

MACON HOUSING AUTHORITY GRIEVANCE PROCEDURE

I. PURPOSE

This Grievance Procedure has been adopted to provide a forum and procedure for tenants to seek the just, effective settlement of grievances against the Macon Housing Authority (MHA).

II. GOVERNING LAW

The law governing this Grievance Procedure is section 6(k) of the U.S. Housing Act of 1937 (42 U.S.C. sec. 1437(k) and subpart B of 24 CFR part 966 (24 CFR secs. 966.50 – 966.57).

III. APPLICABILITY

In accordance with applicable federal regulations, this Grievance Procedure shall be applicable to all individual grievances (as defined in Section IV below) between Tenant and MHA with the following two exceptions:

- A. This Grievance Procedure is not applicable to disputes between tenants not involving MHA or to class grievances involving groups of tenants. Also, this grievance procedure is not intended as a forum for initiating or negotiating policy changes between Tenants. Groups of tenants and MHA Board of Commissioners.

- B. HUD has issued a due process determination that the law of the State of Georgia requires that Tenant be given the opportunity for a hearing in Court which provides the basic elements of due process (as defined in Section IV below) before eviction from a dwelling unit. Therefore, MHA has elected to determine that this Grievance Procedure shall not be applicable to any termination of tenancy or eviction that involved:

- (1) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of MHA, or

- (2) Any drug-related criminal activity on or near such premises.

IV. DEFINITIONS

The following definitions of terms shall be applicable to this Grievance Procedure:

- A. **Grievance:** Any dispute which a Tenant may have with respect to an action or a failure to act by MHA in accordance with the individual Tenant's lease or MHA regulations, which adversely affects the individual Tenant's rights, duties, welfare or status.
- B. **CFR:** The code of federal regulations, which contains the federal regulation governing this Grievance Procedure.
- C. **Complainant:** Any tenant (as defined in this section below) whose grievance is presenting to the Housing Authority Manager of the neighborhood or project in accordance with the requirements set forth in this policy.
- D. **Drug-Related Criminal Activity:** The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sale, distribute or use a controlled substance, as defined in Sec. 102 of the Controlled Substances Act (21 U.S.C. sec. 802) as from time to time amended.
- E. **MHA or "Authority":** The Macon Housing Authority, a body corporate, organized and existing under the laws of the State of Georgia.
- F. **Elements of Due Process:** The following procedural safeguards are required to be followed in an eviction action or a termination of tenancy in a state or local court:
 - (1) Adequate notice to the Tenant 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 MHA, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have;
 - (4) A decision on the merits.
- G. **Hearing Officer:** An impartial person or persons selected in accordance with 24 CFR sec. 966.55 and this Grievance Procedure to hear grievances and render decisions with respect thereto.
- H. **HUD:** The United States Department of Housing and Urban Development

- I. **Notice:** As used herein the term notice shall, unless otherwise specifically provided, mean written notice.
- J. **“The Regulations”:** The HUD regulations contained in subpart B of 24 CFR part 966.
- K. **Tenant:** The adult person (or persons) other than a live-in aid:
 - (1) Who resides in the unit and who executed the lease with MHA as lessee of the dwelling unit, or if no such person resides in the unit,
 - (2) The person who resides in the unit and who is the remaining Head of Household (HOH) of the Tenant family residing in the dwelling unit.
- L. **Business days: Monday through Friday of each week, except for legal holidays recognized by the Federal Government.**

V. INCORPORATION IN LEASES

This Grievance Procedure shall be incorporated by reference in all leases between Tenants and MHA at all public housing dwelling leases between Tenants and MHA.

