

WEST VIRGINIA ASSOCIATION OF HOUSING AGENCIES

COMMISSIONER'S HANDBOOK 101

INTRODUCTION

This handbook is designed to introduce Commissioners to their responsibilities as members of the Housing Authority Board. It is our hope that this will be useful tool and reference during your tenure as a Commissioner.

America's housing commissioners exert a powerful influence in the nation's housing community. They are responsible for overseeing the expenditures of billions of federal, state and local dollars allocated for the purpose of housing low income persons and the elderly. They help direct the management of programs that benefit millions of families.

The public housing commissioner's role is complex. Commissioners are charged with ensuring fairness in the administration of housing authority policies, attracting adequate resources, balancing the demands of conflicting community groups, and winning public support. Moreover, as they conduct the business of overseeing local public housing operations, commissioners must be aware of and follow federal, state and local laws and housing regulations to the letter. The leadership and service of an involved and committed board of commissioners are essential to meeting the housing needs of low income citizens.

The great contributions low-income housing programs have made to cities across West Virginia are attributable, in large respect, to the efforts of professional just like you. Commissioners, who may come from all walks of life, are often leaders in their communities. West Virginia commissioners receive no pay for their services and it is unlikely that you will receive thanks from any source, other than the agency Executive Director and staff. However, the personal satisfaction that one receives through the knowledge that you are a part of an organization providing safe, sanitary and affordable housing for a needy segment of the population of your community is immeasurable.

Section 1. General Information

HOW COMMISSIONERS ARE APPOINTED:

Commissioners are appointed by the Mayor or other governmental agency in accordance with state law. There are five commissioners on the board, (one of which must be a recipient of housing assistance) and each is appointed for a term of five years. The terms are staggered so that vacancy occurs each year.

Commissioners may serve successive terms if allowed by the By-Laws of the Authority.

While Housing Commissioners, serve without pay, you are reimbursed for necessary expenses set forth in the Housing Authority's travel and expense policy. Please discuss this with the Executive Director of the Authority.

HOW COMMISSIONERS GET THINGS DONE:

Commissioners have the duty to pass resolutions and policies for the governance of the Housing Authority. The Department of Housing and Urban Development (HUD) and the Executive Director will keep Commissioners informed about current policies, regulations, and changes in policies which need to be made.

Commissioners hire the Executive Director who serves as is the Chief Executive Officer of the Authority, and he/she is charged with the day to day management of the programs of the Authority, and who is responsible for executing the policies adopted by the Commissioners.

COMMISSIONERS STAY INFORMED:

The Executive Director will inform Commissioners of changes in regulation or policy at a federal or state level which may require changes to agency polices.

Commissioners need to review state laws, policies of the housing authority, HUD rules and regulations, federal regulation and law, know the differences between the roles of Commissioners and the Executive Director; Commissioners also must and have a good working relationship with the Executive Director. Commissioners should attend workshops, training and seminars to keep up to date on current issues concerning Public Housing Authorities and programs operated by Authorities.

COMMISSIONERS MUST BE CONCERNED:

Commissioners must be concerned about the well-being of the residents and the property of the Authority. Commissioners should remain concerned about representing the agency in the community as agency which provides and essential service to families within the community. They should also consider the impact of policies on the families served by the Authority.

LIABILITY OF COMMISSIONERS

Commissioners must take action in good faith and within the scope of their official function, and must not cause damage for willful or wanton misconduct. Housing Authorities should maintain Directors and Officers Liability insurance for Commissioners. When making policies, assure that they are clear and not arbitrary or capricious, and work with the Executive Director and the Housing Authority to see that policies are carried out.

RESPONSIBILITIES OF COMMISSIONERS

Responsibilities are provided in the Annual Contributions Contract (ACC), Federal Regulations, HUD Notices and HUD Handbooks, HUD requires the Commissioners to develop policy and monitor and establish controls for providing safe and sanitary housing to the residents. Commissioners have the ultimate responsibility for Public Housing Authority (PHA) operations including:

- ✓ Approving Bylaws, Resolutions, Policies and Procedures.
- ✓ Hiring and evaluating a qualified Executive Director.
- ✓ Establishing and adopting PHA policies such as but not limited to: Personnel, Grievance, Procurement, Financial and Investments, Disposition, Admissions, Continued Occupancy, Section 8 Administration Plans, Leases, Rent Collections, etc.
- ✓ Reviewing and monitoring budgets, investments, and other financial documents to insure expenditures are in compliance with federal and local law and other requirements.
- ✓ Approving policies and procedures for internal and external monitoring controls.
- ✓ Approving policies and procedures to detect and prevent program fraud, waste, mismanagement and abuse.
- ✓ Insuring that the PHA is acting legally and with integrity in its daily operations. (Noting that the Executive Director is responsible for overseeing the day to day operations of the agency.)
- ✓ To observe the chain of command and act collectively to avoid situations where commissioners appear to be managers instead of policy makers. (Including meeting with PHA staff independent of the executive director's attendance or knowledge).
- ✓ Prevent conflicts of interest as defined in state law and ACC.
- ✓ Avoid the appearance of conflicts of interest.

PURPOSE OF THE PUBLIC HOUSING PROGRAM:

The public housing program was established to provide decent, safe, sanitary and drug free housing of persons of lower income. State law also provides powers and duties of the housing authority. State law and Federal law, along with rules,

regulations, guidelines, handbooks, and directives provide assistance and guidance for the carrying out of the purposes of the public housing program.

WHO OWNS PUBLIC HOUSING?

Public Housing was authorized by the Federal Government through the Housing Act of 1937 and is funded with federal funds. The program is regulated by HUD. State law enabling legislation provides for the establishment and the legal roles of each housing authority. The title to all property is vested in the local public housing agency. The local housing agency is prohibited from leasing, selling or mortgaging property under the ACC without HUD approval.

HOW IS PUBLIC HOUSING FINANCED?

Originally Public Housing was financed by the sale of tax exempt government guaranteed bonds and notes. Today Public Housing is financed by federal subsidy, rental income from tenants, grants, etc.

DO HOUSING AUTHORITIES PAY TAXES?

No. Payments in lieu of taxes (PILOT) are authorized by law and by the Cooperation Agreement made between the housing authority and the governing body. These payments, unless they have been waived by the local form of government, are made to the local government for services provided, which are the same services provided to other property owners.

DUTIES OF THE EXECUTIVE DIRECTOR:

The Executive Director serves not only as Executive Director, but also as the Secretary-Treasurer of the Board of Commissioners. The Executive Director is hired by the Board of Commissioners by written contract, or, if there is no written contract, subject to the Personnel Policy of the Authority. The Executive Director is the Chief Executive Officer of the Authority, and is charged with the day to day management of the housing programs of the Authority. He or she also executes the policies adopted by the Commissioners.

The Executive Director informs and advises the Board on recommended policy changes and required regulatory changes in policy. In a small housing authority, the Executive Director may also be the Housing Manager. In that event, he or she is responsible for rent collections, repairs, maintenance, resident training and services, accounting, bookkeeping, and other duties associated with housing. To the extent possible, a separation of duties should be maintained.

WHO SELECTS THE RESIDENTS?

Residents are selected by the Executive Director or his designee in accordance with the ACOP, but only after the following process is complete (1) applications is made, (2) information is verified in accordance with federal law (3) other screening is done in accordance with the agency policy. Some of the screening may include, a background criminal history check, credit checks, etc. and (4) applicant is deemed qualified for tenancy. The Board of Commissioners adopts the Admission and Continued Occupancy Policy (ACOP) This policy is approved by HUD and is derived from the federal rules and regulations along with local policy. Commissioners are not to be involved in the typical tenant selection process and can cause claims of discrimination and violation of federal laws if they try to “help” with this process.

HOW IS RENT COLLECTED?

The minimum rent for housing is \$0.00 to \$50.00, depending upon the decision of the Board in establishing the minimum rent. A person’s income and exclusions from income are used to calculate the person’s rent based upon the income of qualified family members. A formula, developed in accordance with the federal rules and regulations is applied to calculate the total rent payment due by the tenant each month. The HA may also establish a “flat rent” for each apartment in accordance with federal laws and agency policy.

