



OMAHA HOUSING AUTHORITY PUBLIC HOUSING - GRIEVANCE PROCEDURE

Effective 12/16/2021

i. Definitions applicable to the grievance procedure [24 CFR 966.53]

- a. Grievance: Any dispute a tenant may have with respect to OHA action or failure to act in accordance with the individual tenant's lease or OHA regulations that adversely affects the individual tenant's rights, duties, welfare, or status.
- b. Complainant: Any tenant (as defined below) whose grievance is presented to OHA or at the project management office in accordance with the requirements presented in this procedure.
- c. 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:
 - i. Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
 - ii. Right of the tenant to be represented by counsel
 - iii. Opportunity for the tenant to refute the evidence presented by OHA, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense that the tenant may have
 - iv. A decision on the merits of the case
- d. Hearing officer: An impartial person or persons selected by OHA other than the person who made or approved the decision under review, or a subordinate of that person. Such individuals do not need legal training.
- e. Tenant: The adult person (or persons other than a live-in aide) who resides in the unit and who executed the lease with OHA 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 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.

ii. 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 (as defined in Section I above) between the tenant and OHA with the following exception of disputes between tenants not involving OHA 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 OHA's Board of Commissioners [24 CFR 966.51(b)].

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 966.52 (b) and (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 OHA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].

iii. Informal settlement of a grievance [24 CFR 966.54]

Any grievance must be personally presented, either orally or in writing (including email), to OHA's central office or the management office of the development in which the complainant resides within 5 days after the grievable event.

Grievances related to complaints about operations matters that are received by OHA'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 Civil Rights Administrator or Director of Operations.

As soon as the grievance is received, it will be reviewed by the management office of the development or the Civil Rights Administrator (if applicable) to be certain that neither of the exclusions in paragraphs II.A or II.B above applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to OHA's grievance procedure with the reason specified.

If neither of the exclusions cited above apply, the complainant will be contacted to arrange a mutually convenient time to meet so the grievance may be discussed informally and settled without a hearing. At the informal settlement, the complainant will present the grievance and the person in charge of the management office or the Civil Rights Administrator will attempt to settle the grievance to the satisfaction of both parties.

Following the informal discussion, OHA will prepare and either hand deliver, mail, or email to the tenant a summary of the discussion that must specify the names of the participants, the 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 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.

iv. 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 management office of the development where the tenant resides no later than five business days after the summary of the informal hearing is received.

The written request must specify:

- a. The reasons for the grievance; and
- b. The action of relief sought from OHA

After receipt the written request for a hearing, the hearing officer will schedule and sent written notice of hearing to both the complainant and OHA.

v. Selecting the hearing officer

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

- a. The hearing officer will be appointed directly by the executive director.
- b. The hearing officer will be a staff member who did not make or approve the decision under review and who is not a subordinate of such persons. If the designated staff member (such as the program manager) was involved in the decision or is a subordinate of such person, an alternate hearing officer will be selected.
- c. OHA may select designated staff members who were not involved in the decision under review in certain circumstances, such as those involving discrimination claims or denials of requests for reasonable accommodations.
- d. OHA's method for selecting a hearing officer will be inserted into the lease.

vi. Scheduling hearings [24 CFR 966.56(a)]

When a complainant submits a timely request for a grievance hearing, OHA will immediately appoint an impartial hearing officer to schedule the hearing.

Once the hearing officer has scheduled the hearing, the hearing officer will send written notice of the hearing to both the complainant and OHA. Notice to the complainant will be in writing, either personally delivered to the complainant, or sent by mail or email, return receipt requested. The written notice will specify the time, place, and procedures governing the hearing. If the hearing will be held remotely, OHA will also include information on the remote hearing process.

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. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date.

vii. Procedures governing the hearing [24 CFR 966.56]

The hearing will be held before a hearing officer as described above in Section V. The complainant will be afforded a fair hearing, which will include: the opportunity to examine before the hearing any OHA documents, including records and regulations, that are directly relevant to the hearing.

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

- a. 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.
- b. The right to a private hearing unless the complainant requests a public hearing.
- c. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by OHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information OHA or project management relies.
- d. A decision based solely and exclusively upon the fact presented at the hearing [24 CFR 966.56(b)].

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

The complainant or OHA may arrange in advance for a transcript of the hearing at the expense of the party making the arrangement. Any interested party may purchase a copy of the transcript [24 CFR 966.56(e)].

OHA 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)].

OHA must comply with HUD's requirements 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: http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq.

viii. Remote Hearings

OHA has the authority to require that hearings be conducted remotely in certain situations.

ix. Failure to appear at the hearing

If the complainant or OHA fails to appear at the hearing, the hearing officer may make a determination to postpone the hearing or make a determination that the complainant has waived his or her right to a hearing.

Both the complainant and OHA 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

complainant may have to contest OHA's disposition of the grievance in an appropriate judicial setting [24 CFR 966.56(c)].

x. Decision of the hearing officer [24 CFR 966.57]

The hearing officer will prepare a written decision together with the reasons for the decision after the hearing. A copy of the decision will be sent to the complainant and OHA. OHA 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 OHA unless OHA's Board of Commissioners determines within a reasonable time and notifies the complainant of its determination that:

- a. The grievance does not concern OHA action or failure to act in accordance with or involving the complainant's lease or OHA 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 OHA.

When OHA 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 OHA Board of Commissioners. 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 in writing.

A decision by the hearing officer or Board of Commissioners in favor of OHA 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 966.57].