VI. INFORMAL SETTLEMENT OF GRIEVANCES

- A. **Initial Presentation.** Any Grievance must be personally presented and any grievance shall be presented either orally by the Tenant or in writing by the Tenant or his authorized representative to the Housing Manager of the project in which the Complainant resides not later than ten (10) calendar days after the Authority’s action or failure to act (unless the grievance is a result of a Termination of Tenancy due to Non-Payment of Rent) which is the basis for the grievance so that it may be discussed informally and settled without a hearing. It is the intent of this Grievance Procedure that those grievances resulting from the tenancy being terminated for Non-Payment of Rent be resolved within fourteen (14) days from the date of service of the notification of Termination of Tenancy, when possible, the date of service to count as the first day of the notice period. Therefore, Complainant must file the grievance within three (3) calendar days after receipt of the Notice of Termination of Tenancy. If the third day falls on a Saturday, Sunday or legal holiday, the Complainant may make the request on the next regular business day. Housing managers and staff will aid Complainants in putting their oral grievance into written form. Any necessary assistance will be provided by staff to

the extent possible. The Complainant will be requested to sign the written complaint.

- B. **Informal Settlement Conference.** If the grievance is not determined by MHA to fall within one of the two exclusions mentioned in section III B (1) and III B (2) above, then MHA will, within five (5) business days after the initial presentation of the grievance, informally discuss the grievance with the Complainant or his representatives in an attempt to settle the grievance without the necessity of a formal hearing.

If the informal settlement conference cannot occur at the time the grievance is initially presented by the complainant, then the complainant will be promptly notified in writing of the time and place for the informal settlement conference.

- C. **Written Summary.** Within five (5) business days after the informal settlement conference, a summary of the informal discussion shall be prepared by MHA and a copy thereof shall be provided to the complainant. The summary shall be in writing and shall specify the names of the participants in the discussion, the date of the discussion, the nature of the proposed disposition of the grievance and the specific reasons for such disposition. This written summary will also specify the procedures by which the complainant may obtain a formal hearing if not satisfied by the proposed disposition of the grievance. A copy of the written summary shall also be placed in Complainant's tenant file.

VII. FORMAL GRIEVANCE HEARING

The following procedures apply to the request for a formal grievance hearing under this Grievance Procedure:

- A. **Request for Hearing:** If the Complainant is not satisfied with the results of the informal settlement conference, the Complainant must submit a written request for a formal hearing to the Housing Authority Manager of the neighborhood or project no later than five (5) business days after the date Complainant receives the summary of discussion delivered as required under Section VIII below.

Complainant's written request for a formal hearing must specify:

- (1) The reasons for the grievance;
- (2) The action or relief sought by the Complainant;
- (3) If the Complainant so desires, a statement setting forth the times at which the Complainant will be available for a hearing during the next ten (10) business days;

- B. **Failure to Request Hearing:** If the Complainant fails to request a formal hearing within five (5) business days after receiving the written summary of the informal settlement conference, MHA's decision rendered at the informal hearing becomes final and MHA is not thereafter obligated to offer the Complainant a formal hearing.

VIII. SELECTION OF THE HEARING OFFICER

- A. **Selection of Hearing Officer.** A grievance hearing shall be conducted by a hearing officer who is an impartial person appointed by the CEO of MHA. The hearing officer shall be someone other than the person who made or approved the action under review or a subordinate of such person.
- B. **Qualification of Hearing Officer.** The person selected as hearing officer may be either a current officer or employee of the MHA.
- C. **Resident Organization Consultation:** MHA shall consult with the resident organization before the appointment of the hearing officer, and any comments or recommendations submitted by the tenant organization shall be considered before the appointment.

IX. SCHEDULING OF HEARINGS

- A. **Hearing prerequisites:** A Complainant does not have a right to a grievance hearing unless the Complainant has satisfied the following prerequisites to such a hearing:
 - (1) The Complainant has requested a hearing in writing.
 - (2) The Complainant has completed the informal settlement conference procedure or has requested a waiver for good causes.
- B. **Time, Place, Notice.**
 - (1) Upon Complainant's compliance with the prerequisites to hearing set forth above, a hearing shall be scheduled by the hearing officer promptly for a time and place reasonable convenient to both the complainant and the MHA not later than the tenth (10th) business day after Complainant has completed such compliance.
 - (2) A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the Complainant and the appropriate MHA official, who, unless

otherwise designated, shall be the Director of the Macon Housing Authority.

