

SOMERSWORTH HOUSING AUTHORITY

Public Housing Grievance Procedure

1.0 Applicability of this grievance procedure [24 CFR 966.51]:

In accordance with the applicable federal regulations (24 CFR 966.50), this grievance procedure is applicable to all individual grievances between the tenant and the SHA with the following exceptions of disputes between tenants not involving the SHA or class grievances.

The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the SHA's Board of Commissioners [24 CFR 966.51(b)]; nor shall this process apply to disputes between residents not involving the Somersworth Housing Authority.

The expedited grievance procedure will apply to any termination of tenancy or eviction that involves:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the Authority's public housing premises by other residents or employees of the Authority
- Any violent or drug-related criminal activity on or near such premises.
- Any criminal activity that resulted in felony conviction of a household member.

This grievance procedure is incorporated by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 955.51 (b) & (d)].

Any changes proposed in this grievance procedure must provide for at least 30 days notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments will be considered by the SHA before any revisions are made to the grievance procedure [24 CFR 955.51 (c)].

A tenant/participant may request that the SHA provide for an informal settlement after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. The tenant/applicant must make this request within 30 calendar days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 calendar days of receipt of the INS appeal decision.

2.0 Definitions applicable to the grievance procedure [24 CFR 966.53]:

- A. Grievance: Any dispute which a tenant/participant may have with respect to the Somersworth Housing Authority's action or failure to act in accordance with the

tenant's lease or Authority regulations which adversely affect the individual rights, duties, welfare or status.

- B. Complainant: Any tenant (as defined below) whose grievance is presented to the SHA in accordance with the requirements presented in this procedure.
- C. Elements of Due Process: An eviction action/a termination of tenancy in a State or local court in which the following procedural safeguards are required:
1. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction
 2. Right of the tenant to be represented by counsel;
 3. Opportunity for the tenant to refute the evidence presented by SHA including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the resident may have; and
 4. A decision on the merits.
- D. Hearing Officer: An impartial person or person selected by the SHA other than the person who made or approved the decision under review, or a subordinate of the person. Such individuals do not need legal training.
- Informal Settlement of a Grievance "Hearing Officer" will be represented by the Executive Director of SHA or other assigned party.
 - Formal Grievance Hearing Officer will be a member of the community appointed by the SHA Board of Commissioners.
- E. Tenant: The adult person (or persons other than a live-in aide):
- Who reside(s) in the unit and who executed the lease with SHA as lessee of the dwelling unit, or
 - If no such person now resides in the unit, who reside(s) in the unit and who is remaining head of the household of the tenant family residing in the dwelling unit.
- F. Resident Organization: An organization of residents, which also may include a resident management corporation.

3.0 Informal settlement of a grievance [24 CFR 955.54]:

Any grievance must be personally presented, either orally, in writing or by email, to the SHA's central office **within 14 calendar days after the grievable event.**

Grievances related to complaints about operation matters that are received by the SHA's central office will be referred to the person responsible for the management of the development in which the complainant resides.

Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Executive Director (operating as the Civil Rights Administrator or Director of Operations.)

As soon as the grievance is received, it will be reviewed by the appropriate party to be certain that the exclusions listed in paragraph 1.0 do not apply to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to the SHA's grievance procedure with the reason specified.

If the exclusions cited above do not apply and the expedited procedures do not apply the complainant will be contacted to arrange a mutually convenient time **within 14 calendar days** to meet so the grievance may be discussed informally and settled without a hearing. At the informal settlement the Executive Director, or other assigned party, will attempt to settle the grievance to satisfaction of both parties.

If the Expedited Grievance Procedure applies the complainant will be contacted to arrange a mutually convenient time **within 3 calendar days**.

Within 14 calendar days following the informal discussion, the SHA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion that must specify:

1. The names of the participants
2. The dates of meeting
3. The nature of the proposed disposition of the complaint
4. The specific reasons therefore
5. Specify the procedures by which a formal hearing under this procedure may be obtained if the complainant is not satisfied.

A copy of this summary will also be placed in the tenant's file.

If the complainant fails to appear at the scheduled time of the meeting, the appointed representative will wait up 30 minutes, after such time it will be determine the party has failed to appear.

The tenant may request to reschedule a meeting on a one-time basis. Should the complainant need to reschedule a second time, he or she may do so for good cause, or if needed as a reasonable accommodation for a person with disabilities.

