***STATE OF NEVADA HOUSING DIVISION***

**SECTION 504 GRIEVANCE AND COMPLAINT PROCEDURES**

It is the policy of the Nevada Housing Division (Division) not to discriminate on the basis of disability. The Division has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973 OR Title II of the American with Disabilities Act.

Any person who believes she or he has been subjected to discrimination on the basis of disability may file a grievance under this procedure. It is against the law for the Division, or any state grantee or sub-recipient acting on behalf of the Division, to retaliate against anyone who files a grievance or cooperates in the investigation of a grievance.

The grievance procedures established herein shall address concerns regarding Title II of the American with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973, as amended, and the Voluntary Compliance Agreement (VCA) with the US Department of Housing and Urban Development as it applies to the State of Nevada Housing Division’s (Division) federal grant housing programs, services and activities. The Grievance Procedure may be used by the public to file complaints concerning:

* Policies or the provisions of services, activities, programs, or benefits provided by the Division, state grantee, or sub-recipient agencies;
* Discrimination under Section 504 of the Rehabilitation Act of 1973, as amended; or
* Structural and parking accessibility issues at State, state grantee, or sub-recipient offices

The Division will implement the following Procedures for programs, activities, and services subject to Section 504 of the Rehabilitation Act of 1973, as amended, to comply with the Voluntary Compliance Agreement with the US Department of Housing and Urban Development. This includes programs that are passed through the State to state grantees and sub-recipients for implementation at a local level. These procedures will be incorporated into existing policies and procedures at the Division and will be provided to each sub-grantee and sub-recipient as a guide for adopting policies at the local level.

1. **State, state grantee and sub-recipient grievance process**

The Division, state grantees, and sub-recipients must provide a formal written process that recognizes the rights of individuals receiving assistance to the due process of law. This process at a minimum must consist of:

1. Designation of a Section 504 Coordinator;
2. Serving the participant with a written notice containing a clear statement of the program participant’s right to file a complaint with the state grantee, sub-recipient, Division, or federal government, which includes the respective addresses and phone numbers of the agencies to be contacted, including Section 504 Coordinator contact information;
3. Permitting the participant to have a review of the decision, in which the participant is given the opportunity to present written objections before a person, other than the person (or a subordinate of that person) who made or approved the alleged discriminatory action; and

d) Providing prompt written notification of the final decision to the participant.

It shall be the policy of the Division, state grantees or sub-recipients to consistently respond, with diligence, to concerns voiced by program participants and other interested parties about the administration of programs or local policy issues regarding program management.

1. ***Complaint Procedure and Format***
2. Complaints must be submitted to the Section 504 Coordinator of the applicable agency within thirty (30) days of the date the person filing the grievance becomes aware of the alleged discriminatory action;
3. The complaint should be in writing and contain information regarding the alleged discrimination, including the name, address, and phone number of grievant and location, date, and description of the alleged incident. Alternative means of filing complaints, such as personal interviews or tape recording of the complaint will be made available for persons with disabilities, upon request;
4. The Section 504 Coordinator (or his/her designee) shall conduct an investigation of the complaint. The investigation may be informal, but it must be thorough, affording all interested persons an opportunity to submit evidence relevant to the complaint. The Section 504 Coordinator will maintain the files and records of the Division relating to such grievances;
5. The Section 504 Coordinator shall issue a written decision on the grievance no later than 30 days after its filing;
6. The person filing the grievance may appeal the decision of the Section 504 Coordinator by writing to the Agency’s Administrator, Chief Executive Officer, Executive Director, or Board of Directors, or designated Grievance Officer, within fifteen (15) days of receiving the Section 504 Coordinator’s decision. The Grievance Officer shall issue a written decision in response to the appeal no later than thirty (30) days after its filing.
7. The availability and use of this grievance procedure does not prevent a person from filing a complaint of discrimination on the basis of disability with the U.S. Department of Housing and Urban Development, Office of Fair Housing:

San Francisco Regional Office of FHEO
U.S. Department of Housing and Urban Development
600 Harrison St., 3rd Floor
San Francisco, CA 94107-1387
(415) 489-6524
1-800-347-3739
TTY (415) 436-6594

The Agency receiving the complaint shall make appropriate arrangements to ensure that disabled persons are provided other accommodations, if needed, to participate in this grievance process. Such arrangements may include, but are not limited to, providing interpreters for the deaf, providing taped cassettes of material for the blind, or assuring a barrier-free location for the proceedings. The Section 504 Coordinator will be responsible for such arrangements.

1. ***Complaint Filing***

The grievant and/or his/her designee should submit the complaint in writing as soon as possible, but no later than thirty (30) calendar days after the alleged violation, to the contact person designated at each agency. Refer to Section II of this document for the Division’s contact information:

1. ***Complaint Retention***

All written complaints received by the Section 504 Coordinator, appeals to the applicable Grievance Officer or his/her designee, and responses from the Section 504 Coordinator and Grievance Officer or his/her designee will be kept by the Division, state grantee, or sub-recipient agencies for at least three (3) years.