X. PROCEDURES GOVERNING HEARINGS

A. **Fair Hearings.** The hearings shall be held before a hearing officer as described above in Section VIII. The Complainant shall be afforded a fair hearing, which shall include:

- (1) The opportunity to examine before the hearing any MHA documents, including records and regulations that are directly relevant to the hearing.

The Complainant will be allowed to make copies of any such document at Complainant's expense. If MHA does not make a document available for examination upon request by the Complainant, MHA may not rely on such document at the grievance hearing.

- (2) The right to be represented by counsel or other person chosen as the Complainant's representative and to have such person make statement on the Complainant's behalf.
- (3) The right to a private hearing unless the Complainant requests a public hearing. The right to present evidence and arguments in support of the Complainant's complaint, to controvert evidence relied on by MHA and to confront and cross examine all witnesses upon whose testimony or information the MHA or its management relies.
- (4) A decision based solely and exclusively upon the facts presented at the hearing.

B. **Failure to Appear.** If the Complainant or MHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for a period not to exceed five (5) business days or may make a determination that the party failing to attend has waived the right to a hearing. In such event, the hearing officer shall notify the Complainant and MHA of the determination.

The failure to attend a grievance hearing shall not constitute a waiver of any right for which the Complainant may have to contest MHA's disposition of the grievance in an appropriate judicial proceeding.

C. **Required Showing of Entitlement to Relief.** At the hearing, the Complainant must first make a showing of an entitlement to the relief

sought and thereafter MHA must sustain the burden of justifying MHA's action or failure to act against which the complaint is directed.

- D. **Informality of Hearing.** The hearing may be conducted informally by the hearing officer and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceeding.
- E. **Orderly Conduct Required.** The hearing officer shall require MHA, 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.
- F. **Assignment of Duties.** The hearing officer presiding over the hearing shall perform all duties associated with the post.
- G. **Transcript of Hearing.** The Complainant or the MHA 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.
- H. **Accommodation to Disabled Persons.** MHA must provide reasonable accommodation for persons with disabilities to participate in grievance hearings. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations or attendants.

XI. DECISION OF THE HEARING OFFICER

At or subsequent to the completion of the grievance hearing, the hearing officer shall make a determination as to the merits of the grievance.

- A. The hearing officer shall prepare a written decision within ten (10) business days after the completion of the hearing. The hearing officer may request assistance from the Macon Housing Authority or the Macon Housing Authority's attorney in drafting the written decision.
 - (1) A copy of the decision shall be sent to the Complainant and the MHA. MHA shall retain a copy of the decision in the Complainant's tenant folder.
 - (2) A copy of such decision, with all names and identifying referenced deleted, shall also be maintained on file by MHA and made available for inspection by any prospective Complainant, his representative, or the hearing officer.

B. **Binding Effect.** The written decision of the hearing officer shall be binding upon MHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless MHA's Board of Commissioners determines, within ten (10) business days, and properly notifies the Complainant of its determination, that:

- (1) The grievance does not concern MHA action or failure to act in accordance or involving the Complainant's lease, or MHA's regulations, which adversely affect the Complainant's rights, duties, welfare or status, or
- (2) The decision of the hearing officers is contrary to applicable Federal, State or local law, HUD regulations or requirements of the annual contributions contract between HUD and the MHA.

C. **Continuing Right of Complainant to Judicial Proceedings.** A decision by the hearing officer or Board of Commissioners in favor of MHA or which denies the relief requested by the Complainant, in whole or in part, shall not constitute a waiver of, nor effect in any way the rights of the Complainant to a trial or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

XII. Notices.

All notices under this Grievance Procedure shall be deemed delivered postage prepaid, first class by the U. S. Postal Service.

If a tenant is visually impaired, any notice hereunder delivered to such Tenant shall be in an accessible format.