DO’S AND DON’TS FOR COMMISSIONERS;

DO:

- ✓ Pass resolutions and policies only after thorough discussion and understanding of the purposes, usage, and implication after consultation with the Executive Director.
- ✓ Monitor policies and procedures to insure that the result is what was intended and to see if any modifications need to be made.
- ✓ Establish controls to detect and prevent conflicts of interest, fraud and abuse.
- ✓ Ensure that an audit is conducted annually and that the report is reviewed by commissioners. Commissioners may ask the executive director to have the auditors to expand their review to include areas of concern and to attend the exit conference at the end of the audit.
- ✓ Conduct meetings at least quarterly with Resident Council leaders to solicit comments and input to agency operations within their facilities. Consider having training sessions for Residents Councils.
- ✓ Ensure that the housing authority operates legally and with integrity. Establish high ethical standards for staff and act as positive role models.
- ✓ Become aware of the policies and regulations which govern the operation of the housing authority, and review the laws concerning your service on the Board of Commissioners. (www.hud.gov and www.hudclips.gov are valuable online resources).

- ✓ Fully support all board approved resolutions even on issues/policies that have split votes during Board Meeting.

DON'T

- ✓ Sign blank checks or checks not supported by bills, invoices or vouchers.
- ✓ Allow any bank accounts to be controlled by one signature.
- ✓ Approve contracts or take any other action which is a violation of the ACC or HUD Regulations.
- ✓ Forget that Commissioner's set policy and the Executive Director is the chief executive officer of the Authority who conducts the day to day activities of the Authority. Commissioners can cause confusion, harm to employee morale, and undermine the executive director authority if they become involved in the day-to-day operations. If commissioners have operational concerns they should contact the executive director directly.

HOW TO CONDUCT BOARD MEETINGS:

There is no "set" way to conduct a meeting, but if Commissioners would like a guideline, Roberts Rules of Order is a good guideline. Typically, several days before the meeting the Commissioners should be provided with copies of the agenda and all resolutions or other materials to be discussed at the meeting. This will allow you a chance to review the information and make sound decisions on important matters that may come before the Board. Commissioners should review all materials received prior to the meeting so they will be familiar with the issues that will be discussed at the meeting.

Suggested Agenda Items:

- Roll Call
- Approval of Minutes of Previous Meeting
- Approval of Financial Statements and Bills
- Communications
- Reports of Committees
- Report of Executive Director
- Unfinished (Old) Business
- New Business and/or Public Concerns
- Adjournment

DO'S

- ✓ Do know the suggested agenda and review the packet of materials before the meeting, if possible.

- ✓ Do know the rules. Know the by-laws, continuing resolutions, and Robert's Rules of Order.
- ✓ Do follow internal PHA and HUD policies and rules. Keep signed and sealed board meeting minutes, approve accurate financial reports, staff reports, etc.
- ✓ Do ask for legal advice from your attorney, and supply him/her with the information in advance of the meeting if possible.

DON'T'S

- ⊗ Don't miss meetings without a reasonable excuse. Do let the Executive Director know in advance if possible that you will miss the meeting.
- ⊗ Don't come to the meeting unprepared
- ⊗ Don't monopolize the meeting and stay on task to be respectful of everyone's time.
- ⊗ Don't deviate from the meeting agenda.
- ⊗ Don't make a grievance hearing out of a board meeting
- ⊗ Don't confuse good politics with good business.
- ⊗ Don't take a rejection personally and remember the good of the agency is more important than personal agenda items.
- ⊗ Don't restrict media participants, at the board meetings, unless Executive Session is entered in to and remember, all decisions must be made in Regular Session. Executive Session is only for discussion or personnel or sensitive private contract matters. Remember, WV Sunshine Laws must be followed.

KEEP A NOTEBOOK

You may want to keep a notebook with copies of the policies and other important resolutions which you pass for your reference. Include in the notebook should be the following:

- ✓ STATE LAW ABOUT HOUSING AUTHORITIES
- ✓ OATH OF OFFICE
- ✓ DIRECTORY OF HOUSING AUTHORITY STAFF AND SITES
- ✓ DESCRIPTION OF HOUSING AUTHORITY UNITS.
- ✓ PERSONNEL POLICY
- ✓ LEASE AND GRIEVANCE POLICY
- ✓ ADMISSION AND CONTINUED OCCUPANCY POLICY (ACOP)
- ✓ SECTION 8 ADMINISTRATIVE PLAN
- ✓ RENT COLLECTION POLICY
- ✓ ANNUAL CONTRIBUTIONS CONTRACT (ACC)
- ✓ BY LAWS OF HOUSING AUTHORITY
- ✓ COOPERATION AGREEMENT
- ✓ FINANCE AND INVESTMENT POLICY
- ✓ HUD ACRONYMS FOR PUBLIC HOUSING AUTHORITIES

- ✓ Contact information of the Executive Director and applicable staff in the event of an emergency.

