

**FALMOUTH HOUSING AUTHORITY**  
**GRIEVANCE PROCEDURE**

**SINGLE HEARING OFFICER**

All grievance hearings and determinations of grievances shall be handled by a single Hearing Officer. The Hearing Officer shall be appointed to serve for a term not to exceed seven years and shall serve all residents of federal public housing, 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 Falmouth Housing Authority.

The Falmouth Housing Authority shall from time to time nominate one or more persons to serve as Hearing Officer(s) to preside at and conduct hearings and to render prompt and reliable written determinations of matters at issue. The Falmouth Housing Authority shall notify tenants of its nominees for Hearing Officer(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 Falmouth Housing Authority. 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 Hearing Officer upon written acceptance mailed or delivered to the Falmouth Housing Authority which shall then post notice thereof.

Each Hearing Officer shall annually certify to the Falmouth Housing Authority, in writing, that he or she is ready, willing and able to serve; failure to do so certify within ten (10) days of receipt of a written request by the Falmouth Housing Authority shall render the Hearing Officer's position vacant.

**IMPARTIALITY OF THE HEARING OFFICER**

No Hearing Officer or a 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 Hearing Officer 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 Hearing Officer may determine matters, which directly concern his or her own housing or the housing of a family member or his or her own status or the status of a family member in that housing. Each Hearing Officer shall determine any matter at issue impartially and objectively on the basis of the evidence and applicable law. Any Hearing Officer, who shall be or shall appear to be unable to determine any matter impartially and objectively shall remove himself or herself as Hearing Officer, whether or not he has been requested to do so.

### **REMOVAL OF THE HEARING OFFICER**

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

### **APPOINTMENT OF INTERIM HEARING OFFICER**

If there shall not be a Hearing Officer able and willing to serve for one or more pending matters and if use of the appointment process in Part B, Section 1, of the grievance procedure would likely cause significant delay with potential adverse consequences to either the Falmouth Housing Authority or the grievant, the Falmouth Housing Authority may request that an interim Hearing Officer be 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 a 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.

An interim Hearing Officer shall have all the powers and duties of a Hearing Officer and shall serve in the pending matters for which he or she was appointed. An interim Hearing Officer may be nominated by the Falmouth Housing Authority to be Hearing Officer in the manner set out herein.

### **SCHEDULING**

The Falmouth Housing Authority shall be responsible for scheduling and other administrative matters, including all necessary notices. The Falmouth Housing Authority shall consult with the Hearing Officer and shall schedule hearings at times convenient for him or her.



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## **INFORMATION FOR GRIEVANCE PANEL MEMBERS**

This is a general overview of grievance hearings for new panel members. Additional and more detailed information can be found in 760 CMR 6.08, and in the authority's grievance procedure.

Thank you for agreeing (in writing) to serve as grievance officer for the Falmouth Housing Authority. Your term begins on \_\_\_\_\_ and ends on \_\_\_\_\_. Each year, the authority will confirm that you continue to be ready, willing and able to serve. The form needs to be returned to the authority within (10) days of receipt; otherwise, the position will be declared vacant.

### **Impartiality**

No member of a panel shall have (or even appear to have) any direct personal or financial interest in the outcome, nor may a member be related by blood or marriage to any party or even to any person who is the source of evidence as to facts which are disputed by the parties.

### **Adding/Removing Panel Member**

The regulation provides a procedure for removing members for inefficiency, neglect of duty, willful and material delay of proceedings, bias, or partiality.

### **Schedule Hearings/Quorum**

The Falmouth Housing Authority is responsible for scheduling and giving notices. The Falmouth Housing Authority will attempt to consult members to ascertain possible conflicts prior to scheduling. The Officer may schedule his own hearings.

