

## Code of Massachusetts Regulations 6.09

### 6.09: Tenant Participation

(1) Purpose. Participation by tenants and household members through effective tenant organizations is beneficial to the administration of public housing. Cooperative working relationships enhance housing programs and benefit both LHAs and residents. The purpose of this subsection is to encourage the formation of representative organizations and to provide such organizations with the opportunity to be heard on and participate in matters affecting the interests of the residents.

#### (2) Recognition of Local Tenant Organizations and Revocation of Recognition.

(a) Recognition Where a Local Tenant Organization (LTO) Has Not Been Recognized. The LHA shall encourage and assist public housing tenants and adult household members (referred to in this subsection as the "residents") to form an LTO to represent the residents in dealing with the LHA on matters which affect the rights, status, duties, welfare, or other interests of tenants and their household members. An association of residents may submit a written request to the LHA to recognize the association as an LTO. A city-wide or town-wide LTO may also represent adult program participants in the Massachusetts Rental Voucher Program (MRVP) and the Alternative Housing Voucher Program (AHVP) who hold vouchers administered by the LHA. In its request for recognition, an association shall demonstrate the following:

(i) Persons Represented. That the association is and will be representative of one of the following groups: all residents of state-aided public housing city-wide or town-wide; all residents in state-aided family housing; all residents in state-aided elderly/handicapped housing; or all residents in a particular state-aided development.

(ii) Participation by Residents. That the association does not and will not impose any unreasonable restriction on participation by any resident whom it represents.

(iii) Purpose of Representation. That the purpose of the association is and will be to provide representation for residents in matters which affect the rights, status, duties, or other common interests of tenants and their household members, and to seek and maintain a cooperative working relationship with the LHA.

(iv) Written Rules or By-Laws. That the association is and will be governed by written rules or by-laws which may be changed only by a majority vote of the residents present at a meeting for which there has been reasonable advance written notice (prominent posting at all involved developments may suffice) of time, date, and purpose.

(v) Meetings. That regular meetings are held and will be held at least twice per year at times and places which shall be reasonably convenient; that reasonable advance notice will be given of these meetings which are and will be open to attendance by residents; and that residents have and will have reasonable opportunity to make known their views on matters of common interest.

(vi) Officers. That the association's officers are and will be elected from residents whom the association represents.

(vii) Elections. That election of officers will be held on a regular basis not less than every three years pursuant to a fair election procedure which shall impose no unnecessary restrictions on candidates desiring to run for office and which shall entitle every represented resident to vote after reasonable notice of the time and place of the election; that each election shall be supervised by a disinterested person with experience in supervising elections who shall provide the LHA with a certificate attesting to the fairness of the election.

(viii) Special Elections. That a special election shall be held no more than once a year upon written request which specifies the reason for the special election and which is signed by one or more residents in twenty percent (20%) or more of the households represented.

The LHA shall grant an association recognition as an LTO if the association has adopted and implemented written rules or by-laws which set out the substance of all of the requirements in paragraphs (a)(i) - (a)(viii) and if there shall be no other LTO which is active (i.e., has held at least one meeting during the prior 12 months) and which has been previously recognized for the same group of residents, and if there shall be no other competing association seeking recognition as LTO for the same group of residents. A copy of the association's written rules or by-laws shall be submitted to the LHA with the association's request for recognition as an LTO and shall be available to the residents upon request.

(b) Recognition When There is More Than One Candidate for Recognition. An LHA shall not recognize more than one LTO to represent any of the following groups in state-aided public housing: residents city-wide or town-wide; residents in family housing; residents in elderly/handicapped housing; or residents in a particular development. The LHA shall recognize as an LTO a qualifying association which represents one of these groups so long as the group is not already represented by an LTO. An association shall not seek recognition as an LTO if the group of residents represented by the association is already represented by an active LTO. If two or more qualified associations are candidates for recognition as LTO for the same group of residents, the LHA shall meet with the candidates and encourage them to agree on a single candidate. If the candidates cannot agree within a reasonable time, the LHA shall recognize the candidate which the LHA determines will best represent the residents. In making this determination the LHA shall consider all relevant circumstances, including the following:

(i) the reliably documented numbers of residents participating at the association's previous election(s).

(ii) the reliably documented numbers of residents attending the association's prior meeting(s).

(iii) the association's efforts to encourage participation by residents.

(iv) the ease with which residents participate in the association's activities, including the time and place of meetings, the effectiveness of notice procedures, the procedures governing participation at the meetings, and the inclusiveness of the nominating procedure.

The LHA shall mail its written decision which may recognize one of the candidates as LTO and which shall deny recognition of the other(s) with an explanation of its reasons, to each of the candidates.

(c) Department Review of the LHA's Decision on Recognition. If an association is dissatisfied with a decision of the LHA denying recognition of the association as an LTO, the association may, within thirty (30) days of the date that the LHA's decision was mailed to the association, request in writing that the Department review the LHA's decision to deny recognition and (if another association has been recognized) the LHA's decision to recognize that other association.