1. ***Definitions***

*Section 504:* The regulations codified at 24 CFR part 8. It states that no qualified individual with a disability in the United States shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service, or activity receiving Federal financial assistance or under any program or activity conducted by an Executive agency. 24 CFR part 8 applies to all applicants for, and recipients of, U.S. Department of Housing and Urban Development financial assistance in the operation of programs or activities receiving such assistance.

*Disabilities:* Section 504 regulations define an individual with a disability as any person who has a physical or mental disability that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment (24 CFR 8.3). Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks, and caring for oneself. The law also applies to individuals who have a history of such impairments as well as those who are perceived as having such an impairment.

A person who meets the above definition, and who is otherwise qualified for the program, service, or activity, is covered under Section 504. To be otherwise qualified means the individual meets the essential eligibility requirements including, for example, requirements for tenancy, if the program is a housing program.

*Recipient:* Regulations define “Recipient” as any State or its political subdivision, any instrumentality of the State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended for any program or activity directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance. Any entity or person receiving housing assistance payments from a recipient on behalf of eligible families under a housing assistance payment program or a voucher program is not a recipient or sub-recipient merely by virtue of receipt of such payments (24 CFR part 8.3)

*Section 504 Coverage:*  Section 504 covers all programs, services, and activities of recipients of HUD financial assistance, including for example:

* Outreach and public contact, including contact with program applicants and participants;
* Eligibility criteria;
* Application process;
* Admission to the program;
* Tenancy, including eviction;
* Service delivery;
* Employment policies and practices
* State Grantees/Sub-Recipients
1. **GRIEVANCE HEARING CONVENED BY THE DIVISION**

If a grievant has not obtained a resolution to their grievance at the state grantee or sub-recipient level they are afforded the right to appeal to the Division. Or if the grievant wishes, he or she may file a claim directly to the Division. The following reflects the Division’s guidelines for this process.

 ***1. Written Request for Grievance with the Division***

In order to initiate a grievance with the Division, which may include a hearing process, the client shall be provided the Division’s Grievance Form by the state grantee, sub-recipient, or the Division, along with instructions to complete and submit with requested documentation.

The grievant and his/her designee should submit the Grievance Form to the following:

Denise Cox, Section 504 Coordinator

State of Nevada Housing Division

1830 College Parkway Ste 200

Carson City, NV 89706

(Voice) 775-687-2233; (Fax) 775-687-4040

Email: dcox@housing.nv.gov

TDD Number:

 ***2. Receipt of the Grievance Form***

Unless there is good cause for delay, a completed Grievance Form must be postmarked, or received at the Division, within thirty (30) days of the date that the client has been denied an appeal by a sub-grantee or sub-recipient. Or within thirty (30) days of the alleged discriminatory action if filing directly with the Division. If filed after that time, the grievance must be accompanied by a written explanation for the delay. The Division, at its sole discretion, shall decide whether the client had good cause for filing the grievance late. Good cause consists of hospitalization, serious illness, or other circumstances beyond the client's control, which significantly impaired their ability to file the grievance in a timely manner.

 ***3. Division Action***

Once the Grievance Form is received by the Division, the Section 504 Coordinator will review it for accuracy, will ensure the complaint is warranted and proper supporting documentation has been received, will log the form into the Division’s Grievance Log, and will contact the parties to see if a resolution can be obtained without a formal hearing.

 ***4. Grievance Officer***

If warranted, a grievance hearing may be convened by the Division and presided over by the Manager of State and Federal Programs (Manager). The Manager will review the information presented and, if cause for review is evident, the Manager will review and respond in writing within thirty (30) days of receipt of the appeal. If no cause is shown, the client will be notified within ten (10) days.

 ***5. Continuation of Assistance During Grievance Process***

During the period of time in which the client is involved in an appeal of the alleged discriminatory action, his/her assistance and/or participation in a program shall not be terminated or reduced by the state grantee or sub-recipient. If applicable, the client's assistance payments may be stopped or reduced only after the entire grievance process has been concluded, and the decision to terminate or reduce assistance is upheld and communicated to the client in writing.

***6. State Grantee/Sub-Recipient Presence at the Grievance Hearing***

The state grantee or sub-recipient may be required to be present at the grievance hearing, in person or through telephone conference call.

 ***7. Scheduling of the Hearing***

The Division shall schedule a date and time to hear the grievance. The grievance hearing shall be scheduled no later than thirty (30) business days after receipt of the completed grievance form.

 ***8. Notification of Hearing Date by Regular and Certified Mail, Return Receipt***

 ***Requested***

Within five (5) business days of the request for a grievance hearing, written notification of the time and place of hearing, accompanied by a copy of the grievance, shall be sent, via regular and certified mail, return receipt requested, to the complainant, the complainant’s representative, if any, and the sub-grantee agency.

1. **PROCEDURES FOR THE GRIEVANCE HEARING**

 ***1. Venue***

The grievance hearing shall be convened by the Division in a location selected by the Division.

