

SPENCER HOUSING AUTHORITY GRIEVANCE PROCEDURE

Charlene A. Kaiser

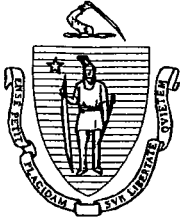
Executive Director

10/11/2001

Michelle Sweeney

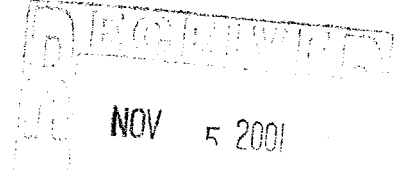
Executive Director

11/15/2022, updated



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**
Jane Swift, Governor ♦ Jane Wallis Gumble, Director

October 26, 2001



Ms. Charlene A. Kaiser
Executive Director
Spencer Housing Authority
Po. Box 486
Howe Village
Spencer, MA 01562

Re: Approval of DHCD's Grievance Procedure
(6/2000) 3 member panel, Option 2 with no
LTO.

Dear Mr. Kaiser:

We received your letter dated October 12, 2001 along with the Board's vote dated October 11, 2001 wherein the Spencer Housing Authority (SHA) voted to approve a grievance procedure that meets the regulatory requirements of 760 CMR 6.08. Also included was the names, addresses, and expiration dates of the single panel member and one alternate.

After discussions with the local tenants, the Board adopted the Grievance Procedure Provisions for a single member panel.

We reviewed your submission and approve it effective immediately. If this office can be of further assistance, do not hesitate to contact your Asset Management Specialist, Dorothy Shannon, at Extension 656.

Sincerely

A handwritten signature in cursive script, appearing to read "Carole E. Collins". The signature is written in black ink and is positioned above the printed name.

Carole E. Collins
Director
Bureau of Asset Management

S:\wp\spencer\apprgrev.01

*Spencer Housing Authority
P.O. Box 486, Howe Village
Spencer, MA 01562
Telephone 508-885-3904
Fax 508-885-2482*

*Paul T. Garganigo
Chairman*

*George P. Kiritsy
Member*

*Roger L. Gaudette
Treasurer*

*Howard S. Beebe
Asst. Treasurer*

*Carol S. McPherson
State Appointee*

*Charlene A. Kaiser
Executive Director*

ATTENTION TENANTS

**PLEASE REVIEW
SPENCER HOUSING AUTHORITY
GRIEVANCE POLICY WHICH
MEETS THE REGULATORY
REQUIREMENTS OF 760 CMR 6.08
FROM THE DEPARTMENT OF
HOUSING AND COMMUNITY
DEVELOPMENT**

**IF YOU HAVE ANY QUESTIONS OR
COMMENTS
PLEASE CONTACT THE
EXECUTIVE DIRECTOR**

SPENCER HOUSING AUTHORITY GRIEVANCE PROCEDURE

PART A

1. General Overview

- A. Department of Housing and Community Development (DHCD) regulations (760 CMR 6.08) require each local housing authority (LHA) to have a grievance procedure of which the purpose shall be the prompt and reliable determination of grievances. The procedure must be available to state-aided public housing tenants, participants in the Massachusetts Rental Voucher Program (MRVP) and the Alternative Housing Voucher Program (AHVP), and to individuals who file appeals pursuant to 760 CMR 8.00 (Privacy and Confidentiality).
- B. A grievance is defined as: (1) an allegation that an LHA or an LHA employee has acted or failed to act in accordance with the tenant's lease or any statute, regulation, or rule regarding the conditions of tenancy and the alleged action or failure to act has adversely affected the status, rights, duties or welfare of the grievant and/or a household member; (2) an allegation that an LHA or an LHA employee has acted or failed to act on accordance with any statute, regulation, or rule regarding the program and that the alleged action or failure to act has adversely affected the status, rights, duties, or welfare of the grievant or a household member; or (3) an appeal by a data subject pursuant to 760 CMR 8.00.
- C. The meaning of a statute, regulation or rule shall not be the subject of a grievance. A dispute between a tenant and another tenant or household member, in which the LHA is not involved, shall not be the subject of a grievance. A grievance shall not be filed by a tenant on behalf of another tenant or any household member of another tenant.

