

# FRISCO HOUSING AUTHORITY GRIEVANCE PROCEDURE

- A. Purposes and Scope: The purpose of these procedures and requirements is to
1. set forth the requirements, standards, and criteria for a **Grievance Procedure** for residents of the Housing Authority of the City of Frisco to be established and implemented.
  2. to assure that an Authority resident is afforded an opportunity for a hearing if the resident disputes, within a reasonable time, any Authority action or failure to act involving the resident's lease with the Authority or Authority regulations which adversely affect the individual resident's rights, duties, welfare or status.

The **Grievance Procedure** provided herein shall be incorporated in each individual resident's lease by reference.

B. Applicability

1. The Authority's **Grievance Procedure** shall be applicable to all individual grievances as defined herein.
2. This **Grievance Procedure** shall not be applicable to disputes between Residents not involving the Authority or to class grievances.
3. This **Grievance Procedure** is not intended as a forum for initiating or negotiating policy changes between a group of residents and the Authority's Board of Commissioners.
4. Evictions resulting from criminal activity, including drug-related criminal activity on or off PHA premises, are excluded from the **Grievance Procedure**.
5. Excluded from this procedure are termination cases involving any activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or by PHA employees UNLESS it involves domestic violence, dating violence, sexual assault, or stalking.

C. Definitions: The following definitions are applicable to the **Grievance Procedure** and requirements herein.

1. "Authority" where used herein means the Housing Authority of the City of Frisco.
2. "Resident" shall mean any lessee or adult person(s) (other than a live-in aide) of any resident family residing in housing accommodations covered in the lease and grievance procedures.
3. "Grievance" shall mean any dispute which the resident may have with respect to Authority action or failure to act in accordance with the individual resident's lease or Authority regulations which adversely affect the individual resident, resident's rights, duties, welfare or status *except* an eviction or termination of tenancy based upon a resident's creation or maintenance of a threat to health or safety of other residents or Authority employees.
4. "Complainant" shall mean any resident whose grievance is presented to the Authority in accordance with the paragraphs D and E herein.
5. "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:
  - a. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;
  - b. Right of the resident to be represented by counsel;
  - c. Opportunity for the resident to refute the evidence presented by the Authority, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have;
  - d. A decision on the merits.
6. "Hearing Officer" shall mean a person selected in accordance with paragraph E3a below, to hear grievances and render a decision with respect thereto.
7. "Hearing Panel" shall mean a panel selected in accordance with paragraph E3b below, to hear grievances and render a decision with respect thereto.

D. Informal Settlement of Grievance

1. Any grievance shall be *personally* presented, in writing (no telephone calls accepted) to the Authority office located at 9400 3<sup>rd</sup> Street #405 within ten (10) days after the grievant event, so the grievance may be discussed informally and settled without a hearing.
2. A summary of such discussion shall be prepared within five (5) days of the date of discussion and one copy shall be given to the resident and one retained in the resident's file. The summary shall specify:
  - a. The names of the participants;

- b. Date and time of the meeting;
  - c. Nature of the complaint and proposed disposition of the complaint and specific reasons therefore;
  - d. The right of the complainant to a hearing; and
  - e. The procedure by which a hearing may be obtained.
- E. Procedure to Obtain a Hearing
1. Request for Hearing: The complainant shall submit a written request for a hearing to the Authority within fourteen (14) days from the date of the summary of discussion letter pursuant to paragraph D2 above. The written request shall specify:
    - a. The reason for the grievance;
    - b. The action or relief sought; and
    - c. Several dates and times in the following ten (10) working days when the complainant can attend a grievance hearing.
  2. If the complainant requests a hearing in a timely manner, the Authority shall schedule a hearing on the grievance at the earliest time possible for the complainant, Authority and the hearing officer or hearing panel, but in no case later than fifteen (15) working days after this Authority received the complainant's request.
  3. Selection of Hearing Officer or Hearing Panel
    - a. The hearing officer shall be an impartial, disinterested person by the Authority and the complainant. The impartial person will not:
      - 1) Be a subordinate of the person who made or approved the Authority's action.
      - 2) Be a resident of the Authority.
      - 3) Be a relative or close friend of the complainant.
      - 4) The Authority will check with each nominee to determine whether there is an interest in serving as a potential hearing officer, whether the nominee can serve without compensation, and what limitations on the nominee's time would affect such service.
    - b. If the Authority and the complainant cannot agree on a hearing officer, they shall each appoint a member of a hearing panel and the members so appointed shall select a third member.
    - c. If the members appointed by the Authority and the complainant cannot agree on a third member, such member shall be appointed by any other third party agreed upon by the Authority and the complainant.
  4. Failure to Request a Hearing
    - a. If the complainant does not request a hearing in accordance with paragraph E1, then the Authority's disposition of the grievance under "The Informal Settlement of Grievance" shall become final.
    - b. Failure to request a hearing shall not constitute a waiver by the complainant of his/her rights thereafter to contest the Authority's action in disposing of the grievance in an appropriate judicial proceeding.
  5. Hearing Prerequisite
    - a. All grievances shall be personally presented either orally or in writing to the informal procedure prescribed in paragraph D above as a condition precedent to a hearing under this paragraph.
    - b. If the complainant shows good cause why he/she failed to proceed in accordance with paragraph E1 to the hearing officer or hearing panel, the provisions of this subsection may be waived by the hearing officer or hearing panel.
  6. Escrow Deposit
    - a. Before a hearing is scheduled in any grievance involving the amount of rent which the Authority claims is due, the complainant shall pay to the Authority an amount equal to the amount due and payable as of the first of the month preceding the month in which the act or failure to act took place.
    - b. The complainant shall thereafter deposit the same amount of rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer or hearing panel.
    - c. **These requirements may be waived by the Authority in extenuating circumstances.**
    - d. Unless so waived, the failure to make such payments shall result in a termination of the Grievance Procedure.

