

Buffalo Housing Authority

PUBLIC HOUSING & RURAL DEVELOPMENT GRIEVANCE POLICY

(Updated:01-2023)

1.0 PURPOSE AND SCOPE

To set forth the requirements, standards and criteria to assure that a Tenant is afforded an opportunity for a hearing if the tenant disputes within a reasonable time any Housing Authority action or failure to act involving the tenant's lease with the Housing Authority or involving Housing Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status.

The following are issues that cannot be addressed through these grievance policies:

- Disputes between tenants not involving the Housing Authority or class grievances
- Initiate or negotiate changes to the Housing Authority procedures or policies
- Contest a termination based on:
 - Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other tenants or employees of the Housing Authority;
 - Any violent or drug-related criminal activity on or off the premises; or
 - A criminal activity that resulted in a felony conviction of the Lessee or a Household Member

This grievance policy is incorporated into the lease by reference thereto, and is, therefore, binding upon both the Tenant and the Cheyenne Housing Authority (BHA).

2.0 DEFINITIONS

for the purpose of this Grievance Policy, the following definitions are applicable:

- **"Grievance"** shall mean any dispute which a tenant may have with respect to the BHA's action or failure to act in accordance with the individual tenant's lease or Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status. Grievance does not include any dispute a tenant may have with BHA concerning a termination of tenancy

or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of BHA's public housing premises by other tenants or employees of BHA; or any violent or drug-related



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criminal activity on or off such premises; or any activity resulting in a felony conviction. Nor shall this process apply to disputes between tenants not involving the BHA or to class grievance.

- **"Complainant"** shall mean any tenant whose grievance is presented to the BHA in accordance with this policy.
- **"Elements of Due Process"** shall mean an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:
 - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
 - Right of the tenant to be represented by counsel;
 - Opportunity for the tenant to refute the evidence presented by BHA including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the tenant may have; and
 - A decision on the merits.
- **"Hearing Officer"** shall mean a person selected in accordance with these policies to hear grievances and render a decision with respect thereto.
- **"Tenant"** shall mean the adult person (or persons) other than a live in aide:
 1. Who resides in the unit and who executed the lease with the BHA as lessee of the premises, or, if no such person now resides in the premises,
 2. Who resides in the unit and who is the remaining head of household of the tenant family residing in the unit.
- **"Tenant Organization"** includes a tenant management corporation.
- **"Promptly"** shall mean within the time period indicated in a notice from BHA of a proposed action which would provide the basis for a grievance if the tenant has received a notice of a proposed action from the agency.



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3.0 INFORMAL SETTLEMENT MEETING

Any grievance shall be promptly presented orally or in writing, to the BHA office so that the grievance may be discussed informally and settled without a hearing. Upon notification, BHA will make its best effort to schedule and convene an informal settlement meeting within five (5) business days. A summary of such discussion shall be prepared within five (5) business days and one copy shall be given to the tenant and one retained in BHA's tenant file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefor, and shall specify the procedures by which a hearing under these policies may be obtained if the tenant is not satisfied.

4.0 OBTAINING A HEARING

4.1 REQUEST FOR HEARING

The tenant shall submit a request for a hearing to BHA within ten (10) calendar days from the date of the informal settlement meeting summary. The request shall be presented orally or in writing and shall specify:

- The reasons for the grievance; and
- The action or relief sought.

4.2 SELECTION OF A HEARING OFFICER

A grievance hearing shall be conducted by an impartial person, appointed by the Executive Director or designee, other than a person who made or approved the action under review or a subordinate of such person.

4.3 FAILURE TO REQUEST OR APPEAR TO A HEARING

If the tenant does not request or appear at a hearing in accordance with this section, then the BHA's disposition of the grievance under section 3.0 shall become final. However, failure to request or appear at a hearing does not constitute a waiver by the tenant of the right thereafter to contest the BHA's action in disposing of the complaint in an appropriate judicial proceeding.



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4.4 SCHEDULING OF HEARINGS

Upon the tenant's compliance with this section the Hearing Officer shall, within five (5) business days make its best efforts to convene a hearing for a time and place reasonably convenient to both the tenant and the BHA. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the tenant and the appropriate agency official

4.5 RESCHEDULING THE HEARINGS

The tenant may request to reschedule a hearing for good cause. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, BHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the tenant does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the tenant must contact BHA within 24 hours after the scheduled hearing time, excluding weekends and holidays. The BHA will reschedule the hearing only if the tenant can show good cause for the failure to appear.

