



# GRIEVANCE PROCEDURE FOR CONVENTIONAL AND SCATTERED SITE PUBLIC HOUSING PROGRAMS

The purpose of this grievance procedure is to set forth the requirements, standards and criteria established and implemented by the City of Chandler Housing and Redevelopment Division (hereafter referred to as the PHA) to assure that tenants in the Conventional and Scattered Site public housing program are afforded an opportunity for a hearing if the individual disputes, within a reasonable time, any action or failure to act involving the tenant's lease with the PHA or a PHA regulation which adversely affects the individual's tenant rights, duties, welfare or status.

## APPLICABILITY

The grievance procedure outlined herein shall be applicable to all individual grievances, as defined by HUD as a tenant and resident organization, between the tenant and the PHA.

This grievance procedure shall not apply to any grievance concerning an eviction or termination of tenancy based upon any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA or any drug-related criminal activity on or off the premises. This procedure shall apply to all other eviction actions. This grievance procedure shall not be applicable to disputes between tenants not involving the PHA, or to class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners.

## Due Process Determination

~~HUD~~ HUD has issued a due process determination for Arizona. ~~The~~ The PHA may evict the occupants of the dwelling unit through the judicial eviction procedures, which are the subject of the determination. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's administrative grievance procedure.

## DEFINITIONS

- A. Grievance shall mean any dispute, which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status.
- B. Complainant shall mean any tenant in the Conventional or Scattered Site program whose grievance is presented to the PHA.
- C. Due process determination means a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit. HUD has issued a due process determination that entitles the PHA to exclude from the PHA administrative grievance any grievance concerning a termination of tenancy or eviction that involves criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA or any drug-related criminal activity on or near such premises.
- D. Elements of due process means an eviction action or a termination of tenancy in a State or local court in which the following procedures are required:
  - 1. Adequate notice to the tenant of the grounds for terminating the tenancy and eviction;

2. Right of the tenant to be represented by counsel;
  3. Opportunity for the tenant to refute the evidence presented by the PHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have;
  4. Right of the tenant to examine, before the grievance hearing, any PHA documents including records and regulations that are directly relevant to the hearing.
  5. A decision on the merits.
- E. Hearing Officer means a person selected to hear grievances and render a decision with respect thereto.
- F. Hearing Panel means a panel selected to hear grievances and render a decision with respect thereto.
- G. Informal settlement conference shall mean a meeting between the complainant and the Housing and Redevelopment Manager and or his designated representative.
- H. Informal hearing shall mean a due process hearing before an impartial hearing officer, who may be an employee or official of the PHA who is not involved in the day-to-day administration of the public housing program.
- I. Tenant means the adult person (or persons) (other than a live-in aide):
1. Who resides in the unit, and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
  2. Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit.
- J. Resident organization includes a resident management corporation.

## GRIEVANCE PROCESS

The grievance process shall consist of three steps:

1. Filing of a grievance with the PHA;
2. Meeting with Housing Division Management in an informal settlement conference; and
3. If the issue is still not resolved, the holding of an informal hearing.

## INFORMAL SETTLEMENT OF GRIEVANCE

Any grievance shall be personally presented, orally or in writing to the PHA and signed by the complainant, no later than ten (10) working days after the receipt of determination giving rise to the Grievance, so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared in writing within ~~ten (10)~~ five (5) business days and one copy shall be given to the tenant and one retained in the PHA's tenant file. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complainant and the specific reasons therefore, and shall specify the procedures by which a hearing may be obtained if the complainant is not satisfied. All grievances and copies shall be signed and dated at time of receipt by the PHA.

## PROCEDURES TO OBTAIN A HEARING

If the complainant is not satisfied with the PHA's response, the complainant shall submit a written request for a hearing to the PHA within ten (10) days after receipt of the summary of discussion. For a grievance under the expedited grievance procedure, the complainant shall submit such request at such time as is specified by the PHA for a grievance under the expedited grievance procedure. The written request shall specify: 1) nature of the grievance and grounds upon which it is based; and 2) the action or relief sought. Upon receipt of the request, the PHA shall schedule a hearing to be held within ten (10) working days for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the complainant and the appropriate PHA official. The PHA shall expeditiously forward the complainant's file to the person appointed as hearing officer.

