
**JEFFERSON
METROPOLITAN HOUSING
AUTHORITY**

**PUBLIC HOUSING
GRIEVANCE PROCEDURE**

JMHA

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JEFFERSON METROPOLITAN HOUSING AUTHORITY GRIEVANCE PROCEDURE

The following are the requirements, standards and criteria for the Grievance Procedure ("Grievance Procedure") established and implemented by the Jefferson Metropolitan Housing Authority ("JMHA").

I. DEFINITIONS

In this Grievance Procedure, the following terms have the meanings specified in this section:

- A. Grievance:** Any dispute which a Tenant may have with respect to JMHA action or failure to act in accordance with the individual Tenant's lease or JMHA regulations which adversely affects the individual Tenant's rights, duties, welfare or status.
- B. Complainant:** Any Tenant (as defined below) whose Grievance is presented to JMHA 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:
 - 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 JMHA, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have; and
 - 4. A decision on the merits.
- D. Hearing Officer:** A person selected in accordance with this Grievance Procedure to hear Grievances and render a decision with respect thereto.
- E. Tenant:** The adult person (or persons)(other than a live-in aide):
 - (1) who resides in the dwelling unit, and who executed the lease

with JMHA as lessee of the dwelling unit, or if no such person now resides in the unit; the person 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 includes a resident management corporation.

II. GRIEVANCE PROCEDURE APPLICABILITY

This Grievance Procedure shall apply to all Tenant Grievances with the following two exceptions:

- A.** Because HUD has issued a due process determination that the law of the State of Ohio requires that a Tenant be given the opportunity for a hearing in court which provides the basic Elements of Due Process before eviction from the dwelling unit, this Grievance Procedure shall not be applicable to any termination of tenancy or eviction that involves:
 - 1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of JMHA; or
 - 2. Any drug-related criminal activity on or near such premises.
- B.** This Grievance Procedure shall not be applicable to disputes between Tenants not involving JMHA or to class Grievances. This Grievance Procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of Tenants and JMHA's Board.

III. INFORMAL SETTLEMENT OF A GRIEVANCE

Any Grievance shall first be presented, in writing, to the Development office within ten (10) calendar days after the incident giving rise to the Grievance. A sample complaint form is attached as **Exhibit A**. Grievances received by JMHA's central office will be referred to the person responsible for the management of the development in which the Complainant resides.

As soon as the Grievance is received, it will be reviewed by the development manager 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 JMHA's Grievance Procedure, with the reason therefor.

If neither of the exclusions cited above apply, the Complainant will be contacted by the development manager or an JMHA representative to arrange a mutually convenient time, within ten (10) calendar days, to meet so the Grievance may be discussed informally and settled without a formal hearing. At the informal hearing the Complainant will present the Grievance and the development manager or JMHA representative will attempt to settle the Grievance to the satisfaction of both parties.

Within five (5) calendar days following the informal discussion, JMHA shall prepare and either give or mail to the Complainant a summary of the informal discussion which specifies the names of the participants, the dates of the meeting, the nature of the proposed disposition of the complaint and the specific reasons therefor, and shall 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 shall also be placed in the Complainant's file.

IV. FORMAL GRIEVANCE HEARING PROCEDURES

A. Request for a Hearing:

If the Complainant is dissatisfied with the settlement arrived at in the informal hearing, the Complainant must submit a written request for a hearing to the development office where Tenant resides no later than ten (10) calendar days after the summary of the informal hearing is received. A receipt signed by the Complainant or a return receipt for delivery of certified mail, whether or not signed, will be sufficient proof of time of delivery for the summary of the informal discussion. The written request shall specify the reasons for the Grievance and the action or relief sought from JMHA. **Exhibit B**, attached, is a sample request form for a formal hearing.

B. Failure to Request a Hearing:

If the Complainant fails to request a hearing within ten (10) calendar days after receiving the summary of the informal hearing, JMHA's decision rendered at the informal hearing becomes final. JMHA is not obligated to offer the Complainant a formal hearing unless the Complainant can show good cause why

he failed to proceed in accordance with this procedure. Failure to request a Grievance Hearing does not affect the Complainant's right to contest JMHA's decision in a court hearing.