2. Initiation of a Grievance

- A. A grievance regarding whether good cause exists for terminating a lease shall be initiated by a tenant, in writing, and shall be mailed (postmarked) or delivered to the LHA at its main office within (7) days after a notice of lease termination has been given to the tenant by the LHA.
- B. A grievance regarding whether cause exists for terminating participation in the MRVP or AHVP shall be initiated by a program participant in writing, and shall be mailed (postmarked) or delivered to the LHA at its main office within seven (7) days after a notice of program termination has been given to the tenant by the LHA.
- C. A grievance regarding some other matter shall be initiated by a grievant in writing and shall be mailed (postmarked) or delivered to the LHA at its main office no more than fourteen (14) days after the date on which the grievant first became aware or should have become aware of the subject matter of the grievance, provided the LHA shall have discretion to permit a grievance to be initiated late.
- D. In the event that a tenant files a grievance as to the amount of redetermined rent within fourteen (14) days of the LHA's notice of the redetermined rent, the tenant shall continue to pay the rent then in effect (unless the redetermined rent is lower) until final disposition of the grievance. Upon final disposition of the grievance, the tenant shall pay any additional amounts determined to have been due but not paid since effective date set out in the notice of redetermined rent or the LHA shall credit the tenant with any amounts paid but determined not to have been due.
- E. The LHA shall permit additional time for initiation of a grievance if the LHA shall find that there was a good reason for late initiation of the grievance and that the late initiation would not cause prejudice to the LHA. The LHA shall have available forms on which grievance may be initiated.

PART A

1. General Overview

- A. Department of Housing and Community Development (DHCD) regulations (760 CMR 6.08) require each local housing authority (LHA) to have a grievance procedure of which the purpose shall be the prompt and reliable determination of grievances. The procedure must be available to state-aided public housing tenants, participants in the Massachusetts Rental Voucher Program (MRVP) and the Alternative Housing Voucher Program (AHVP), and to individuals who file appeals pursuant to 760 CMR 8.00 (Privacy and Confidentiality).
- B. A grievance is defined as: (1) an allegation that an LHA or an LHA employee has acted or failed to act in accordance with the tenant's lease or any statute, regulation, or rule regarding the conditions of tenancy and the alleged action or failure to act has adversely affected the status, rights, duties or welfare of the grievant and/or a household member; (2) an allegation that an LHA or an LHA employee has acted or failed to act on accordance with any statute, regulation, or rule regarding the program and that the alleged action or failure to act has adversely affected the status, rights, duties, or welfare of the grievant or a household member; or (3) an appeal by a data subject pursuant to 760 CMR 8.00.
- C. The meaning of a statute, regulation or rule shall not be the subject of a grievance. A dispute between a tenant and another tenant or household member, in which the LHA is not involved, shall not be the subject of a grievance. A grievance shall not be filed by a tenant on behalf of another tenant or any household member of another tenant.

2. Initiation of a Grievance

- A. A grievance regarding whether good cause exists for terminating a lease shall be initiated by a tenant, in writing, and shall be mailed (postmarked) or delivered to the LHA at its main office within (7) days after a notice of lease termination has been given to the tenant by the LHA.
- B. A grievance regarding whether cause exists for terminating participation in the MRVP or AHVP shall be initiated by a program participant in writing, and shall be mailed (postmarked) or delivered to the LHA at its main office within seven (7) days after a notice of program termination has been given to the tenant by the LHA.
- C. A grievance regarding some other matter shall be initiated by a grievant in writing and shall be mailed (postmarked) or delivered to the LHA at its main office no more than fourteen (14) days after the date on which the grievant first became aware or should have become aware of the subject matter of the grievance, provided the LHA shall have discretion to permit a grievance to be initiated late.
- D. In the event that a tenant files a grievance as to the amount of redetermined rent within fourteen (14) days of the LHA's notice of the redetermined rent, the tenant shall continue to pay the rent then in effect (unless the redetermined rent is lower) until final disposition of the grievance. Upon final disposition of the grievance, the tenant shall pay any additional amounts determined to have been due but not paid since effective date set out in the notice of redetermined rent or the LHA shall credit the tenant with any amounts paid but determined not to have been due.
- E. The LHA shall permit additional time for initiation of a grievance if the LHA shall find that there was a good reason for late initiation of the grievance and that the late initiation would not cause prejudice to the LHA. The LHA shall have available forms on which grievance may be initiated.