Section III. Policies and Documents that Require Board Approval

- Annual Contributions Contract (ACC)
- Admissions and Occupancy Policy (ACOP)
- By-Laws
- Cooperation Agreement
- Dwelling Lease for Public Housing
- Grievance Procedure
- Personnel Policy and related Polices
- Procurement/Disposition Policy
- Operating Budgets (All PHA Programs: PH, Section 8 Vouchers, etc.)
- Depository Agreements

Section IV. How can a Commissioner determine if a PHA is being managed and operated effectively and efficiently?

Training: It is helpful if one or two Commissioners attend training sessions each year. This may help to ensure that Commissioners are current on HUD regulations and will equip each Commissioner with the tools needed to evaluate their PHA's operations. As a general rule, the number of Commissioners attending training should be limited to the number required to attend each session of the training. For example, if there were three topics being covered at the training, three Commissioners should attempt to attend. Of course, training will depend on availability of funds.

Financial: Several administrative devices for measuring and evaluating the local programs are available to you as a commissioner: the budget, financial statements and the audit. The Quality Housing and Work Responsibility Act of 1998 included a new procedure for assessing the financial management of housing authorities. This procedure is incorporated into the Public Housing Assessment System, or PHAS. The PHAS is intended to evaluate the financial condition, management operations, physical conditions, and level of resident services of local authorities. Where finance is concerned, PHAS examines local housing authority operations to determine whether an authority has adequate monetary sources and to determine if those resources are being managed effectively. As a result, housing authorities are required to prepare financial information in accordance with Generally Accepted Accounting Principles (GAAP). HUD's Real Estate Assessment Center (REAC) assesses the financial condition of local authorities. The HUD system for evaluating the performance of a PHA's Section 8 Program the Section 8 Management Assessment Program (SEMAP). Commissioners should know its PHA score in each system.

Condition: Commissioners can tell a great deal about the management and maintenance of a PHA by driving through the developments and taking notice of the condition of the Public Housing Development. Signs of excessive litter, junked and inoperable cars, graffiti on buildings, broken windows and cluttered porches may be signs of poor management and maintenance.

Financial: The PHA's yearly financial audit provides a wealth of information about the operations of the agencies financial condition and audit findings and/or recommendation should be reviewed and decisions made on how to correct or strengthen financial controls.

Staff Turnover: Continuous staff turnover may be an indication of poor management of human resources of the PHA. Salary ranges and employee benefits may need to be analyzed to ensure the PHA is competitive with other employment companies with the area. In 2014 HUD released a national report on PHA director salaries. This study and local salary comparability studies will be helpful to establish agency fair salary schedules.

Residents: A PHA should try to have resident organization(s) and/or be able to document that the staff works with residents on a regular basis to establish resident organizations. Some agencies are not able to attract residents to be involved in such an organization. These situations should be documented to show that the agency did try to encourage residents to be involved in their communities. All PHAs are required to involve residents to review agency plans through a public hearing process, and by having a resident service as a member of the Board of Commissioners.

Section V: Frequently asked Questions by Commissioners

Q1. Can a PHA employee have a monthly expense account?

A1. Yes, however, it must be for allowable expense and the PHA staff person must provide an accurate and timely accounting of the expenses incurred. The expenses must be authorized in advance.

Q2. Can a PHA employee have a credit card?

A2. Yes. However, the transactions must be accounted for monthly and the credit card may only be used for allowable and authorized PHA expenditures. The PHA may want to have a credit card policy.

Q3. Can a PHA employee have an entertainment account or allowance?

A3. No. Such expenses are prohibited by federal law.

Q4. Can a PHA staff person use PHA owned equipment or supplies to operate a private business?

A4. No. PHA equipment and supplies must only be used for authorized public housing activities.

Q5. While on travel status are non-conference related (sight-seeing) tours, in room service, bar bills, movies and personal entertainment items allowable expenses?

A5. No. Only those expenses which are necessary to support the travel (meals, lodging, transportation, tips, and other expenses which are outlined in the personnel policy. All travel advances must be properly accounted for and recorded on a travel voucher/expense form and the expenses must be allowable for PHA travel.

Q6. Can a PHA pay for the Executive Director or Commissioner to belong to a Civic Club or Professional Organizations?

A6. No. This is not an eligible expense. A PHA may pay for dues or fees to belong to an organization only when the entire PHA benefits and not for an individual's benefit.

