow Deposits [24 CFR 966.55(e)]**  
Before a hearing is scheduled in any grievance involving the amount of rent that the owner claims is due, the family must pay an escrow deposit to the owner. When a family is required to make an escrow deposit, the amount is the amount of rent the resident contends is due and payable as of the first of the month preceding the month in which the family's act or failure to act took place. After the first deposit the family must deposit the

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same amount monthly until the family's complaint is resolved by decision of the Hearing Officer. The owner must waive the requirement for an escrow deposit where the family has requested a financial hardship exemption from minimum rent requirements or is grieving the effect of welfare benefits reduction in calculation of family income [24 CFR 5.630(b)(3)].

Unless the owner waives the requirement, the family's failure to make the escrow deposit will terminate the grievance procedure. A family's failure to pay the escrow deposit does not waive the family's right to contest the owner's disposition of the grievance in any appropriate judicial proceeding.

- **Scheduling of Hearings [24 CFR 966.55(f)]**

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing will be scheduled by the owner within 10 business days of receiving the written request for a hearing. The owner will make every effort to hold the hearing within 20 calendar days of receiving the request for a hearing. A written notification specifying the time, place and the procedures governing the hearing will be delivered to the complainant and the appropriate owner official.

The owner will permit the resident to request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing at least 48 hours prior to the hearing date. At its discretion, the owner may request documentation of the "good cause" prior to rescheduling the hearing.

- **Expedited Grievance Procedure [24 CFR 966.55(g)]**

The owner will not offer expedited grievance procedures in cases involving criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or employees of OWNER, or drug-related criminal activity.

### ***SELECTION OF HEARING OFFICER [24 CFR 966.55(b)]***

The grievance hearing will be conducted by an impartial person or persons appointed by the owner, other than the person who made or approved the owner action under review or a subordinate of such person.

The grievance hearings will be conducted by a single Hearing Officer and not a panel. The owner has designated the following to serve as Hearing Officer: ***Hearing Officer, Department of Compliance Oversight***

The owner will appoint a person who has been selected in the manner required under the grievance procedure. Efforts will be made to assure that the person selected is not a friend, nor enemy, of the complainant and that they do not have a personal stake in the matter under dispute or will otherwise have an appearance of a lack of impartiality.

### ***PROCEDURES GOVERNING THE HEARING [24 CFR 966.56]***

- **Rights of Complainant [24 CFR 966.56(b)]**

The complainant will be afforded a fair hearing. This includes:

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- The opportunity to examine before the grievance hearing any owner documents, including records and regulations that are directly relevant to the hearing. The resident will be allowed to copy any such document at the resident's expense of \$.10 per page. If the owner does not make the document available for examination upon request by the complainant, the owner may not rely on such document at the grievance hearing.

Hearings may be attended by the following applicable persons:

- A OWNER representative(s) and any witnesses for the owner
  - The resident and any witnesses for the resident
  - The resident's counsel or other representative
  - Any other person approved by the owner as a reasonable accommodation for a person with a disability
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- The right to a private hearing unless the complainant requests a public hearing.
  - The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by the owner or project management and to confront and cross-examine all witnesses upon whose testimony or information the owner or project management relies.
  - A decision based solely and exclusively upon the facts presented at the hearing.
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- **Decision without Hearing [24 CFR 966.56(c)]**

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 proceeding.
  - **Failure to Appear [24 CFR 966.56(d)]**

If the resident does not appear at the scheduled time of the hearing, the Hearing Officer will wait up to 15 minutes. If the resident appears within 15 minutes of the scheduled time, the hearing will be held. If the resident does not arrive within 15 minutes of the scheduled time, they will be considered to have failed to appear. If the resident fails to appear and was unable to reschedule the hearing in advance (as defined above in the Scheduling Hearings section), the resident must contact the owner within 24 hours of the scheduled hearing date, excluding weekends and holidays. The Hearing Officer will reschedule the hearing only if the resident can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities. Good cause" is defined as an unavoidable conflict that seriously affects the health, safety or welfare of the family.
  - **General Procedures [24 CFR 966.56(e), (f), and (g)]**

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the owner must sustain the burden of justifying the owner's action or failure to act against which the complaint is directed [24 CFR 966.56(e)].

The hearing must be conducted informally by the Hearing Officer. The owner and the resident must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint and question any witnesses. In general, all evidence is admissible and may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings [24 CFR 966.56(f)].

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Any evidence to be considered by the Hearing Officer must be presented and/or discussed at the time of the hearing. At the Hearing Officer's discretion, the Hearing Officer may grant the complainant an extension to provide documents/evidence that was discussed at the hearing. There are four categories of evidence.

- **Oral evidence:** the testimony of witnesses.
- **Documentary evidence:** a document that is relevant to the case, for example, a letter written to OWNER. Documents include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.
- **Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the Hearing Officer, such as a model, a chart or other diagram.
- **Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the Hearing Officer's decision.