3. Informal Settlement Conference

Promptly after the initiation of a grievance, unless otherwise provided, the LHA's Executive Director or his or her designee shall give the grievant the opportunity to discuss the grievance informally in an attempt to settle the grievance without the necessity of a grievance hearing. The LHA shall give reasonable advance notice to the grievant and his or her representative (if any) of a time and place for an informal settlement conference, unless such a conference shall have taken place when the grievance was delivered to the LHA. At the informal settlement conference, the LHA and the grievant may be represented by a lawyer or by a non-lawyer. If the grievance is resolved at the informal settlement conference, the LHA and grievant shall acknowledge the terms of the resolution in writing. If the grievance is not resolved at the informal settlement conference no grievance hearing shall be held. If a grievance is not resolved at the informal conference, a grievance shall be held. Failure to attend an informal settlement conference shall not affect a grievant's right to a grievance hearing.

4. Right to a Hearing

- A. The LHA's hearing panel shall conduct hearings on grievances filed by a public housing tenant, a program participant, or a data subject concerning a grievable matter, provided that no grievance hearing regarding whether good cause exists for terminating a lease shall be requested or held under any of the circumstances specified in MGL c.121B, S32, including the following circumstances:
- (1) in the event of non-payment of rent;
 - (2) in the event the LHA has reason to believe that the tenant or household member:
 - a. has unlawfully caused serious physical harm to another tenant or employee of the LHA or any other person lawfully on the LHA's property;
 - b. has unlawfully threatened to cause serious physical harm to any member of a tenant household or an LHA employee or any person lawfully on the LHA's property;
 - c. has unlawfully destroyed, vandalized or stolen property of any member of a tenant household or of the LHA or of any person lawfully on the LHA's property, if such conduct involved a serious threat to the health or safety of any such person;
 - d. has unlawfully possessed, carried or kept a weapon on or adjacent to the LHA's property in violation of MGL c.269 S10;
 - e. has unlawfully possessed or used an explosive or incendiary device on or adjacent to LHA's property or has otherwise violated MGL c.266 SS101, 102, 102A or 102B;
 - f. has unlawfully possessed, sold or possessed with intent to distribute a class A, B or C controlled substance, as defined in MGL, c.94C S31, on or adjacent to the LHA's property;
 - g. has engaged in other criminal conduct which has seriously threatened or endangered the health or safety of any member of a tenant household, an LHA employee, or any person lawfully on the LHA's property, or
 - h. has engaged in behavior which would cause for voiding the lease pursuant to the provisions of MGL, c139, S19 or;
 - (3) in the event that the LHA has reason to believe that a guest of a tenant or a guest of a household member has engaged in any of the behavior listed in subparagraph 4 A (2) and that the tenant knew beforehand or should have known beforehand that there was a reasonable possibility that the guest would engage in misconduct.

5. Hearing Date and Notice of Hearing

- A. The LHA shall schedule a grievance hearing regarding whether good cause exists for terminating a lease within fourteen (14) days after the date on which the LHA receives the grievance. At such time, the LHA shall set a date for the hearing no more than thirty (30) days from the date of the request for a grievance hearing (or as soon as reasonably practical thereafter) and at least fifteen (15) days prior to the date of termination. The LHA shall give grievant written notice of the date, time and place at least seven (7) days before the hearing. At the grievance hearing any additional reason(s) for termination of the lease, which arose subsequent to the date of the notice of

termination, shall be considered so long as the LHA has given written notice to the grievant as to the additional reason(s) not less than three (3) days before the hearing, or, if the additional reason(s) for termination shall have arisen within such three (3) day period, a subsequent session of the hearing may be scheduled on not less than three (3) days notice to consider such reason(s). In lease terminations if grievant is entitled to request a grievance hearing and has made a timely request, the LHA shall not file a summary process summons and complaint seeking eviction pending the hearing and a decision or other resolution in the LHA's favor.

- B. A hearing of a grievance regarding an issue other than lease termination shall be scheduled as soon as reasonably convenient following receipt of the grievance. The LHA shall give reasonable advance written notice of time and place of the hearing to the grievant and to his or her representative, if any is known.
- C. The LHA or the Presiding Member may reschedule a hearing by agreement of the LHA and the grievant; or upon a showing by the grievant or by the LHA that rescheduling is reasonably necessary.

6. Pre-Hearing Examination of Relevant Documents

Prior to a grievance hearing the LHA shall give the grievant or his or her representative a reasonable opportunity to examine LHA documents which are directly relevant to the grievance. Following a timely request, the LHA shall provide copies of such documents to grievant and for good cause (including financial hardship), may waive the charge for the copies.