### **Determining Whether an Issue is "Grievable"**

Housing authority staff will inform a tenant if an issue is not "grievable". Such notice will be sent in writing, with a copy to the Grievance Officer. Please understand the definition of a grievance because they may disagree with LHA staff on the issue of "grievability". If the officer disagrees with the LHA staff, a grievance hearing must be held. A lawful grievance is any of the following: 1. An allegation by a tenant that an LHA or an LHA employee has acted or failed to act in accordance with the tenant's lease of any statute, regulation, or rule regarding the conditions of tenancy and that the alleged action or failure to act has adversely affected the status, rights, duties, or welfare of the tenant or a household member; 2. An allegation by a program participant (ie, MRVP or AHVP) that an LHA or LHA employee has acted or failed to act in 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 the privacy and confidentiality regulation. Certain things cannot be the subject of a grievance, including the meaning of a statute, regulation, or rule; a dispute between a tenant and another tenant or household member, in which the LHA is not involved. Finally, a grievance may not be filed by a tenant on behalf of another tenant or household member of another tenant

### ***Determining Whether a "Lease Termination" is Grievable***

Under the following circumstances, a tenant **does not** have a right to a grievance hearing:

1. for nonpayment of rent;
2. If the LHA has reason to believe that a tenant, household member or guest engaged in any of the following behaviors (Note: see statute for technical details).
  - a. harmed a tenant, LHA employee, or guest
  - b. threatened to do so
  - c. destroyed, vandalized or stolen property from another tenant, LHA employee or guest
  - d. unlawfully possessed, carried, or kept a weapon on or next to LHA property
  - e. possessed or used an explosive or incendiary device on or next to LHA property
  - f. Possess, sold or possessed with intent to distribute controlled substances on or next to LHA property.
  - g. Engaged in criminal conduct which seriously threatens or endangers the health or safety of tenant, LHA employees or guests
  - h. Using unit for prostitution, assignation, lewdness, illegal gaming, the illegal keeping or sale of alcoholic beverages, or to habitually serve alcoholic beverages to intoxicated persons, including persons who will operate a motor vehicle.

### ***Grievance Filing Requirements***

A grievance to determine whether there is good cause for terminating a tenant's lease (or a program participant's MRVP or AHVP) must be mailed or delivered to the LHA in writing within seven days after a notice of lease termination has been served. All other grievances must be mailed or delivered to the LHA, in writing, no more than (14) days after the grievant first became (or should have) of the subject matter of the grievance, though the LHA may permit such a grievant to file late.

### ***Tenant's Pre-Hearing Rights***

Tenants have the following pre-hearing rights;

- a. LHA must offer the tenant an opportunity to discuss the grievance informally in an attempt to settle.
- b. Lease termination grievance hearings must be scheduled (placed on the calendar, with notice to all parties) within fourteen days following receipt of the grievance; they must be held within (30) days following receipt of the grievance, and at least seven days after written notice has been given to the tenant.

- c. Other types of grievance hearings must be scheduled (placed on the calendar) and held as soon as reasonably convenient following receipt of the grievance.
- d. A tenant or the tenant's representative must be given a reasonable opportunity to examine LHA documents which are directly relevant to the grievance. Additionally, following a timely request, the LHA shall provide copies of directly relevant documents to grievant and, for good cause (including financial hardship), may waive copy charges.

### ***Who Can Attend a Grievance Hearing***

Grievance hearings are private unless the grievant requests that it be open to the public (though the hearing panel can order otherwise). The LHA and grievant may have a reasonable number of persons present at a private hearing. Challenges to the presence of any specific person shall be decided by the hearing panel. The LHA and grievant may be represented by a lawyer or non-lawyer. Persons not conducting themselves appropriately at the hearing shall be excluded by the hearing panel. If the grievant misbehaves at the hearing, the panel members may take other appropriate measures to deal with the misbehavior, including dismissing the grievance.

### ***Procedure at the Hearing***

The hearing panel conducts the hearing in a fair manner without undue delay. Initially, the hearing panel takes steps to define the issues. Thereafter, relevant information, including testimony of witnesses and written material shall be received. Both the grievant and the LHA shall be entitled to question each other's witnesses. Panel members shall decide who should present first. Procedure is informal and formal rules of evidence do not apply. The hearing shall be tape-recorded. Panel members may question witnesses and may take notice of matters of common knowledge and applicable laws, regulations and LHA rules and policies. Panel members may request that the LHA or grievant produce additional information which is relevant to the issues, or which is necessary for a decision, provided that the other party must be afforded an opportunity to respond.

### ***The Panel's Decision***

Within fourteen (14) days following the hearing, (or as soon thereafter as possible), the hearing officer issues a written decision to the LHA. The decision must describe the factual situation and order whatever relief, if any, that shall be appropriate under the circumstances and under applicable law. The decision shall be based only on the evidence at the grievance hearing and such additional evidence that was requested by the officer. The LHA shall mail or deliver a copy of the decision to the grievant and grievant's representative.