 ***2. Due process***

The complainant shall be afforded a fair and impartial hearing which provides the basic safeguards of due process. Such due process shall include:

a) The opportunity to examine, before the hearing, all of the documents, records, and program rules relevant to the hearing;

b) The right to present evidence and arguments in support of the complaint;

c) The right to dispute evidence and cross-examine witnesses presented in support of the determination of eligibility, assistance, or termination under appeal;

d) The right to reasonable accommodations for persons with disabilities to participate in the hearing;

e) The right to a decision within ten (10) business days based only on the evidence presented at the grievance hearing, unless additional information is requested by the Manager (such request shall be made in writing and copied to all parties unless such request is made during the grievance hearing);

f) Written notification to the client of the final decision by the Manager, to be sent via certified mail, return receipt requested.

 ***3. Failure to appear***

Should the complainant, or a representative, fail to appear for the scheduled grievance hearing, he/she shall be in automatic default, leaving the challenged action to stand, unless the Manager, in his or her discretion, determines that there was improper grievance hearing notice, warranting re-notice.

In the absence of a notice defect, the Manager shall render a decision that the challenged action stands, noting the complainant’s failure to appear. The Manager shall then adjourn the grievance proceedings. The Manager's decision shall be sent in writing to the sub-grantee’s/sub-recipient’s Executive Director, the complainant, and the complainant’s representative, if any, via regular and certified mail, return receipt requested within ten (10) business days of the hearing. The decision shall provide the complainant with seven (7) business days from the date that decision was served by mail to establish good cause for the failure to appear. The complainant must submit a written request to re-open the hearing with supporting documentation attached. Such request shall be addressed to the Division Administrator. An example of good cause would be illness, substantiated by a physician's note.

 ***4. Conduct of Hearings***

The grievance hearing shall be conducted by the Manager. Oral or documentary evidence pertinent to the determination of program eligibility, assistance, or termination under review may be received without regard to the rules of evidence applicable to judicial proceedings.

The Manager shall require that all participants conduct themselves in an orderly fashion. Failure to comply with the directives of the Manager, by any participant in the hearing, may result in exclusion from the proceedings.

 ***5. Recorded Hearing***

The grievance hearing may be recorded by audio tape and a copy of the audio tape shall be made available to the complainant upon request.

 ***6. Transcript of Hearings***

The complainant may arrange in advance, and at his/her own expense, for a transcript of the hearing. Any interested party may purchase a copy of the transcript.

 ***7. Representation***

The complainant may elect to be represented by an advocate or by legal counsel. The Division may request written verification signed by the client that an advocate or attorney has been designated by the client to represent him or her in the grievance proceedings.

 ***8. Request for Special Accommodation***

Any special accommodations required by the client, including translators, shall be submitted in writing to the attention of the Section 504 Coordinator along with the Grievance Form. If this information is not provided during the initial grievance request, an additional request must be submitted in writing and received by the Division no less than three (3) business days prior to the scheduled hearing.

1. **DECISION BY THE MANAGER**

 ***1. Written Decision and Notification***

After the hearing is conducted, the Manager shall deliberate and make a final decision, which shall be binding on all parties. The decision shall be made in writing and shall include the reasons for the final decision cited by the Manager. The Manager's decision shall be sent to the sub-grantee’s/sub-recipient’s Executive Director, the complainant, and the complainant’s representative, if any, via certified mail, return receipt requested within ten (10) business days of the hearing.

*a)*  Central Grievance Record:A copy of the final grievance decision, along with the audio record of the hearing, shall be maintained in a central grievance file at the Division.

b) Client File: A copy of the final grievance decision shall be placed in the client’s file at the sub-grantee’s office, and the applicable program file at the Division.

***2. Continuing Rights***

The outcome of the grievance hearing shall not in any way affect any rights the complainant may have to a trial or other review in any judicial proceedings which may thereafter be brought in the matter.

 ***3. Withdrawal***

The client shall have the right to withdraw his/her complaint at any time. The withdrawal shall be presented in writing to the sub-grantee/sub-recipient Executive Director and the Division. The client shall be notified in writing, via return receipt U.S. Mail, of the date that the withdrawal was received by the grantee. A copy of the withdrawal shall be forwarded to the Director of the provider agency.

 ***4. Stipulation by Parties***

The parties may at any time, before, during, or after the grievance hearing, enter into a written stipulation, which resolves the issues on appeal. The stipulation shall be submitted to the Manager who shall, if accepted, issue a written order incorporating the stipulation.

 ***5. Request for Continuances***

The parties may at any time during the grievance hearing request that the proceedings be continued a later date/time. The Manager shall have sole authority to grant or deny the request for a continuance, based on the merits of the request

 ***6. Appeal of the Manager’s Decision***

When appealing a decision or action of the Manager, the appeal is to be presented to the Division’s Deputy Administrator. The same format and timetable set forth above will be followed. Appeal of the Deputy Administrator’s response is to be addressed to the Division’s Administrator, again using the same timetable set forth in the previous paragraphs.