- e. Failure to make payment shall not constitute a waiver of the right the complainant may have to contest the Authority's disposition of the grievance in any appropriate judicial proceeding.
7. Scheduling of Hearing
- a. Upon complainant's compliance with paragraphs E1, E4, and E5 above, a hearing shall be scheduled by the hearing officer or hearing panel within ten (10) working days, for a time and place reasonably convenient to both the complainant and the Authority.
  - b. A written notification specifying the **time, place and the procedures** governing the hearing shall be delivered to the complainant and the appropriate Authority official.
- F. Procedures Governing the Hearing
1. The hearing shall be held before a hearing officer or hearing panel, as appropriate.
  2. The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:
    - a. The opportunity to examine before the hearing and, at the expense of the complainant, to copy all documents, records and regulations of the Authority that are relevant to the hearing. Any document not so made available, after request by the complainant, may not be relied on by the Authority at the hearing.
    - b. The right to be represented by counsel or other persons chosen as his or her representative;
    - 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 or her complaint, to controvert evidence relied on by the Authority, and to confront and cross-examine all witnesses on whose testimony or information the Authority relies; and
    - e. A decision based solely and exclusively upon the facts presented at the hearing.
  3. The hearing officer or hearing panel may render a decision without proceeding with the hearing if the hearing officer or hearing panel determines that the issue has been previously decided in another proceeding.
  4. If the complainant or the Authority fails to appear at a scheduled hearing, the hearing officer or hearing panel may make a determination to postpone the hearing for not to exceed five (5) business days or may make a determination that the party has waived their rights to a hearing.
    - a. Both the complainant and the Authority shall be notified of the determination by the hearing officer or the hearing panel.
    - b. A determination that the complainant has waived his or her rights to a hearing shall not constitute a waiver of any rights the complainant may have to contest the Authority's disposition of the grievance in an appropriate judicial proceeding.
  5. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the Authority must sustain the burden of justifying the Authority's actions or failure to act against which the complainant is directed.
  6. The hearing shall be conducted informally by the hearing officer or hearing panel and oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to the admissibility under the rules of evidence applicable to judicial proceedings.
  7. The hearing officer or hearing panel shall require the Authority, the complainant, council and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer or hearing panel 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.
  8. The complainant or the 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.
  9. The Authority must provide reasonable accommodations for persons with disabilities to participate in the hearing.
    - a. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants.
    - b. If the resident is visually impaired, any notice to the resident which is required under this section must be in an accessible format.
- G. Decision of the Hearing Office or Hearing Panel
1. The hearing officer or hearing panel shall prepare a written decision together with the reasons therefore, within fifteen (15) days after the hearing.
    - a. A copy of the decision shall be sent to the complainant and the Authority.
    - b. The Authority shall also retain a copy of such decision, with all names and identifying references deleted, in a special file and made available for inspection by a prospective complainant, his representative, or the hearing officer or hearing panel.
  2. The decision of the hearing officer or hearing panel shall be binding on the Authority which shall take

all actions necessary to carry out the decision unless the Authority's Board of Commissioners determines at the next regularly scheduled board meeting, and promptly notifies the complainant within five (5) days thereafter, that:

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

H. Authority Eviction Actions

1. If a resident has requested a hearing in accordance with paragraph E herein, on a complaint involving the Authority's notice of termination of the tenancy and the hearing officer or hearing panel upholds the Authority's action to terminate the tenancy, the Authority shall not commence an eviction action in state or local court until it has served Notice to Vacate on the resident, and in no event shall the Notice to Vacate be issued prior to the decision of the hearing officer or hearing panel having been mailed or delivered to the complainant.
  2. Such Notice to Vacate must be in writing and specify that if the resident fails to quit the premises within the applicable statutory period, or on the termination date stated in the notice of termination, whichever is later, appropriate actions will be brought against him/her, and he/she may be required to pay court costs and attorney fees.
- I. A decision by the hearing officer, hearing panel, or Board of Commissioners in favor of the Authority or which denies relief requested by the complainant in whole or in 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 the matter.

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