If the owner fails to comply with the discovery requirements (providing the resident with opportunity to examine the owner's documents prior to the grievance hearing), the Hearing Officer will refuse to admit such evidence.

Other than the failure of the owner to comply with discovery requirements, the Hearing Officer has the authority to overrule any objections to evidence.

The Hearing Officer/panel must require the owner, 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 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 [24 CFR 966.56(f)].

The complainant or the owner 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 [24 CFR 966.56(g)].

If the complainant would like the owner to record the proceedings by audiotape, the request must be made and received in writing to the Hearing Officer by 12:00 p.m. at least 2 business days prior to the hearing. The owner will consider an audio tape recording of the proceedings as a transcript.

- **Accommodations of Persons with Disabilities [24 CFR 966.56(h)]**

The owner will 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 that is required in the grievance process must be in an accessible format.

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See the Reasonable Accommodation Policy for a thorough discussion of the owner's responsibilities pertaining to reasonable accommodation.

### ***DECISION OF THE HEARING OFFICER [24 CFR 966.57]***

The Hearing Officer will issue a written decision, stating the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the decision must be sent to the resident and the owner. The owner must retain a copy of the decision in the resident's folder. A copy of the decision, with all names and identifying references deleted, must also be maintained on file by the owner and made available for inspection by a prospective complainant, his/her representative, or the hearing officer/panel [24 CFR 966.57(a)].

- **Decision Considerations**

In rendering a decision, the Hearing Officer will consider the following matters:

- **Owner's Notice to the Family:** The Hearing Officer will determine if the reasons for the owner's decision are factually stated in the notice.
- **Discovery:** The Hearing Officer will determine if the family was given the opportunity to examine any relevant documents in accordance with OWNER policy.
- **Owner's Evidence to Support the Owner's Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The Hearing Officer will evaluate the facts to determine if they support owner's conclusion.
- **Validity of Grounds for Termination of Tenancy (when applicable):** The Hearing Officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations, the owner's policies and/or other mitigating circumstances. If the grounds for termination are not specified in the regulations or in compliance with the owner's policies, then the decision of the owner will be overturned.

- **Decision Notice**

The Hearing Officer will issue a written decision to the family and owner no later than 15 calendar days after the hearing. The Hearing Officer will create a report, which will contain the following information:

- **Hearing information:**
  - Name of the complainant
  - Date of the hearing
  - Name of the Hearing Officer
  - Name of the owner's representative(s)
  - Name of family representative (if any)
  - Names of witnesses (if any)
- **Background:** A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

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- **Summary of the Evidence:** The Hearing Officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.
  - **Findings of Fact:** The Hearing Officer will include all findings of fact, based on a preponderance of the evidence. Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.
  - **Conclusions:** The Hearing Officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold owner's decision.
  - **Order:** The hearing report will include a statement of whether owner's decision is upheld or overturned. If it is overturned, the Hearing Officer will instruct the owner to change the decision in accordance with the Hearing Officer's determination. In the case of termination of tenancy, the Hearing Officer will instruct the owner to restore the family's status.
- **Consideration of the Circumstances**

The Hearing Officer may consider:

    - All relevant circumstances will be reviewed: such as the seriousness of the case, the extent of participation or culpability of individual family members, mitigating circumstances related to the disability of a family member, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.
    - Whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully.

If the family includes a person with disabilities, the Hearing Officer's decision will be subject to consideration of reasonable accommodation requests made by the head of household or their representative. The Hearing Officer's decision will also be consistent with fair housing and equal opportunity provisions of Fair Housing Act, and with the requirements regarding protection for victims of domestic violence, dating violence, or stalking.

- **Procedures for Further Hearing**

The Hearing Officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the Hearing Officer, the grieved action of the owner will take effect and another hearing will not be granted.
- **Final Decision [24 CFR 966.57(b)]**

The decision of the Hearing Officer is binding on the owner which must take the action, or refrain from taking the action cited in the decision. When the owner considers the decision of the Hearing Officer to be invalid due to:

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- The grievance does not concern the owner's action or failure to act in accordance with or involving the complainant's lease on owner policies which adversely affect the complainant's rights, duties, welfare or status; or
- The decision of the Hearing Officer is contrary to Federal, state or local law, HUD regulations or requirements of the annual contributions contract between HUD and the owner.

The owner will present the matter to the owner's Board of Commissioners within 10 business days of the date of the Hearing Officer's decision. The Board of Commissioners has 30 calendar days to consider the decision. If the Board of Commissioners decides to reverse the Hearing Officer's decision, it must notify the complainant within 10 business days of this decision.

A decision by the Hearing Officer, or Board of Commissioners in favor of the owner or which denies the relief requested by the complainant in whole or in part must not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court [24 CFR 966.57(c)].