



## **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.

This procedure is meant to be used in conjunction with the City of Chandler Housing and Redevelopment Admissions and Continued Occupancy Policy (ACOP), Chapter 14, Part III.

### **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**

The PHA is located in a HUD-declared due process state. Therefore, the PHA will not offer grievance hearings for lease terminations involving:

- A. criminal activity that resulted in a felony conviction of a household member;
- B. Activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA,
- C. Any violent or drug-related criminal activity on or off the premises,

(See City of Chandler, Admissions and Continued Occupancy Policy (ACOP), chapter 14-III.C. Applicability; [24 CFR 966.51])

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 an impartial 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 Senior Manager and or their designated representative. The PHA has sole discretion to determine the method of conducting the informal settlement conference. Included in the methods are remotely, in-person, or telephonic conference.
- 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 all these three (3) 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**

The PHA has the option to conduct the informal settlement via writing only, or it may be conducted remotely, telephonically, or in person. The PHA has the sole discretion regarding the method of an informal settlement.

A request for an informal grievance settlement will be accepted by the PHA orally or in writing, including email requests. The request should include the reason(s) for the appeal. The request shall be signed and dated by the tenant, 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 Housing Assistance Senior Program Manager. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Housing and Redevelopment Senior 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.

## **Notification to Tenant**

If neither of the exclusions cited above apply, the complainant will be contacted by mail or email **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.

The notification will include the following:

- A. Acknowledgment of the request for informal grievance settlement meeting
- B. Method of conducting the meeting (in-person, remotely, in-person, or telephonically)
- C. Date and time of the settlement meeting

The notification will include instructions to the tenant as well as the outcome for failure to attend.

- A. If telephonic, the tenant must accept the phone call at the designated time.
- B. If via remote process, the tenant must be online and access the email invitation to the online meeting.
- C. If in-person, the tenant must be on time for the meeting.

If a tenant fails to attend the scheduled meeting without prior notice, the PHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is 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.

Failure to attend the informal grievance settlement meeting does not affect the tenant's right to request a formal hearing.

### **Informal Grievance Settlement Determination**

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.

The written request shall specify:

- A. The nature of the grievance and grounds upon which it is based; and
- B. 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

### **Scheduling Hearings [24 CFR 966.56(a) and (b)]**

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 notice will include the following:

- A. Acknowledgment of the request for informal grievance settlement meeting
- B. Method of conducting the meeting (in-person, remotely, in-person, or telephonically)
- C. Date and time of the settlement meeting
- D. That the PHA will provide technical assistance prior to and during the hearing, if needed; and
- E. That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

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.

### **Remote Hearings**

HUD allows PHAs to conduct all or a portion of their grievance hearings remotely either over the phone, via video conferencing, or through other virtual platforms. If the PHA chooses to conduct remote grievance hearings, applicants may still request an in-person hearing, as applicable

The PHA has the sole discretion to require informal hearings be conducted remotely.

Remote hearings as a standard of customer service and convenience, will allow the PHA to provide a reasonable accommodation for a person with a disability, if an applicant does not have childcare or transportation that would enable them to attend the informal hearing, or if the applicant believes an in-person informal hearing would create an undue health risk.

### **Conducting Remote Grievance Hearings** [PIH 2020-32; 28 CFR §35.104]

The PHA must ensure that the tenant has the right to hear and be heard.

The PHA must ensure that the lack of technology or inability to use technology for remote grievance hearings does not pose a disadvantage to families that may not be apparent to the PHA. The PHA should determine through a survey or other means if these barriers exist prior to conducting the remote grievance hearing and, if the family does not have the proper technology to fully participate, either postpone the hearing or provide an alternative means of access.

As with in-person grievance hearings, the PHA must provide all materials presented, whether paper or electronic, to the family prior to the remote grievance hearing. The family must also be provided with an accessible means by which to transmit their own evidence.

The PHA's essential responsibility is to ensure grievance hearings meet the requirements of due process and comply with HUD regulations. Therefore, all PHA policies and processes for remote grievance hearings will be conducted in accordance with due process requirements and will be in compliance with HUD regulations at 24 CFR 966.56 and the guidance for conducting remote hearings specified in Notice PIH 2020-32.

COCHRD ACOP, Chapter 14-III.G., Remote Hearings, Conducting Remote Grievances Hearings, includes the following local policy:

#### PHA Policy

The PHA will conduct remote grievance hearings via videoconferencing or telephone conferencing.

If the grievance will be conducted via videoconferencing, the PHA will ensure the following:

- All tenants, tenant's representatives, witnesses, and PHA representatives can adequately access the platform (i.e., hear, be heard, see, and be seen).
- All parties who must have necessary documentation from the PHA have received it and makes it available for the grievance via hand delivery, US mail, and/or email.
- At least 48 hours in advance of the grievance, all parties have received the documentation to be presented.
- At least 48 to 72 hours in advance of the grievance, all parties have received information on how to access the video or telephone conference.
  - At least 24 hours before the scheduled hearing, the PHA has tested the access with the participants to ensure on the day and time of the grievance, delays due to inability to access will be at a minimum.

#### **Procedures Governing the Hearing [24 CFR §966.56]**

24 CFR §966.56 (a) states, "The hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the PHA and held before a hearing officer.

A written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate official.

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 facts 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)].

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.

- A. If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 20 minutes. If the tenant appears within 20 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 20 minutes of the scheduled time, they will be considered to have failed to appear.
- B. If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.
- C. "Good cause" is defined as an unavoidable conflict, which seriously affects the health, safety, or welfare of the family.

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

### **Ensuring Accessibility for Persons with Disabilities and LEP Individuals**

As with in-person informal settlement of Grievances and hearings, the method for conducting remote informal settlement of Grievances and hearings must be accessible to persons with disabilities and the settlement/hearing must be conducted in accordance with Section 504 and accessibility requirements. This includes ensuring any information, websites, emails, digital notifications, and other virtual platforms are accessible for persons with vision, hearing, and other disabilities.

Further, providing effective communication in a digital context may require the use of individualized auxiliary aids or services, such as audio description, captioning, sign language and other types of interpreters, keyboard accessibility, accessible documents,

screen reader support, and transcripts. Auxiliary aids or services must be provided in accessible formats, in a timely manner, and in such a way to protect the privacy and independence of the individual.

PHAs may never request or require that individuals with disabilities provide their own auxiliary aids or services, including for remote informal settlement of Grievances and hearings.

PHAs are required to make reasonable accommodations in policies, practices, and procedures to ensure persons with disabilities have a full and equal opportunity to participate in and benefit from all aspects of the informal settlement/hearing process. See Chapter 2 for a more detailed discussion of reasonable accommodation requirements.

If no method of conducting a remote informal settlement of Grievances or hearings is available that appropriately accommodates an individual's disability, the PHA may not hold against the individual his or her inability to participate in the remote settlement/hearing, and the PHA should consider whether postponing the hearing to a later date is appropriate or whether there is a suitable alternative.

Due to the individualized nature of disability, the appropriate auxiliary aid or service necessary, or reasonable accommodation, will depend on the specific circumstances and requirements.

As with in-person settlements/hearings, Limited English Proficiency (LEP) requirements also apply to remote informal settlements/hearings, including the use of interpretation services and document translation. See ACOP, Chapter 2 for a more thorough discussion of accessibility and LEP requirements, all of which apply in the context of remote informal settlements/hearings, as well as "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:

[portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq](https://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq).

# Grievance Process

## City of Chandler Housing and Redevelopment Division (COCHRD)

