

GRIEVANCE PROCEDURE

I. DEFINITIONS

- A. Grievance - Any disagreement which a resident may have with respect to the Housing Authority action or failure to act in accordance with the individual's lease or the Housing Authority regulations which adversely affects the individual resident's rights, duties, welfare or status.
- B. Complainant - any resident whose grievance is presented to the housing Authority or management staff.
- C. Due process of law - Legal proceedings carried out in accordance with established rules. Any eviction or termination proceedings require:
 - 1. Adequate notice to the resident of grounds for terminating his/her lease and for eviction.
 - 2. Opportunity for the resident to examine all relevant documents. Records and regulations of the Housing Authority prior to the trial for the purpose of preparing a defense.
 - 3. Right of the resident to be represented by counsel.
 - 4. Opportunity for the resident to disagree with the evidence confront and cross-examine witnesses and to present any affirmative legal or fair defense which the resident may have.
 - 5. A prompt decision on all the relevant information (within ten (10) days).
- D. Hearing officer - A person selected to hear grievances and to make a decision.
- E. Hearing Panel - A group selected to hear grievances and make a decision
- F. Resident - Any lessee or the remaining head of the household of any resident family residing in the Housing Authority housing
- G. Informal settlement - Meeting held with complainant and Management in an attempt to resolve the Grievance before going to the formal grievance hearing.
- H. Summary of Decision - Result of informal hearing giving detailed information in writing of the major points discussed in the informal hearing.
- I. Escrow Account - Money held by a third person as a good faith promise until a determination is made on what to do with the money.

J. Waiver - To release a right or claim.

K. Trial De Nova - The right to a new trial.

II. Applicability

A. This procedure is limited to disputes between individual residents of the Housing Authority where the Housing Authority's actions, or failure to act in accordance with the individual resident's lease or the Housing Authority regulations, may have affected the individual resident's rights, duties, welfare or status.

B. Those things not included would be:

1. Disputes between residents in which the Housing Authority is not involved.
2. Any changes in policies and /or procedures.
3. Class grievance.
4. Evictions or termination of leases as a result of a health or safety hazard created by a resident which is also a threat to the health and safety of other residents or the housing Authority employees.

III. Responsibilities for a Resident Requested Hearing

- A. Before a complainant can request a hearing by a Hearing Officer or Hearing Panel, the grievance must be submitted to Informal Settlement.
- B. If the complainant can show good cause why he/she has failed to follow the procedure for Informal Settlement to either the Hearing Officer or Hearing Panel the Informal Settlement may be waived by the Hearing Officer or Panel.

IV. Informal Settlement of Grievance

Any grievance must be personally presented with ten (10) working days after the grievable event, either orally or in writing, to the Housing Authority so that the grievance may be discussed informally within fifteen (15) days following receipt of the grievance and settled without a hearing.

- A. The Housing Authority must prepare a summary of discussion within five (5) working days.
- B. The summary of discussion will specify:
1. Names of the participants
 2. Date of meeting
 3. Nature of the proposed disposition of the complainant
 4. Specific reason for the proposed disposition of the complainant

5. Procedures by which a hearing may be obtained if the complainant request a hearing.
6. That the complainant has (5) working days after receipt request of hearing.

C. Copies of the summary of discussion will be distributed as follows:

1. One copy will be sent to the complainant by registered or certified mail or given personally and a signed receipt obtained from complainant.
2. One copy will be retained in the complainant's resident file at the Housing Authority management office.

V. Procedure to Obtain a Hearing

If the complainant is dissatisfied with the final results of the informal hearing he or she may submit a written request for a formal hearing to management staff within five (5) working days after receiving the summary of discussion.

A. The written request for a hearing must specify:

1. Reason(s) for the Grievance
2. Action or relief sought

B. A receipt signed by the complainant, or a return receipt for delivery of registered or certified mail; whether or not signed, will be sufficient proof to establish time of delivery for the summary of discussion.

C. If complainant does not state clearly what action is being sought, the hearing could possibly not be granted.

VI. Failure to Request a Hearing

If the complainant does not request a hearing within five (5) working days following the date of the summary of discussion:

A. The Housing Authority's decision of the grievance as stated in the summary of discussion becomes final and effective as of the housing Authority's close of business on the fifth (5th) working day.

B. Such failure to request a hearing does not stop the complainant's right to contest the Housing Authority's decision in a court hearing.

VII. Hearing Involving Amount of Rent

Before a hearing can be scheduled in a grievance involving the amount of rent which the Housing Authority claims is due:

- A. The complainant will pay to the Housing Authority the full amount calculated by the Housing Authority as the rent due and payable as of the first of month preceding the month in which the grievance took place.
- B. The complainant will pay to the Housing Authority the full amount calculated by the Housing Authority into an escrow account monthly until the complaint is resolved by decision of the hearing Officer or Hearing Panel.
- C. Failure to make these rental payments will result in termination of the grievance process.
- D. Failure to make such rental payments will not prohibit the complainant from involving the Housing Authority in a court proceeding.

VIII. Selection of Hearing Officer or Hearing Panel

A grievance may be presented before either a hearing Officer or a three member Hearing Panel.