C. Before the Formal Hearing is Held:

- 1. Escrow Account.** Before a hearing is scheduled in any Grievance involving the amount of rent as defined in the lease which the Jefferson Metropolitan Housing Authority claims is due, the resident shall pay to the Jefferson Metropolitan Housing Authority an amount equal to the amount of the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The resident shall thereafter deposit monthly the same amount of the monthly rent in an escrow account held by the Jefferson Metropolitan Housing Authority until the complaint is resolved by decision of the Hearing Officer. Amounts deposited into the escrow account shall not be considered as acceptance of money for rent during the period in which the grievance is pending. In extenuating circumstances, the Jefferson Metropolitan Housing Authority may waive these requirements. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure. However, failure to make payment shall not constitute a waiver of any right the resident may have to contest the Jefferson Metropolitan Housing Authority's disposition of his grievance in any appropriate judicial proceeding.

If a grievance concerns the denial of a financial hardship exemption from the minimum rent requirement or the effect of welfare benefit reductions in the calculation of family income, the requirement for an escrow deposit is waived.

- 2. Examination of Records.** The Complainant may examine all the JMHA documents including records and regulations that are directly relevant to the Grievance before the formal hearing is held. JMHA shall provide copies at the expense of Complainant. If JMHA does not make any document available for examination upon request by the Complainant, JMHA may not rely on such document at the Grievance Hearing.
- 3. Transcript of Hearing.** The Complainant or JMHA may arrange, prior to the hearing and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of the transcript.

D. Selecting the Hearing Officer

The Grievance Hearing shall be conducted by an impartial person appointed by JMHA after consultation with Resident Organization,

other than a person who made or approved JMHA action under review or a subordinate of such person. The Hearing Officer shall be appointed as described below.

1. JMHA shall nominate a slate of impartial persons to sit as Hearing Officers. Such persons may include JMHA board members, JMHA staff members, residents, professional arbitrators, or others. The initial slate of nominees shall be at least five persons. Nominees will be informed that they will be expected to disqualify themselves from hearing Grievances that involve personal friends, other residents of developments in which they work or reside, or Grievances in which they have some personal interest. Nominees who are not interested in serving as Hearing Officers or whose time is too limited to make service practical will be withdrawn.
2. A slate of potential Hearing Officers nominated by JMHA shall be submitted to JMHA's Resident Organization. Written comments from the Resident Organization shall be considered by JMHA before the nominees are appointed as Hearing Officers.
3. When the comments from the Resident Organization have been received and considered, the nominees will be informed that they are JMHA's official Grievance hearing committee. JMHA will subsequently contact committee members as needed in random order to request their participation as Hearing Officers.

E. Scheduling the Hearing:

When Complainant submits a request for a formal Grievance Hearing, JMHA will select a hearing officer at random from the slate of Hearing Officers. The hearing will be scheduled within ten (10) calendar days at a date and time convenient to JMHA and the Complainant.

A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the Complainant and the appropriate JMHA official. The notice may be personally delivered to the Complainant or sent by regular mail.

F. Procedures Governing the Hearing:

The following procedures shall govern the formal Grievance Hearing:

1. The hearing shall be held before a Hearing Officer as described above in paragraph D. The Complainant shall be afforded a fair hearing, which shall include:
 - a. The right to be represented by counsel or other person chosen as the Complainant's representative and to have such person make statements on the Complainant'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 Complainant's complaint, to controvert evidence relied on by JMHA or project management, and to confront and cross examine all witnesses upon whose testimony or information JMHA or project management relies; and
 - d. A decision based solely and exclusively upon the facts presented at the hearing.
2. The Hearing Officer may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in another proceeding.
3. At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and, thereafter, JMHA must sustain the burden of justifying JMHA action or failure to act against which the complaint is directed.
4. The hearing shall be conducted informally by the Hearing Officer. Oral or documentary evidence pertinent to the facts and issues raised by the Complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.
5. The Hearing Officer shall require JMHA, 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.
6. JMHA 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 Complainant is visually impaired, any notice to the Complainant which is required under this procedure must be in an accessible format.
7. If a Hearing Officer member fails to disqualify himself/herself as required in Section IV.D., JMHA will remove the Hearing Officer from the hearing committee, invalidate the results of the hearing and schedule a new hearing with a new Hearing Officer.