Q7. Should an Executive Director account for the use of Annual and Sick Leave?

A7. Yes. Any employee that accumulates Annual and Sick Leave must account for the use of such leave as outlined in the Personnel Policy.

Q8. Can Commissioners be paid a salary for service on the Board of Commissioners?

A8. No

Q9. Can a Commissioner apply for the Executive Directors job or any positions at the PHA?

A9. No. HUD regulations require that a commissioner must be off the Board for twelve months to be eligible to apply for a position with the PHA. HUD MAY grant a waiver of the twelve-month requirement ONLY if no other qualified candidate is available.

Q10. Can a Commissioner be removed from the Board of Commissioners by the Mayor or appointing official?

A10. Yes, by impeachment as outlined in the Bylaws.

Q11. If a Commissioner owns a business, can his/her company do business with a PHA?

A11. No. A Commissioner may not receive financial benefit from his/her appointment on the Board. HUD may approve an exception, if the Commissioners provides a service or product that represents a single source. (exception Bankers)

Q12. Should Commissioners consult with the employees or residents about a problem?

A12. No. The Commissioner should consult ONLY with the Executive Director concerning the day to day operations of the PHA. Consulting with single employee or single resident may inadvertently cause the Commissioner to cause discrimination to occur, and may undermine the authority of the Executive Director in personnel matters. If a Commissioner is approached by a resident or employee, he/she should immediately be referred to the Executive Director. Any issues can then be handled in accordance with the grievance policy for residents and employees.

Q13. Can the Board of Commissioners not approve a HUD required resolution and/or Certification?

A13. Yes, however HUD could impose sanctions against the PHA and could take over the operations of the PHA if it is in violation of the ACC.

Q14. Can a Commissioner vote by proxy?

A14. Yes, if the ability to vote by proxy is contained in the PHA By-Laws and the vote is not needed to establish a quorum.

Q15. Can the Chairman of the Board of Commissioner have an Office at the PHA?

A15. No. The day to day operations of the PHA is the responsibility of the Executive Director not the Board Chairman and use of office space is reserved for those conducting the day to day operations of the agency.

Q16. Can a Commissioner be held personally liable for the wrongful acts of the PHA?

A16. Yes, if he/she is acting beyond their role and duty as a Commissioner. Single acts of a Commissioner can cause him/her to be held personally responsible, so Commissioners should assure they are acting as a Board, not individuals.

Q17. Should a copy of the appointment to the Board of Commissioners be provided to the PHA with the Oath of Office?

A17. Yes. This information should be sent by the commissioner appointing body.

Q18. Can a Commissioner remain on the Board after his/her term expires?

A18. Yes, A Commissioner's appointment remains in effect until a new appointment or reappointment is made for their term.

Q19. Can a City Councilman sell goods and/or services to the PHA?

A19. No. Under the ACC, no member of the local governing body can sell goods or services to the PHA.

Q20. Should the PHA make an exception to the waiting list or occupancy requirement to house an individual or family based on the request of the Mayor, Council member, or PHA Board Member?

A20. No. All applicants must be housed on eligibility requirements of the PHA adopted selection criteria in the ACOP. Asking the PHA to make exceptions for any purpose causes the person asking to be in violation of federal law and could jeopardize agency funding.

Q21. While on travel status for a PHA, are the expenses incurred by an employee's or commissioner's spouse or companions eligible for reimbursement by the PHA?

A21. No. No expenses for travel companions of any kind may be paid by the PHA other than for a service animal, if such costs are incurred.

Q22. Who should be the media spokesperson be for the PHA?

A22. The Executive Director or their designee as outlined in the personnel policy.

Q23. Should minutes of the Commissioner's meeting be taken?

A23. Yes. Minutes are required by law and should be kept in a fireproof safe, as they are official agency records.

Q24. Should agenda items be mailed to the Commissioners prior to the meetings?

A24. Yes. Commissioners typically should receive a packet of material prior to the board meeting.

Q25. Are Commissioners accountable to the Mayor or appointing officials?

A25. No. While the Mayor or appointing officials may believe the Housing Authority Commissioner "works" for him/her since he/she made the appointment all decisions of the Board of Commissioners must be based solely on what is best for the agency with no political agenda involved in any decision.

Q26. Are Commissioners required to attend training sessions while on travel status for the PHA?

A26. Yes. If Commissioners travel to a conference or training program, they are expected to attend the full training/conference sessions.