

NEW YORK CITY HOUSING AUTHORITY

NOTICE OF PROPOSED REVISED REMOTE HEARING PROCEDURES



A. Dear NYCHA Resident:

The New York City Housing Authority (NYCHA) plans to modify its remote hearing procedures to provide additional clarity on the procedures the Office of Impartial Hearings (OIH) follows when conducting hearings where one or more hearing participants appears virtually. The proposed revised procedures are reproduced on the following pages.

You have the opportunity to submit written comments about this proposed modification. All comments must be emailed or postmarked no later than _____, 2023.
(month date)

The e-mail address for submitting comments on this proposed modification is: lease.changes@nycha.nyc.gov.

Comments may be mailed to the following address:

NYCHA - Lease Clause Changes
P.O. Box 19202
Long Island City, NY 11101-9202

A translation of this form is available in your Property Management Office.
La traducción de este formulario está disponible en su Oficina de Administración de Propiedades.
Перевод этого документа находится в Офисе управления вашего жилищного комплекса.
您所居住區物業管理處辦公室提供本文件的譯本。
您所居住区物业管理处办公室提供本文件的译本。



**NEW YORK CITY HOUSING AUTHORITY
OFFICE OF IMPARTIAL HEARINGS**

803 Atlantic Avenue
Brooklyn, NY 11238

Customer Contact Center: (718) 218-1182/1184

on.nyc.gov/OIH

REMOTE HEARINGS PROCEDURE

In addition to in-person hearings, the New York City Housing Authority’s (“NYCHA”) Office of Impartial Hearings (“OIH”) is also offering the option of remote appearance.

ALL APPLICABLE COVID-19 RESTRICTIONS WILL BE STRICTLY FOLLOWED

This document is intended to provide guidance for how OIH is conducting Remote Hearings. The OIH is an administrative tribunal which conducts hearings for the following:

- Termination
 - o Tenancy
 - o Leased Housing/Section 8 Subsidy
- Grievances
 - o Remaining Family Member
 - o Tenant Initiated, such as Rent Grievances
 - o Leased Housing/Section 8 Voucher Holders
 - o Leased Housing/Section 8 Reasonable Accommodation Requests
- Appeals
 - o Applicant
 - o Trespass
 - o Tenant Reasonable Accommodation Requests

Right to Counsel:

Under New York City’s Universal Access to Counsel Law, all NYCHA tenants facing terminations of tenancy will have the opportunity to be connected with free legal services attorneys through a virtual Right to Counsel conference. A Right to Counsel conference will always precede a Remote Hearing on all Termination of Tenancy cases.

Regardless of your participation in the Right to Counsel conference, you may be represented by counsel or other representative of your choice. If you are unable to participate in the Right to Counsel conference and wish to be represented but cannot afford a lawyer, please:

- contact one of the nonprofit legal organizations that provide free legal services;
- call 311 and ask for the Tenant Helpline; or
- visit the NYC Office of Civil Justice’s website at www.nyc.gov/civiljustice.

Notice Regarding Failure to Appear at Scheduled Hearings:

If Tenant fails to appear at a scheduled in-person, remote, or hybrid hearing before a hearing officer, a default may be issued resulting in the termination of your tenancy/subsidy or dismissal of your grievance. This policy does not apply to Right to Counsel conferences.



GUIDE FOR PARTICIPATING IN REMOTE HEARINGS

The Remote Hearing will be scheduled by the OIH. All parties and their representatives will receive notification of the scheduled hearing by U.S. mail and will receive a Microsoft Teams email invite from NYCHA (Law Department or the OIH). The Microsoft Teams email invite will also be sent to any witness(es). All pertinent information and instructions for participating remotely in a hearing will be attached to the notification and Microsoft Teams email invite.

Definitions:

- **“Document Sharing”** is the online process through which Parties can upload, download and view documents intended to be submitted for consideration as evidence at the Remote Hearing.
- **“Hybrid Hearing”** is held when one party agrees to appear remotely and the other party agrees to appear in person (e.g., a case that involves co-grievants where one grievant agrees to appear remotely and the other grievant agrees to appear in person). Any Party or Participant appearing in-person will be on camera at the OIH office, while the other Party or Participant will be on camera remotely unless otherwise provided by these procedures. Evidence will be presented on screen for the Party or Participant who is remote and optional hard copy will be provided to the Party or Participant appearing in person to ensure the full participation by all parties involved in the hearing. The Hybrid Hearing will be recorded in the same manner as a Remote Hearing.
- **“On-Site Remote Hearing”** is a hearing where NYCHA provides the necessary devices, technology and space for a Participant in a scheduled Remote Hearing at the OIH or at 90 Church Street, New York, NY 10007.
- **“Participant”** is anyone who takes part in a Remote Hearing, including attorneys, parties and witnesses.
- **“Party”** is a Tenant, Grievant, Leased Housing/Section 8 Voucher Holder, Applicant and NYCHA.
- **“Reasonable Accommodation”** is a change, modification, or alteration in policy, procedure, practice or program, that provides a qualified individual with a disability an equal opportunity to participate in, or benefit from, a program or activity, as exists for individuals who are not disabled. The reasonableness of a given accommodation depends upon the individual circumstances of the Participant(s) for whom the request is made to have an equal opportunity to participate in a Remote Hearing. In addition, an accommodation may not create an undue administrative or financial burden upon NYCHA or fundamentally alter the nature of the Remote Hearing.
- **“Remote Hearing”** is a hearing conducted either via video conference or by voice only (telephone) and is not conducted in the physical presence of opposing parties and the Hearing Officer. Video conferencing can be accessed using a desktop computer (“desktop”), laptop or tablet equipped with a camera and microphone, or other mobile device equipped with a camera and microphone (“mobile device”).
- **“Telephone Hearing”** is where a Party, with the consent of all other Parties, participates in a Remote Hearing solely via telephone. This is also known as a Voice Only Option.
- **“Virtual Meeting Room”** is where all Remote Hearing Participants may be seen and/or heard during the Remote Hearing.
- **“Virtual Waiting Room”** is where, upon joining the Remote Hearing, all Participants will remain until the Hearing Officer admits the Participants into the Virtual Meeting Room.