7. Persons Entitled to be Present

The grievance hearing shall be private unless the grievant requests that it be open to the public. If the grievant requests an open hearing, the hearing shall be open to the public unless the Presiding Member of the grievance panel otherwise orders. The LHA and the grievant shall be entitled to specify a reasonable number of persons who may be present at a private hearing. A challenge to the presence of any such person shall be decided by the Presiding Member. At the grievance hearing, the LHA and the grievant may be represented by a lawyer or by a non-lawyer. Each person present at the hearing shall conduct himself or herself in an orderly manner or he she may be excluded. If the grievant misbehaves at the hearing, the hearing panel by majority vote may take other appropriate measures to deal with the misbehavior including the grievance.

8. Procedure at Grievance Hearings

The hearing panel shall conduct the grievance hearing in a fair manner without undue delay. The Presiding Member shall initially take appropriate steps to define the issues. Thereafter, relevant information, including testimony of witnesses and written material, shall be received regarding such issues. Both the grievant and the LHA shall be entitled to question each other's witnesses. Procedure at the hearing shall be informal, and formal rules of evidence shall not apply. The hearing shall be tape recorded. The panel members may question witnesses and may take notice of matters of common knowledge and applicable laws, regulations and LHA rules and policies. The panel members may request the LHA or the grievant to produce additional information which is relevant to the issues or which is necessary for a decision to be made provided that the other party is provided an opportunity to respond to such additional information.

The tapes of the hearing shall be maintained by the LHA until any applicable appeals have been decided. During that time grievant and or his or her representative may listen to the tapes at the LHA's offices.

9. Written Decision by the Grievance Panel

Within fourteen (14) days following the hearing or as soon thereafter as reasonably possible, the hearing panel shall provide the LHA with a written decision on the grievance, describing the factual situation and ordering whatever relief, if any, that shall be appropriate under the

circumstances and under applicable laws, regulations, rules and/or policies. The decision shall be made by a vote of at least a majority of the panel members who heard the hearing. The decision shall be based on the information at the grievance hearing and such additional information as may have been provided to the hearing panel at its request. The LHA shall forthwith mail or otherwise deliver a copy of the decision to the grievant and his or her representative if any. A copy of the decision (with names and personal identifiers deleted) shall thereafter be maintained at the LHA and shall be open to public inspection.

10. Review by the LHA's Board

In cases where the decision of the hearing panel concerns whether good cause exists for terminating a lease, there shall be no review by the LHA's Board. In other cases, in the event that the grievant or the LHA believes that: (a) the decision of the hearing panel is not supported by the facts; (b) the decision does not correctly apply the terms of the lease or applicable laws, regulations, rules and/or policies; or (c) the subject matter is not grievable, within fourteen (14) days of mailing or other delivery of the decision, the grievant or the LHA may request review of the decision by the LHA's Board. The Board shall promptly decide whether to uphold, set aside or modify the decision after permitting the LHA and grievant to make oral presentations and/or submit documentation. The Board may also permit the hearing panel to make a presentation. The Board's review shall be at an open meeting unless an executive session is warranted pursuant to the Open Meeting Law. The decision of the Board shall be in writing and shall explain its reasoning. If a written decision is not rendered within forty-five (45) days from the date a review is requested, the decision of the Board, when rendered, shall specify a reason showing that there has been no undue delay.

11. Review by the Department of Housing and Community Development

In the event that the LHA's Board shall make a material change in a decision of the grievance panel, upon written request of the grievant, made to DHCD within fourteen (14) days of mailing or other delivery of the Board's decision, DHCD shall review the decision of the Board and shall render a written decision upholding, setting aside or modifying the decision of the Board. DHCD shall mail copies of its decision to the LHA and the grievant or to their attorneys.

12. Effect of a Decision on a Grievant

The final decision on a grievance (after any properly requested administrative reviews have been decided) shall be binding between the LHA and the grievant with respect to the particular circumstances involved in the grievance, provided that if a court has jurisdiction to determine a matter which has been subject to decision on a grievance, the court's determination on the matter shall supersede the decision on the grievance. In the event the hearing panel's decision on a grievance determines that good cause exists for terminating a lease, the LHA may, upon receipt of the decision, file a summary process summons and complaint, and there shall be no review by the Board or DHCD. As between the LHA and any person who was not a grievant, the decision on a grievance shall have no binding effect.