G. Failure to Appear at the Hearing:

If the Complainant or JMHA fails to appear at the scheduled formal Grievance Hearing, the Hearing Officer may make a determination to postpone the hearing for a period of time not to exceed five calendar days, or may make a determination that the party has waived his/her right to a hearing.

Both the Complainant and JMHA shall be notified of the determination by the Hearing Officer; provided, that a determination that the Complainant has waived his right to a hearing shall not constitute a waiver of any right the Complainant may have to contest JMHA's disposition of the Grievance in a court.

H. Decision of the Hearing Officer

1. Written Report. The Hearing Officer shall prepare a written decision, together with the reasons for the decision within ten calendar days after the hearing. A copy of the decision shall be sent to the Complainant and JMHA.

JMHA shall retain a copy of the decision in the Complainant's file in JMHA's office. A copy of the decision with all names and identifying references deleted, shall also be maintained on file by JMHA and made available for inspection by a prospective complainant, his representative, or any Hearing Officer or Hearing Panel.

2. Binding Decision. The decision of the Hearing Officer shall be binding on JMHA which shall take all actions, or refrain from any actions, necessary to carry out the decision unless JMHA's Board determines within a reasonable time, and promptly notifies the Complainant of its determination that:

- a. The Grievance does not concern JMHA action or failure to act in accordance with or involving the Complainant's lease or JMHA regulations, which adversely affect the Complainant's rights, duties, welfare or status.
- 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 between HUD and JMHA.

3. Judicial Action. A decision by the Hearing Officer in favor of JMHA or which denies the relief requested by the Complainant in whole or in part, shall 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 later be brought in the matter.

4. Lease Termination. If the Grievance involves a lease termination, JMHA will not issue the Complainant a notice to vacate his/her dwelling until after the Complainant has received the decision of the Hearing Officer. If the decision is in favor of JMHA, or if the JMHA Board decides to proceed against the Complainant in spite of the decision, the Complainant will be served with a three day notice to vacate. The Complainant must then vacate the unit within the stated time or JMHA will proceed through a court of law to evict the Complainant.

V. MISCELLANEOUS

A. This Grievance Procedure is incorporated by reference into all leases between JMHA and Tenants.

B. JMHA shall before amending or changing this Grievance Procedure, provide at least 30 days notice to Tenants and Resident Organization of proposed changes in this Grievance Procedure. Within the 30 day period, Tenants and the Resident Organization may submit written comments to JMHA. Such written comments shall be considered by JMHA before adoption of any changes to this Grievance Procedure.

C. JMHA shall furnish to each Tenant and the Resident Organization a copy of this Grievance Procedure.

EXHIBIT A

Tenant's Written Request for a Informal Hearing

Tenant Name: _____

Tenant Address: _____

Development Manager: _____

Development Name: _____

Date: _____

Dear _____ (Manager's Name):

I wish to register a complaint against JMHA in regard to _____

that happened on _____ (date).

I feel this is unjust because _____

The following will resolve the complaint: _____

I am available to talk with a designated JMHA employee at the following times:

(Tenant's Signature)

EXHIBIT B

Tenant's Request for a Formal Hearing

Tenant Name: _____

Tenant Address: _____

Development Manager: _____

Development Name: _____

Date: _____

Re: Complaint dated _____

Dear _____ (Manager's Name):

I hereby request a hearing before a Hearing Officer concerning my Grievance.

Briefly stated, my Grievance or complaint _____

I am requesting of JMHA _____

I am available for a hearing on the following days and at the following time in the next 10 days: _____

Please advise me of the time, date and place of the hearing.

At the hearing I will need the following reasonable accommodations for my disabilities: _____

(Tenant's Signature)