Ways to Participate Remotely in a Hearing:

Participants can participate remotely in the following ways:

- Using a desktop, laptop, tablet or mobile device: If a Participant has a desktop, laptop, tablet or mobile device and internet service, they should download the Microsoft Teams app from the App Store or Google Play Store before their scheduled Hearing. Please see the Microsoft Teams Remote Hearings Participants’ Guide link for detailed instructions. There is no cost to download Microsoft Teams.
- On-site Remote Hearing or Telephone Hearing: If a Participant does not have access to a desktop, laptop, tablet or mobile device with internet service, the Party may participate in a hearing by either option below:
 - o On-Site Remote Hearing: NYCHA will offer an on-site Remote Hearing option at the OIH or at 90 Church Street. OIH staff will be available on-site to assist, as needed.



- o Telephone Hearing: A Party may participate by telephone only if all Parties agree. The assigned Law Department representative will provide the requesting Party with an “Agreement to Participate in an Administrative Hearing by Telephone” (“Agreement”), which describes the challenges of participating in a Remote Hearing by telephone. After the requesting Party signs and returns the Agreement via mail, the hearing date will be rescheduled and a new hearing date will be sent via mail.

Setting Hearings Dates and Selecting Remote Appearance:

- Every scheduled hearing is preceded by at least one (1) pre-hearing conference in addition to the Right to Counsel conference.
 - o During a pre-hearing conference, a mutually-agreed upon hearing date is selected.
 - o The non-NYCHA Party selects either a remote or in-person hearing.
- If the non-NYCHA Party does not attend the pre-hearing conference or does not select an appearance option during the pre-hearing conference, the Party will have fifteen (15) calendar days from the date of the pre-hearing conference to select an appearance option.
 - o The Party can call the OIH at 718-218-1182/1184 or appear in person to inform the OIH of their selected appearance option. If the Party does not inform the OIH of their selected appearance option within fifteen (15) calendar days from the date of the pre-hearing conference, the OIH will schedule an in-person appearance for that Party.
- A Party who wishes to change their appearance option may contact the OIH at any point before the hearing at 718-218-1182/1184.

Before the Remote Hearing:

- The OIH will send out the MS Teams email invite to the Party, the Party’s representative(s) and the Party’s known witnesses at least 30 days in advance of the hearing. The OIH will add witnesses to the invite upon notification to the OIH. The MS Teams email invite will provide the date and time to join the scheduled Remote Hearing.
- Document sharing - NYCHA has created a secure document-sharing site in Microsoft SharePoint called “Virtual Hearing” (the “Site”). The Site allows the Parties to view, upload and download all the documents that the Parties would like to be considered as evidence at the hearing, prior to the hearing.
 - o When the hearing is scheduled, the Party and its representative(s) will receive two (2) emails generated from the Site. In addition to English, the emails will be sent, upon request, in the commonly encountered languages identified in NYCHA’s language access plan: Spanish, Russian, Traditional Chinese and Simplified Chinese.
 - o Email # 1 will include two (2) links.
 - ♦ Link #1 will be to the Remote Hearing Participants’ Guide which will provide instructions on how to join MS Teams and how to upload documents the Party would like to be considered as evidence at the hearing. Please review this Guide before the hearing.
 - ♦ Link #2 will allow the Party to upload any documents the Party would like to be considered as evidence at the hearing to a designated electronic folder.
 - o Email #2 will include a link to view and download the documents that the other Party would like to be considered as evidence at the hearing.
 - o **NOTE:** For security purposes, when accessing the Site, Parties will need to verify their identity by entering their email address as instructed in the Remote Hearing Participants’ Guide. The Party will immediately receive an additional email from the Site with a secured numeric verification code for the Party to enter.
 - o It is the OIH’s preference that all documents be uploaded and received by the OIH no later than seven (7) days before the scheduled Hearing date.
 - o If a Party, for any reason, is unable to upload documents to the Site, the Party should immediately notify the OIH by calling 718-218-1182/1184 for assistance, prior to the hearing.
 - ♦ The OIH will work to resolve the upload issue.