Upon review, the Department may uphold or set aside the LHA's decision denying recognition of an association as an LTO and the decision (if any) recognizing another association as LTO. The LHA and each association involved shall be entitled to submit written argument and documentation to the Department in support of their positions. The decision of the Department shall be in writing and shall explain the reasoning of the Department. The decision shall be mailed to the LHA and each association involved.

(d) Revocation of Recognition. An LHA may request that the Department revoke recognition of an LTO (i) in the event of the LTO's material failure to follow its rules or by-laws insofar as they are required in (a) above; (ii) in the event of the LTO's material failure to follow the provisions of applicable law, including regulations of the Department; or (iii) in the event of the LTO's substantial misuse of funding, space or supplies provided by the LHA. Failure to hold regular meetings open to residents or failure to hold fair elections are examples of cause for revocation of recognition. Prior to requesting that the Department revoke recognition of an LTO, the LHA shall provide a written warning to the LTO that it is considering requesting revocation of recognition and shall specify the reason(s) in detail. The LHA may, if appropriate, include a description of measures which the LHA deems necessary for the LTO to take to cure the violation.

If the LHA requests that the Department revoke recognition of an LTO, its request shall be in writing and shall include a detailed specification of the reasons and a copy of its written warning to the LTO. A copy of the LHA's request shall be provided by the LHA to the LTO which shall have thirty days within which to file a written opposition to the request with the Department. If the LTO opposes the request, the Department shall determine the facts and, if the Department finds that there has been a material failure by the LTO to follow rules, by-laws, or applicable law, or a substantial misuse of funding, space or supplies without any good excuse, the Department may revoke recognition of the LTO or, if circumstances shall warrant a lesser sanction, may impose a lesser sanction which the Department deems to be appropriate. The decision of the Department shall be in writing and copies shall be provided to the LHA and LTO.

(e) Transitional Rule for Existing LTOs. The recognition of an LTO prior to the effective date of this regulation shall continue in full force and effect unless recognition is revoked as provided in (d) above. Any LTO existing on the effective date of this regulation shall adopt and follow written rules or by-laws setting out the substance of the requirements in (a) above within a reasonable time following the effective date of this regulation. Any change, which is not legally

or practically possible, shall not be required provided that the LTO submits to the LHA written documentation showing that the change is not legally or practically possible.

(3) LTO Participation. The LHA and each LTO shall negotiate an agreement regarding resident participation. The agreement shall be responsive to and reflective of resident participation appropriate under local circumstances. The agreement shall be for a term of no more than seven years. The agreement may be renewed for additional term(s) if the LHA and LTO agree at the time of renewal. Where more than one LTO exists, the agreement shall be reflective of the consequences of multiple representation. The agreement and any renewal shall be subject to disapproval in whole or in part by the Department for good cause at any time; the Department shall communicate any such disapproval and specify the good cause in writing to the LHA and the affected LTO(s). Absent an agreement between the LHA and LTO approved by the Department regarding resident participation, the following terms for resident participation shall be in effect at an LHA:

(a) Meetings. The executive director of the LHA, or a designee with authority to speak for the LHA, shall schedule meetings regularly at convenient times and places with the LTO(s) separately or jointly. Such a meeting need not be public so long as a quorum of the LHA's Board is not present. At least ten (10) working days beforehand, the LHA shall notify each affected LTO of the date, time and place of the meeting. Either the LHA or an LTO may schedule an agenda item for the meeting by giving at least two days advance written notice to the other(s). If no agenda item is so scheduled, the meeting may be canceled by the LHA with advance notice to the LTO(s). Both the LHA and the LTO(s) shall attend the meeting if one or more agenda items have been scheduled.

(b) Availability and Copies of Documents. The LHA shall permit an LTO to inspect all written policies, procedures, rules, regulations, leases, and other forms in use at the LHA. Personal information, which is not public, shall not be made available. The LTO may request copies of documents subject to inspection, and the LHA shall not charge for these copies so long as the LTO's request for copies shall be reasonable in number and shall not specify documents of which the LHA has recently provided copies to the LTO.

(c) LTO Funding by the LHA. Upon request the LHA shall fund all LTOs in a city or town at the annual rate of \$3.00 per public housing unit occupied or available for occupancy by residents represented by such LTO(s) or an annual total of \$250.00 for all such LTO(s), whichever is more; provided, however, that the LTO(s) and the LHA may agree to total funding not to exceed \$6.00 per unit so occupied, if the LTO(s) shall have convinced the LHA of a need for additional funds.

If more than one LTO represents the same residents, the LTOs involved shall equally share the allocation of the funding attributable to these residents. The LHA shall disburse such funds to an LTO pursuant to an approved budget, which provides that funds will be used only for the LTO's ordinary and necessary business expenses and authorized activities (excluding social activities) with respect to state-aided housing programs. The LTO shall not make any expenditure of funds received from the LHA except in accordance with such a budget approved by the LHA which shall not withhold approval without good cause.