5.0 POLICIES GOVERNING THE HEARING

The tenant shall be afforded a fair hearing, which shall include;

- The opportunity to examine prior to the grievance hearing any Authority documents, including records and regulations that are directly relevant to the hearing. The tenant shall be provided a copy of any such document at the tenant's expense. If the BHA does not make the document available for examination upon request by the tenant, the BHA may not rely on such document at the grievance hearing.
- The PHA hearing procedures may provide that the PHA must be given the opportunity to mine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the PHA requested documents available for examination by the PHA, the family may not rely on those documents at the hearing.
- The right to be presented by counsel or another person chosen as the tenant's representative and to have such person make statements on the tenant's behalf;



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- The right to a private hearing unless the tenant requests a public hearing
- The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by BHA or development management, and to confront and cross examine all witnesses upon whose testimony or information the BHA or development management relies; and
- A decision based solely and exclusively upon the facts presented at the hearing

The Hearing Officer may render a decision without holding a hearing if the Hearing Officer determines that the issue has been previously decided at another hearing.

If either the tenant or BHA **fails** to appear at a scheduled hearing, the Hearing Officer may postpone the hearing for up to five (5) business days or may determine that the missing party has waived their right to a hearing. Both the BHA and the tenant shall be notified of the Hearing Officer's decision. This decision shall not waive a tenant's right to contest the disposition of the grievance in an appropriate judicial proceeding

The following accommodation will be made for persons with disabilities:

- The BHA shall provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants.
- If the tenant is visually impaired, any notice to the tenant that is required by these policies must be in an accessible format

The BHA will comply with HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" issued on January 22, 2007

6.0 INFORMAL HEARING POLICIES FOR DENIAL OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS

The participant family may request that the BHA provide for an informal hearing after the family has notification of the Immigration and Naturalization Service (INS) decision on appeal, or in lieu of request of appeal to the INS. The participant family must make this request within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision



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7.0 DECISION OF THE HEARING OFFICER

The Hearing Officer shall make their best effort to prepare a written decision, together with the reasons therefor, within five (5) business days, but no later than ten (10) business days after the hearing. A copy of the decision shall be sent to the tenant and the BHA. BHA shall retain a copy of the decision in the tenant's folder. The BHA will maintain a log of all hearing decisions and make that log available upon request for inspection by a prospective complainant, his or her representative, or the Hearing Officer.

The decision of the Hearing Officer shall be binding on the BHA who shall take all actions, or refrain from any actions, necessary to carry out the decision unless the BHA's Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination, that:

- The grievance does not concern BHA's action or failure to act in accordance with or involving the tenant's lease or Authority regulations, which adversely affect the tenant's rights, duties, welfare or status;
- The decision of the Hearing Officer is contrary to applicable Federal, State, or local law, Authority regulations, or requirements of the Annual Contributions Contract between BHA and the U.S. Department of Housing and Urban Development.

A decision by the Hearing Officer or Board of Commissioners in favor of the BHA or which denies the relief requested by the tenant in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the tenant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

8.0 GRIEVANCE POLICY FOR APLICANTS

A person or family who has applied for admission to public housing (the applicant) but has been determined ineligible for admission may request an informal hearing to contest the determination of ineligibility

The purpose of the informal hearing is to permit the applicant to fully understand the reasons for the denial, present evidence and arguments in support of the applicant and present mitigating circumstances in explanation of past events or behavior

The applicant shall submit, orally or in writing, a request for a hearing to BHA within fourteen (14) calendar days from the date of the mailing of the denial letter.



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Upon the applicant's compliance with this section the Hearing Officer shall, within ten (10) business days, make their best effort to schedule and convene a hearing for a time and place reasonably convenient to both the applicant and the BHA. A written notification specifying the time, place and the policies governing the hearing shall be delivered to the applicant and the appropriate agency official.

The Hearing Officer will consider the following factors in deciding whether to uphold or overturn the denial of admission:

- Whether or not the reasons for denial were clearly stated in the notice;
- Whether the reasons for denial are supported by facts and BHA policy; and
- Whether information of mitigation submitted by the applicant justifies approving the application.

After the hearing, the Hearing Officer will decide and notify the applicant by mail, within ten (10) business days of the close of the hearing, whether the denial should be upheld or overturned.

The Hearing Officer's decision is BHA's final decision on all issues related to the application. If the Hearing Officer overturns the denial, BHA shall resume processing the application. If the Hearing Officer upholds the denial, the applicant will not be admitted.