XIII. MODIFICATION

This Grievance Procedure may not be amended or modified except by approval of a majority of the Board of Commissioners of MHA, present at a regular meeting or a special meeting called for such purposes. Further, in addition to the foregoing, any changes proposed to be made to this Grievance Procedure must provide for at least thirty (30) days advance notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by MHA, before final adoption of any amendments hereto.

XIV. MISCELLANEOUS

A. **Captions:** Captions or paragraph headings set forth in this Grievance Procedure are for convenience of reference only and shall not be construed

or interpreted to affect the substance of the paragraphs or sections so captioned.

- B. **Concurrent Notice:** If a Tenant has filed a request for grievance hearing hereunder in a case involving MHA’s Notice of Termination of Tenancy, the Complainant should be aware that the State law Notice to Vacate and the notice of Termination of Tenancy required under Federal law run concurrently. Therefore, if the hearing officer upholds MHA’s action to terminate the tenancy, MHA may commence an eviction action in court upon the latter of two, the expiration of the date for termination of tenancy and vacation of premises stated in the notice of termination delivered to Complainant, or the delivery of the report of decision of the hearing officer to Complainant.

XV. PROCEDURES FOR ALLOWING REMOTE HEARINGS IN PUBLIC HOUSING (Notice PIH 2020-32, Issued: November 20, 2020)

- A. **Purpose.** As the Coronavirus Disease (COVID-19) and social distancing requirements present significant challenges for PHAs to conduct in-person hearings, the following procedures as recommended in Notice PIH 2020-32 will be adopted, and will remain in effect post COVID-19.

Provisions including the use of mail, electronic mail, telephone, and video calls as appropriate will be utilized in the remote hearing process. The preferred method to conduct remote hearings is via video call services such as Zoom or Go To Meeting; however, other options may be utilized as described below.

In all cases, the remote environments provided will ensure equal opportunity and nondiscrimination for individuals with disabilities and limited English proficiency (LEP), persons under Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA), Title VI of the Civil Rights Act of 1964, and the Fair Housing Act.

B. Definitions.

- a. **Remote Hearings.** Under Notice PIH 2020-32, a “remote hearing” in public housing refers to the informal hearing for a denial of admission (24 CFR 960.208(a)), the informal settlement of a grievance for a participant (24 CFR 966.54) and the grievance hearing for a participant (24 CFR 966.56).

C. Requirements for the Technology Platform.

- a. **Accessibility requirements for persons with disabilities.** MHA will take appropriate steps to ensure effective communication with applicants,

participants, members of the public, and companions with disabilities through the use of available auxiliary aids and services. MHA will furnish appropriate auxiliary aids and services to afford individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, each of the PHA's services, programs, and activities. Such services will include the Georgia Relay Services at <http://georgiarelay.org>.

b. Accessible Platform. For a remote hearing, steps for an accessible platform include ensuring any information, websites, emails, digital notifications, and platforms are accessible for persons with vision, hearing, and other disabilities.

c. Individualized auxiliary aids or services. To provide effective communication in a digital context, individualized AA/S may include audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents, screen reader support, and transcripts. MHA will give primary consideration to the auxiliary aid or service requested by the individual with a disability. Auxiliary aids and services requested will be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.

MHA will not request or require that individuals with disabilities provide their own auxiliary aids or services. MHA will not rely on an adult or minor child accompanying a person with a disability to interpret or facilitate communication for such person, except in an emergency involving an imminent threat to the safety or welfare of an individual or public where there is no interpreter available; or where the individual with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to provide such assistance, and reliance on that adult for such assistance is appropriate under the circumstances.

d. Reasonable Accommodations. If no method of conducting a remote hearing is available that appropriately accommodates an individual's disability, MHA will not hold against the individual his or her inability to participate in the remote hearing. MHA will consider whether postponing the hearing to a later date is appropriate or whether there is a suitable alternative that meets the participant's needs more expeditiously. The appropriate auxiliary aid or service or reasonable accommodation will depend on the specific circumstances and requirements of the individual to ensure the person with a disability has equal opportunity to participate in and benefit from the remote hearing.

e. Requirement for persons with limited English proficiency (LEP)

MHA will take reasonable steps to ensure full and meaningful access to the remote hearing for LEP persons consistent with its obligations under Title VI of the Civil Rights Act of 1964. MHA will coordinate with a remote language interpretation service prior to the hearing to provide remote interpretation. Video technology, if available, is preferred over voice-only.

