



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:

- A. disputes between tenants not involving the PHA, or to class grievances.
- B. 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.

This grievance procedure is incorporated by reference in all tenant dwelling leases and will be furnished to each tenant and all resident organizations [24 CFR 966.52 (b) and (d)].

Any changes proposed in this grievance procedure must provide for at least 30 days' notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments will be considered by the PHA before any revisions are made to the grievance procedure [24 CFR 966.52(c)].

DUE PROCESS DETERMINATION

HUD has issued a due process determination for Arizona. 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.

Grievances related to complaints about operations matters that are received by the PHA's central office will be referred to the administrative supervisor. Grievances involving

complaints related to discrimination, harassment, or disability rights will be referred to the Housing Manager.

As soon as the grievance is received, it will be reviewed by the COCHRD management team or delegate to be certain that neither of the exclusions in "APPLICABILITY" applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to the PHA's grievance procedure with the reason specified.

If neither of the exclusions cited above apply, the complainant will be contacted **within 10 business days** to arrange a mutually convenient time to meet so the grievance may be discussed informally and settled without a hearing. At the informal settlement, the complainant will present the grievance and the person in charge of the management office or the Civil Rights Administrator will attempt to settle the grievance to the satisfaction of both parties.

After the informal settlement meeting, a summary of such discussion shall be prepared in writing within 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) the nature of the grievance and grounds upon which it is based; and
- 2) the action or relief sought.

Within ten (10) working days after receipt of the request, the PHA shall contact the complainant to schedule 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 include the method of selection in the Public Housing lease.

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

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]

SCHEDULING HEARINGS [24 CFR 966.56(A)]

When a complainant submits a timely request for a grievance hearing, within ten (10) business days, the PHA will contact the complainant and the hearing officer to schedule the hearing as expeditiously as possible.

The PHA staff member will send written notice of the hearing date and time to the complainant. Notice to the complainant will be in writing, either personally delivered to the complainant, or sent by mail or email, return receipt requested.

The written notice will specify the time, place, and procedures governing the hearing.

The tenant may request to reschedule a hearing on a one-time basis. Should the complainant need to reschedule a second time, he or she may do so for good cause, or if needed as a reasonable accommodation for a person with disabilities. *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.

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, which will include:

- A. The opportunity to examine before the hearing any PHA documents, including records and regulations, that are directly relevant to the hearing.

The tenant is allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA may not rely on such document at the grievance hearing.

- B. The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf.
- C. The right to a private hearing unless the complainant requests a public hearing.
- D. The right to present evidence and arguments in support of the tenant's complaint, to refute evidence relied on by the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies.
- E. A decision based solely and exclusively upon the fact presented at the hearing [24 CFR 966.56(b)].

The hearing is conducted informally by the hearing officer. The PHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

The complainant or the PHA may arrange in advance for a transcript of the hearing at the expense of the party making the arrangement. Any interested party may purchase a copy of the transcript [24 CFR 966.56(e)].

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 that is required under this procedure must be in an accessible format [24 CFR 966.56(f)].

The PHA must comply with HUD's requirements regarding limited English proficiency as specified in "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition against National Origin Discrimination Affecting Limited English Proficient

Persons," issued January 22, 2007, and available at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq.

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.

Grievance Process

City of Chandler Housing and Redevelopment Division (COCHD)