PART B

1. Three Member Hearing Panel

All grievance hearings and determinations of grievances shall be handled by a three member hearing panel except as otherwise provided herein. Each panel member shall be appointed to serve for a term not to exceed seven years and shall serve all residents of state-aided public housing and all participants in the Massachusetts Rental Voucher Program (MRVP) and the Alternative Housing Voucher Program (AHVP) who hold vouchers administered by the LHA.

The LHA shall from time to time nominate one or more persons to serve as panel member(s) to conduct hearings and to render prompt and reliable written determinations of matters at issue. The LHA shall notify tenants of its nominee(s) for panel member(s) by posting all such nominations on all bulletin boards intended for notices of

general interest to tenants. Each nomination shall include a resume of the nominee and the length of the term for which he or she is nominated. Within thirty (30) days after the posting of a nomination ten (10) or more tenants may disapprove the nominee by giving signed written notice to the LHA. A notice of disapproval shall include the specific reason(s) why such tenants disapproved the nominee. In the absence of a disapproval, the nominee shall become a panel member upon written acceptance mailed or delivered to the LHA which shall then post notice thereof. No more than six (6) persons shall serve as panel members at any one time.

Each panel member (including each alternate member) shall annually certify to the LHA in writing that he or she is ready, willing and able to serve; failure to certify within ten (10) days of receipt of a written request by the LHA shall render the member's position vacant. The LHA may appoint three or more panel members.

2. Impartiality of Panel Members

No panel member or member of his or her family shall have or shall appear to have any direct personal or financial interest in the outcome of any matter before him or her. No member shall be related by blood or marriage to any party or to any person who gives evidence as to facts which are disputed by the parties. No member may determine matters which directly concern his or her own housing or the housing of a family member or his or her own status of a family member in that housing. Each member of the hearing panel shall determine any matter at issue impartially and objectively on the basis of the evidence and applicable law. Any member of a hearing panel who shall be or shall appear to be unable to determine any matter impartially and objectively shall remove himself or herself as a member of the hearing panel, or, if he or she fails to do so, shall be removed from the hearing panel by the Presiding Member upon the written objection by the LHA or the tenant who requested the hearing. Any member of a hearing panel who shall willfully obstruct prompt and reliable determination of any matter before the panel shall be removed from the panel for that hearing by the Presiding Member upon such as objection.

3. Removal of a Panel Member

A member of the hearing panel may be permanently removed from office at any time for inefficiency, neglect of duty, willful and material delay of proceedings, bias or partiality. The LHA may remove a member of the hearing panel after notice to the member and the opportunity for him or her to be heard.

4. Appointment of Interim Hearing Officer

If there shall not be three panel members able and willing to serve for one or more pending matters and if use of the appointment process in Part B, section 1 of this grievance procedure would likely cause significant delay with potential adverse consequences to either the LHA or the grievant, the matter may be heard by two panel members or, if there shall not be two panel members able and willing to serve, the matter may be heard by a single panel member, or if there shall not be a single member able and willing to serve, the LHA may request that an interim hearing officer named by DHCD. Such a request shall be in writing and shall specify the reason for the request. Notice of the request shall be posted, and tenants shall be given reasonable opportunity to comment to DHCD about the request. If DHCD finds there to be a reasonable need for an interim hearing officer, DHCD shall name an interim hearing officer. DHCD may name a previously disapproved nominee to serve as interim hearing officer if it finds that the stated reasons for disapproval did not constitute good and sufficient cause for disapproving the nominee.

*Spencer Housing Authority
13 McDonald Street
Howe Village
Spencer, MA 01562
Telephone: 508-885-3904
Fax: 508-885-2482*

GRIEVANCE PROCEDURE COMPLAINT FORM
AND REQUEST FOR HEARING

I, _____, a tenant at _____,
am dissatisfied with (or appealing from) the following action or failure to act by the
Spencer Housing Authority which occurred on _____, at _____
a.m/p.m. (Please describe completely the facts, including names and the order of events.
Use the back of this sheet if additional space is needed.)

I would like the Spencer Housing Authority to take the following action on my
complaint:

_____ Check here if you are requesting a hearing before the Grievance Panel or Hearing
Officer. (You must to preserve your rights under the grievance procedure.)

Tenant's Signature