## SELECTION OF HEARING OFFICER OR HEARING PANEL

A grievance hearing shall be conducted by an impartial person or persons who are appointed by the PHA, other than a person who made or approved the PHA action under review or a subordinate of such person. [Such individual or individuals do not need legal training. PHAs must describe their policies for selection of a hearing officer in their lease forms as required by §966.4.](#) This person may be an officer of the PHA or an employee of the PHA or [contractor, or another PHA.](#) ~~The PHA must consult the Resident Organization, if one exists, before appointment of the hearing panel member or officer.~~ [The PHA must include the method of selection in the Public Housing lease.](#)<sup>[EAI]</sup>

## ~~GRIEVANCES INVOLVING RENT/ESCROW DEPOSIT~~

~~Before a hearing is scheduled in any grievance involving the amount of rent which the PHA claims is due, the complainant shall pay the PHA an amount equal to the amount of rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The complainant shall thereafter deposit the same amount of the monthly rent in an escrow account, monthly, until the complaint is resolved by decision of the hearing officer or hearing panel. The PHA in extenuating circumstances may waive these requirements. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure, provided, that failure to make payment shall not constitute a waiver of any right the complainant may have to contest the PHA's disposition of his grievance in any appropriate judicial proceeding.~~

## FAILURE TO REQUEST HEARING

If the tenant fails to request a hearing, the PHA informal grievance summary and/or eviction action is final. Failure to request a hearing does not constitute a waiver by the tenant of his/her right to contest the action in a court of law.

## EXPEDITED GRIEVANCE PROCEDURE

~~The PHA may establish an expedited grievance procedure for any grievance concerning a termination of tenancy that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the PHA's public housing premises by other residents or employees of the PHA, or any Drug-related criminal activity on or off the premises. In the case of a grievance under the expedited grievance procedure, informal settlement of grievances is not applicable.~~

[Currently, the PHA does not offer expedited grievances. The PHA is located in a HUD-declared due process state. Therefore, the PHA will not offer grievance hearings for lease terminations involving criminal activity that resulted in a felony conviction of a household member or that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, or for violent or drug-related criminal activity on or off the premises, or for any criminal activity that resulted in felony conviction of a household member. \( See 14-III.C. Applicability \[24 CFR 966.51\]](#)

## PROCEDURES GOVERNING THE HEARING

The hearing shall be held before a hearing officer or hearing panel, as appropriate. The complainant shall be afforded a fair hearing under the elements of due process. ~~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.~~

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer or hearing panel may make a determination to postpone the hearing not to exceed five business days or may make a determination that the party has waived his right to a hearing. Both the complainant and the PHA shall be notified of the determination by the hearing officer or hearing panel: provided, that a determination that the complainant has waived his right to a hearing shall not constitute a waiver of any right the complainant may have to contest the PHA's disposition of the grievance in an appropriate judicial proceeding.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed.

The hearing officer shall require the PHA, the complainant, counsel and other participants to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party as appropriate.

The decision of the hearing officer must be in writing, must be based solely on evidence provided at the hearing, and must state the legal and evidentiary grounds for the decision. Copies of the decision shall be provided to the PHA and the complainant not later than ten (10) working days after the hearing. To the extent that the decision is not inconsistent with state law, the United States Housing Act of 1937, as amended; HUD regulations and requirements promulgated thereunder; the PHA Annual Contributions Contract; or the Dwelling Lease and Occupancy Policy of the Conventional housing program; the decision of the hearing officer shall be binding on the PHA and the complainant, provided, however, that nothing contained in this grievance procedure shall preclude a complainant from exercising other rights if the complainant believes he/she is being discriminated against on the basis of race, color, creed, religion, sex or national origin.

## ACCOMMODATIONS OF PERSONS WITH DISABILITIES

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing.

Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required must be in an accessible format.