- *Good cause* is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Request to reschedule a hearing must be made orally or in writing prior to the hearing date.

4.0 Formal grievance hearing:

If the complainant is not satisfied with the settlement arrived at in the informal settlement, the complainant must submit a written request for a hearing to the SHA's central office **no later than 14 calendar days after the summary of the informal hearing is received.**

The written request must specify:

- The reasons for the grievance; and
- The action of relief sought from the PHA

Within 14 calendar days of receiving the written request for a hearing following the hearing officer will schedule and the SHA will send written notice of hearing to the complainant.

5.0 Selecting a Hearing Officer:

A grievance hearing will be conducted by a single impartial person appointed by the SHA as described below:

- A. The hearing officer will be appointed by the SHA Board of Commissioners.

6.0 Scheduling hearing:

When a complainant submits a timely request for a grievance hearing, the SHA will schedule the hearing within the following 14 calendar days.

Once the hearing officer has scheduled the hearing, SHA will send written notice of the complainant. Notice to the complainant will be in writing, either personally delivered to the complainant, or sent by mail or email.

The written notice will specify the time, place, and procedures governing the hearing.

The tenant may request to reschedule a hearing on a one-time basis. Should the complainant need to reschedule a second time, he or she may do so for good cause, or if needed as a reasonable accommodation for a person with disabilities.

- *Good cause* is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Request to reschedule a hearing must be made orally or in writing prior to the hearing date.

7.0 Procedures governing the hearing [24 CFR 966.56]

The hearing will be held before a hearing officer as described above in Section 5.0. The complainant will be afforded a fair hearing, which will include:

- A. The opportunity to examine before the hearing any SHA documents, including records and regulations, that are directly relevant to the hearing.

The tenant is allowed to copy any such document at no charge. If the SHA does not make the document available for examination upon request by the complaint, the SHA may not rely on such document at the grievance hearing.

- B. The right to be represented by counsel or other person chosen as the tenant representative and to have such person make statements on the tenant 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 the tenant complaint, to refute evidence relied on by the SHA or program management, and to confront and cross-examine all witnesses upon whose testimony or information the SHA or project management relies.
- E. A decision based solely and exclusively upon the fact(s) presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The SHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaints, and to question any witnesses.

The complainant has the right to record the hearing by providing their own recording device. Notification to all parties present at the hearing of recording is required. [24 CFR 966.56€].

The SHA must 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 tenant is visually impaired, any notice to the tenant that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].

The SHA must comply with HUD's requirement regarding limited English proficiency as specified in "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient Persons," issued January 22, 2007, and available at:

https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq.

8.0 Failure to appear at the hearing

If the complainant or SHA fails to appear at the scheduled time of the hearing, the hearing officer will wait up 30 minutes, after such time it will be determine the party has failed to appear.

If the complainant or SHA fails to appear at the hearing, the hearing officer may make a determination to postpone the hearing (for no more than 5 business days) or make a determination that the complainant has waived his or her right to a hearing.

Both the complainant and the SHA must be notified of the determination by the hearing officer. A determination that the complainant has waived his or her right to a hearing will not constitute a waiver of any right the complaint may have to contest the SHA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56 (C)].

9.0 Decision of the hearing officer [24 CFR 966.57]

The hearing officer will prepare a written decision together with the reasons for the decision **within 14 calendar days** following after the hearing. A copy of the decision will be sent to the complainant and the SHA.

The SHA will retain a copy of the decision in the tenant's file.

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 a deadline ordered by the hearing officer, the hearing officer will make a decision based on the evidence presented.

The decision of the hearing officer will be binding on the SHA unless the SHA's Board of Commissioners determines with a reasonable time and notifies the complainant of its determination that:

- A. The grievance does not concern SHA action or failure to act in accordance with or involving the complainant's lease or SHA 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 contributions contract (ACC) between HUD and the SHA.

When the SHA considers the decision of the hearing officer to be invalid due to either of the reasons stated above, it will present the matter to the SHA Board of Commissioners within 14 calendar days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 14 calendar days of this decision.

A decision by the hearing officer or Board of Commissioners in favor of the SHA or which denies the relief requested by the complainant in whole or in part will not constitute a waiver of nor affect in any way the rights of the complainant to a trial or judicial review in any court proceedings, which may be brought in the matter later [24 CFR 966.75].

SHA Board of Commissioner Adopted Procedure on: _____