(d) Office Space. Upon request and upon a demonstration of particularized need, an LHA, without charge, shall provide an LTO which represents residents in state-aided public housing with a reasonable amount of space suitable for use as an office, which in the LHA's discretion may be shared, if suitable space at the LHA shall be available for such purposes or can reasonably be made available for such purposes without significant cost or inconvenience to the LHA so long as the space is used by the LTO solely for purposes of such representation and is maintained by the LTO in a clean and safe condition and so long as the LTO's need for the space continues and the space is not reasonably necessary for the LHA's other needs.

(e) Telephone Service for Large LTOs. If an LTO shall have made a documented demonstration of particularized need for local telephone service, upon presentation of the monthly statement, the LHA, without charge, shall reimburse an LTO, which represents residents in more than one hundred (100) state-aided public housing units, for the minimum cost of basic local telephone service so long as the telephone service has been used solely for local calls concerning representation of residents in state-aided public housing and for no other purpose and so long as the LTO's particularized need for local telephone service continues and is adequately documented when the LHA so requests.

(f) Meeting Space. Whenever possible, the LHA shall make community space or other appropriate space available for LTO meetings. The LHA and LTO shall cooperate in securing meeting space and in scheduling so that LTO meetings may be held at places and times convenient for the residents.

(g) Consultation Between LHA and LTO In Certain Matters. Whenever an LHA proposes to adopt or amend a rule or policy which will affect the rights, status, duties or welfare of residents or to request a waiver of regulatory requirements affecting such rights, status, duties or welfare, the LHA shall first seek the LTO's advice and include the proposal as an agenda item for discussion at a meeting between the LHA and LTO as provided in (a) above. The LTO shall also be given reasonable opportunity to appear and make known to the Board any objection to such a rule or policy at a board meeting. The Board shall deal with each such objection on its merits. In the case of an application for modernization funds, the tenant participation requirements in 760 CMR 11.00 shall be followed by the LHA.

Prior to submitting a budget request to the Department the LHA shall first seek the LTO's advice and shall include the budget request as an agenda item for discussion at a meeting as provided in (a) above. The LTO shall also be given a reasonable opportunity to appear and make known to the Board its concerns with such budget request at a board meeting.

(h) Review by the Department. Promptly after the Board's vote on a rule or policy, a request for waiver, or a budget request, for which approval by the Department is necessary, an LTO may communicate an objection or concern to the Department in writing, with a copy to the LHA, and the Department shall consider such objection or concern in determining its action on the matter.

(i) Posting of Rules and Regulations. The LHA shall post and shall keep posted in a conspicuous place in its central office and, if practical, in each development, all rules and policies of the LHA and the regulations of the Department which affect the rights, status, duties or welfare of tenants

and their households. If postings are repeatedly removed, destroyed or defaced, the LHA shall take reasonable alternative measures to make the material conveniently available to tenants. Absence of a posting shall not affect the validity or applicability of rules, policies or regulations. Upon request, a tenant shall, without charge, be provided with one copy of an applicable rule, policy or regulation; the LHA may charge a reasonable fee for providing a duplicate copy or copies to the tenant.

(j) Preference for Tenants in LHA Hiring. The LHA shall notify all LTOs whenever a job at the LHA becomes available to outside candidates and is not covered by an applicable internal promotion policy. All such jobs shall also be posted in the LHA's central office. The fact that a candidate is a tenant or household member is a factor to be considered by the LHA in the candidate's favor. In the event that two or more candidates are otherwise equally qualified but one is a tenant or household member, that fact shall entitle the candidate to be considered more qualified than any otherwise equally qualified candidate who is not a tenant or a household member. This preference shall not apply if the effect of applying the preference would be to exacerbate a significant under representation of minorities in the LHA's workforce.

(k) LTO Participation in Hiring. Prior to filling a position (including promotions pursuant to an applicable internal promotion policy) in which the employee to be hired will have direct dealings with the residents, the Executive Director (or the LHA where the employee to be hired is the Executive Director) shall afford each LTO the opportunity to examine resumes of all candidates, to express the LTO's view of the qualifications of some or all of the candidates (such expressions shall be objective), to recommend one or more of these candidates to be interviewed, to participate in interviews of the candidates who are interviewed, and to make a recommendation about which candidate should be hired. In the event that the Executive Director or the LHA shall choose to conduct a preliminary screening of the resumes of candidates, the LTO(s) shall not have the opportunity to examine resumes of candidates eliminated by such preliminary screening. Without a prior written agreement which details specific procedures to be followed, the LTO shall not check a candidate's references, either commercial or personal, contact his or her employers, past or present, independently arrange for an interview of a candidate, or conduct activities which infringe on the candidate's privacy.

(l) LHA Board Meetings. The LHA shall provide each LTO with reasonable prior notice of all regular and special board meetings and a copy of the agenda for each such meeting. The agenda for every meeting of the LHA shall provide a reasonable opportunity for the LTO(s) to be heard on agenda items so long as the agenda items directly bear on common rights, duties or interests of tenants and/or household members and not on grievable matters regarding individual tenants.

(4) Transitional Rule for LTO Participation. An existing agreement or arrangement for tenant participation in effect between an LHA and LTO at the effective date of this regulation shall remain in effect until amended or replaced by subsequent agreement between the LHA and LTO or until disapproved in whole or in part by the Department.