In addition, MHA will not rely on minors to interpret. For written materials, MHA will engage with a language translation service such as Hispano American Multiservice, LLC. Written materials related to the remote hearing will be provided in a translated format if necessary.

D. Identifying and Resolving Technology Barriers Prior to the Hearing.

MHA will determine if barriers exist prior to scheduling the remote hearing. If the participant does not have the proper technology access which will allow the individual to fully participate, then the remote hearing will be postponed, or an in-person alternative will be provided. This includes if a witness for the remote hearing is unable to participate due to a lack of access to technology.

a. **Surveying the Family to Identify Barriers.** To determine if there are technology barriers, MHA will survey what technology resources the family has to conduct a remote hearing. MHA will ask if the resident has a computer, phone, tablet, laptop that has a camera, internet access, or can the resident go to a place with sufficient privacy and internet access (family, friend, or neighbor's home), or can technology be borrowed. During the survey, MHA will meet their obligations under Section 504 and the ADA to effectively communicate to persons with disabilities and under Title VI of the Civil Rights Act of 1964 to provide meaningful access to individuals with LEP.

b. **Resolving Barriers.** Depending on the barriers identified, the following alternatives to a video information hearing may be utilized by MHA to resolve a barrier and proceed with scheduling a remote hearing.

- i. MHA supplied devices (laptop, computer, or tablet) or private office space with Wi-Fi connection.
- ii. Smartphone Apps such as Face Time.
- iii. Personal resources for technology access such as family members or friends who could lend the individual a phone or computer.
- iv. Voice Only Option (Telephone).
- v. Other options as requested by the individual will be reviewed for adequacy.

E. **Presenting Documents Prior to a Remote Hearing.** If video or telephone conferencing is used for the remote hearing, all materials being

presented, whether paper or electronic, will be provided to the individual or family prior to the remote hearing. Any materials made available to the individual or family will meet the requirements for accessibility for persons with disabilities and persons with LEP.

For documents that contain PII (Personally Identifiable Information) and are provided prior to a remote hearing, MHA will minimize the risk of exposure or misuse of the data collected, used, and shared. (Examples of PII are names, SS numbers, biometric records, date and place of birth, and mother's maiden name.) All information containing PII be transmitted via MHA's secured Internet system, in encrypted file format or mailed to the individual.

- F. **Due Process for Remote Hearings.** In conducting remote hearings, MHA will follow HUD regulations at 24 CFR part 966, subpart B (public housing grievance process) and include the procedures in the resident's lease.
- G. **Conducting Discovery and Providing Evidence.** MHA may request and copy any of the individual's or family's documents at the PHA's own expense in accordance with the applicable regulations. Additionally, the individual or family will be given the opportunity to examine any PHA documents that are directly relevant to the hearing prior to the remote hearing. This may include transmitting documents electronically or by mail that would normally be exchanged at MHA's office. Under Section 504, the ADA, and the Fair Housing Act, MHA will make reasonable accommodations when necessary and take appropriate steps to ensure effective communication with individuals with disabilities through the provision of AA/S before, during, and after any hearing. This may require changes in how the individual or family seeks discovery of information held by MHA and the manner in which evidence is made available to persons with disabilities during remote hearings (while still meeting any applicable rules concerning the acceptance of evidence by the hearing officer). MHA will take reasonable steps to ensure meaningful access to LEP persons before, during, and after such remote hearings.
- H. **Procedures governing the hearing.** All other procedures not addressed in Section XV of this Grievance Procedure, and as specified in 24 CFR 966.56, will remain in effect.