- ♦ If necessary, the Party may mail documents to the “Office of Impartial Hearings, 803 Atlantic Avenue, Brooklyn New York 11238,” prior to the hearing. Any documents mailed must include the Party’s name, the Law Department file number (LID number), and, where available, the OIH case number. See Notice of Hearing for this information.
- ♦ Upon request, the OIH will confirm with the Party, via telephone and/or email, that the Party’s documents were received.
- o If a Party, for any reason, is unable to view or download documents in the Site that the other Party intends to be considered as evidence at the hearing, the Party should notify the NYCHA attorney assigned to the matter, if known, or the OIH by calling 718-218-1182/1184.
 - ♦ The OIH will work to resolve the view or downloading issue.
 - ♦ If necessary, the OIH will provide the documents ahead of the hearing through other means including email or mail.
- A hearing notice will be mailed to the Party, setting forth the hearing date, time and instructions on how to participate in the Hearing at least thirty (30) days before the hearing.

Remote Hearing Logistics:

- The Remote Hearing will be recorded by the OIH (video and audio). The recording by the OIH will be the official recording of the Remote Hearing.
- Anyone appearing at a Remote Hearing, including all parties, witnesses, interpreters, GALs, attorneys, etc., must remain on camera for the duration of their participation in the Remote Hearing.
- Any Party may request an interpreter prior to the hearing by contacting the OIH at 718-218-1182/1184, or during the hearing by advising the Hearing Officer.
- Participants who need a reasonable accommodation to participate in a hearing should notify the OIH as soon as possible for consideration by calling 718-218-1182/1184. Following are some examples of auxiliary aids and services that NYCHA can accommodate: closed captioning, sign language interpreters, large print, and translations of all hearing-related notices. In addition, the contents of documents that you wish to be considered as evidence at the hearing will be interpreted as needed during the hearing.
- All reasonable accommodation requests will be handled in accordance with NYCHA’s current Reasonable Accommodation Standard Procedure (SP: 040:12:1) prior to the hearing. If the reasonable accommodation request cannot be accommodated for participation in a hearing, the OIH will provide the decision, in writing, to all Parties and the hearing will proceed.

Participating Remotely in a Hearing:

- When the Participant joins the Remote Hearing, the Participant will be taken directly into the Virtual Waiting Room until the Hearing Officer admits the Participant into the Virtual Meeting Room.
- Once the Hearing Officer admits a Participant into the Virtual Meeting Room, the Participant will be placed on mute.
- If for any reason a Participant gets disconnected from the Virtual Waiting Room or Virtual Meeting Room, they are to promptly attempt to rejoin by either clicking the “REJOIN/REJOIN NOW/REJOIN MEETING” button in Microsoft Teams or by calling the number located on the meeting invite. If the Participant cannot rejoin the Remote Hearing by either method, they should immediately contact the OIH at 718-218-1182/1184.
- The Parties will have an opportunity to present witness testimony and documents that they would like to be considered as evidence at the hearing.
 - o Witnesses appearing remotely will receive an email invite if the Party provides the Law Department or the OIH with its witnesses’ email address(es) prior to the hearing.
 - o The Party that calls a witness to testify will ask the witness questions first (“direct examination”). After direct examination, the opposing Party will then have an opportunity to ask that witness questions (“cross examination”). Cross examination is limited to what the witness testified to and any documents received into evidence during the direct examination of the witness.
 - o The Parties will have an opportunity to verbally object to witness testimony or documents presented by the opposing Party directly to the Hearing Officer during the Hearing.



- At the conclusion of the presentation of evidence, each Party may present closing statements. Neither Party is required to do so. The closing statements are not evidence. They are the opinion of each Party as to how the evidence should be viewed and recommendations as to what the Hearing Officer should decide.
- If, at any time during the Remote Hearing, a Party wishes to speak off the record with their representative, or otherwise take a break, that Party may make that request to the Hearing Officer.
- At the end of the Remote Hearing, all Participants must exit the Virtual Meeting Room by clicking the “Leave” button.

Participating in Person at a Remote Hearing:

- In the event all Parties and their witness do not agree to appear remotely, OIH will accommodate Parties and witnesses in a Hybrid Hearing where Parties and witnesses may appear in-person at the OIH or remotely.
- A Participant’s decision or need to appear in-person will not impact a Co-Tenant’s or Co-Grievant’s selection to appear in-person or remotely. The Hybrid Hearing will be recorded in the same manner as a Remote Hearing.

After the Remote Hearing:

- Following a hearing, the Hearing Officer will provide a written decision which will be mailed to the Parties. If a Party disagrees with the Hearing Officer’s written decision, the Party may appeal the decision within four (4) months to the Supreme Court in New York County or in the county where the Party resides.