- A. The Housing Authority and the complainant will select an impartial disinterested person as the Hearing Office within five (5) working days or must utilize the Hearing Panel.
- B. A Hearing Panel will be formed only when the Housing Authority and the complainant cannot agree on a Hearing Officer.
- C. If the Housing Authority and the complainant cannot agree on a Hearing Officer:
 - 1. They will each appoint a member to a Hearing Panel within three (3) working days.
 - 2. The two appointed members would agree upon and select a third member within five (5) working days.
- D. If the two (2) Hearing Panel members, as appointed, cannot agree upon the third hearing Panel Member, the third member will be appointed by:
 - 1. An independent arbitration association; or
 - 2. Any other third party agreed upon by the Housing Authority and the complainant.

IX. Schedule of Hearings

If the complainant has met the informal hearing requirements, properly requested a formal hearing, and made the necessary rental payments to the Housing Authority and to the escrow account, the following will take place:

- A. The Hearing officer or Panel will promptly schedule a hearing.
- B. The hearing will be scheduled for a time and place reasonably convenient to both the complainant and the Housing Authority.
- C. Written notification will be delivered to the complainant, and the appropriate Housing Authority officials by registered or certified mail, or delivered promptly and signed receipt obtained.
- D. The written notification will specify:
 - 1. Time of hearing
 - 2. Place of hearing
 - 3. Procedures governing the hearing
- E. Receipts signed by the complainant or the Housing Authority official, or return receipts for delivery of registered or certified mail whether signed or not will be sufficient to establish delivery.

X. Failure to Appear at Hearing

- A. Failure of either party to appear at the hearing enables the hearing officer or hearing panel to determine either to postpone the hearing for a period of time not to exceed five (5) business days or that the non-appearing party has waived its right to a hearing.
- B. The complainant and the Housing Authority will both be notified in writing of the determination; and/or decision by the hearing officer or hearing panel.
- C. Failure of the complainant to appear at the hearing does not prohibit the complainant from proceeding with his or her right to argue the case in an appropriate court of law.

XI. Procedure Governing Hearing

- A. The hearing shall be held before either a hearing officer or hearing panel as appropriate.
- B. The complainant and the Housing Authority shall be afforded a fair hearing providing the basic safeguards of due process which include:

1. The opportunity to examine before and during the hearing and at the expense of the complainant to copy all documents, records and regulations of the Housing Authority that are relevant to the hearing;
 2. The right to be represented by counsel or other person duly chosen as his or her representative;
 3. The right to a private hearing unless the complainant requests a public hearing.
 4. The right to present evidence and arguments in support of his or her complaint, to object to irrelevant evidence and request that such evidence be excluded and to confront and cross-examine all witnesses on whose testimony or information the Housing Authority relies; and
 5. A decision based solely and exclusively upon the facts presented at the hearing.
- C. The hearing officer or hearing panel may render a decision without proceeding with the hearing if the hearing officer or hearing panel determines that the issue has been previously decided in another proceeding.
- D. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and, thereafter, the Housing Authority must sustain the burden of justifying the Housing Authority action or failure to act against which the complaint is directed.
- E. The hearing officer shall conduct the hearing informally or hearing panel and oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to acceptance under the rules of evidence applicable to judicial proceedings.
- F. The hearing officer or hearing panel shall require the Housing Authority, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion.
- G. Failure to comply with the directions of the hearing officer or hearing panel to obtain order may result in removal of the offending party from the proceedings, termination of the hearing, or the entry of a judgment by default against the offending party.
- H. The complainant or the Housing Authority may arrange, in advance and at the expense of the party making such request, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

XII. Decisions of Hearing Officer or Hearing Panel

- A. The hearing officer or hearing panel shall prepare a written decision, together with the reason, within ten (10) working days after the hearing.
- B. A copy of the decision will be sent to the complainant and the Housing Authority at the same time.
- C. The Housing Authority will retain a copy of the decision in the resident's folder.
- D. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the Housing Authority and made available for inspection by a prospective complainant, his representative, or the hearing panel or hearing officer.
- E. The Board of Commissioners of the Housing Authority shall have the right to accept the decision of the hearing officer or hearing panel. However the board shall have the authority to reverse any decision of the hearing officer or hearing panel within a thirty (30) day period of time and shall promptly notify the complainant of its determination when:
 - 1. The grievance does not concern an act or failure to act on the complainant's lease, or the Housing Authority regulations, rights, duties, welfare or status.
 - 2. The decision of the hearing officer or hearing panel is contrary to applicable Federal State or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and the Housing Authority.
- F. A decision which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the complainant may have to a trial de nova or judicial review in any judicial proceedings which may be brought in the matter thereafter.

XIII. Eviction Actions in Grievances Involving Lease Terminations

- A. If a resident has requested a hearing on a complaint involving a Housing Authority Notice of Termination and the hearing officer or hearing panel upholds the Housing Authority's action to terminate the tenancy, the

Housing Authority shall not commence an eviction action in a State or Local court until it has served a notice to vacate on the resident.

- B. In no event shall the notice to vacate be issued prior to the decision of the hearing panel having been mailed or delivered to the complainant.
- C. Such notice to vacate must be in writing and specify that if the resident fails to quit the premises within the appropriately authorized period, or on the termination date stated in the Notice of Termination, whichever is later, appropriate action will be brought against him or her and he or she may be required to pay court costs and attorney's fees.