

**POLK COUNTY HOUSING AUTHORITY
GRIEVANCE PROCEDURE**

I. PURPOSE

This procedure is to assure that TENANTS of the Polk County Housing Authority are afforded an opportunity for a hearing if the TENANT disputes in a reasonable time any Authority action or failure to act involving the TENANT'S Rental Agreement with the Authority or Authority regulations which adversely affect the individual TENANT'S rights, duties, welfare, or status. The Authority shall notify all TENANTS of their right to a hearing in accordance with the rental agreement.

II. DEFINITIONS

1. "**Complainant**" means any Tenant who has presented a grievance to the Authority in accordance with these procedures.
2. "**Grievance**" means any dispute which a TENANT may have with respect to Authority action or failure to act in accordance with the individual TENANT'S Rental Agreement or Authority regulations which adversely affect the individual TENANT'S rights, duties, welfare, or status.
3. "**Hearing Officer**" shall mean a person selected in accordance with Section V.2. hereunder to hear grievances and render a decision.
4. "**Tenant**" shall mean the adult person(s), other than a live-in aide, who resides in the unit and who executed the rental agreement with the Authority as lessee of the dwelling unit, or if no such person now resides in the unit, a person who resides in the unit and who is the remaining head of household of the tenant family residing in the unit.
5. "**Resident Organization**" includes a resident management corporation.

III. APPLICABILITY

This Grievance Procedure applies to all individual grievances between the Authority and its TENANTS, except that;

1. Any grievance concerning an Eviction or Termination of Tenancy shall be excluded if it involves: a) any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the Authority, or b) any drug-related criminal activity on or near the premises.
2. Disputes between tenants not involving the Authority or class grievances shall be excluded. This procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of TENANTS and the Authority's Board of Commissioners.

IV. INFORMAL SETTLEMENT OF GRIEVANCES

Any grievance shall be personally presented, either orally or in writing, to the Authority so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the resident and one retained in the Authority's tenant file. The summary shall specify the names of the participants, date of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a hearing under Section V. may be obtained if the complainant is not satisfied.

V. PROCEDURE PRIOR TO A HEARING

1. **Request for a Hearing**

The complainant shall submit a written request for a hearing to the Authority within seven days after receipt of the summary of discussion in accordance with Section IV. The written request shall specify:

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

2. **Selection of Hearing Officer**

The grievance hearing shall be conducted by an impartial person appointed by the Authority, other than a person who made or approved the Authority's action under review or a subordinate of such person. The Hearing Officer shall be appointed by the Authority. In most cases, the Director of Housing Management will be the Hearing Officer, unless the Director of Housing Management participated in the Authority's action which is the issue of dispute. In those cases, the Executive Director or such other management staff member appointed by the Executive Director shall be the Hearing Officer. If the complainant disagrees as to the designated Hearing Officer, the Authority shall locate and appoint an outside party, as agreed upon by the complainant. The Authority shall consult with resident organizations in the appointment of Hearing Officers. Any comments or

recommendations submitted by the tenant organizations shall be considered by the Authority before the appointment.

3. **Failure to Request a Hearing**

If the complainant does not request a hearing in accordance with Section V.1., then the Authority's disposition of the grievance becomes final. The failure to request a hearing does not waive the complainant's right to contest the Authority's action in disposing of the complaint in an appropriate judicial proceeding.

4. **Hearing Prerequisite**

All grievances shall be personally presented either orally or in writing pursuant to the informal procedure presented in Section IV. above as a condition precedent to a hearing under this Section: provided, however, that if the complainant shall show good cause why he failed to proceed in accordance with Section IV. to the Hearing Officer, the provisions of this subsection may be waived by the Hearing Officer.

5. **Escrow Deposits**

Before a hearing is scheduled in any Grievance involving rent which the Authority claims is due, the complainant shall pay to the Authority 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 every month until the complaint is resolved by decision of the Hearing Officer. Unless so waived, the failure to make such payments shall result in a termination of the Grievance Procedure. Failure to make payments shall not constitute a waiver of any right the complainant may have to contest the Authority's disposition of his grievance in any appropriate judicial proceeding.

6. **Scheduling of Hearings**

Upon the complainant's compliance with Section V.1., 4., and 5., the Hearing Officer shall promptly schedule a hearing for a time and place reasonably convenient to both the complainant and the Authority. A written notification specifying the time, place, and procedure governing the hearing shall be delivered to the Complainant and the appropriate Authority official.

VI. PROCEDURES GOVERNING THE HEARING

1. The hearing shall be heard before the Hearing Officer.
2. The complainant shall be afforded a fair hearing which shall include:
 - a. The opportunity to examine before the hearing and, at the expense of the complainant, to copy all documents, records, and regulations of the Authority that are directly relevant to the hearing. Any document not so made available after request therefore by the complainant may not be relied on by the Authority at the hearing;
 - b. The right to be represented by counsel or any other person chosen as his or her 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 his or her complaint, to controvert evidence relied on by the Authority, and to confront and cross-examine all witnesses upon whose testimony or information the Authority relies; and
 - e. A decision based solely and exclusively upon the facts presented at the hearing.
3. The Hearing Officer may render a decision without proceeding with the hearing if the Hearing Officer determines that the issue has been previously decided in another proceeding.
4. If the complainant or the Authority fails to appear at a scheduled hearing, the Hearing Officer may make a determination to postpone the hearing for 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 Authority shall be notified of the determination by the Hearing Officer, provided, however, that the 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 Authority's disposition of the grievance in an appropriate judicial proceeding.
5. At the hearing, the complainant must first make a showing of entitlement to the relief sought and thereafter the Authority must sustain the burden of justifying its action or failure to act against which the complaint is directed.
6. The hearing shall be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Officer shall require the Authority, the complainant, counsel, and other participants or spectators 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 in the granting or denial of the relief sought, as appropriate.

7. The complainant or the Authority may arrange in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.
8. The Authority shall make reasonable accommodations 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 under this grievance procedure must be in an accessible format.

VIII. DECISION OF THE HEARING OFFICER

1. A Hearing Officer shall prepare a written decision, together with the reasons therefore, within a reasonable time after the hearing. A copy of the decision shall be sent to the complainant and the Authority. The Authority shall retain a copy of the decision in the TENANT'S file. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the Authority and made available for inspection to a prospective complainant, his representative, or the Hearing Officer.
2. The decision of the Hearing Officer shall be binding on the Authority which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the Authority's Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination, that:
 - a. The grievance does not concern the Authority's action or failure to act in accordance with or involving the complainant's lease, or the Authority's regulations, which adversely affect the complainant's rights, duties, welfare, or status.
 - b. A decision of the Hearing Officer is contrary to applicable federal, state, or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and the Authority.
3. A decision by the Hearing Officer or Board of Commissioners in favor of the Authority which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, the rights the complainant may have to a trial de nova or judicial review in any judicial proceedings which may thereafter be brought in the matter.

IX. AUTHORITY EVICTION ACTIONS

If a TENANT has requested a hearing in accordance with this grievance procedure on a complaint involving an Authority Notice of Termination of Tenancy and the Hearing Officer upholds the Authority's action to terminate the tenancy, the Authority shall not commence an eviction action in a state or local court until it has served a Notice of Eviction or a Notice of Termination of Tenancy on the TENANT, and in no event shall the Notice to Vacate be issued prior to the decision of the Hearing Officer having been mailed or delivered to the complainant. Such Notice to Vacate must be in writing and specify that if the TENANT fails to quit the premises on the termination date stated in the Notice of Termination, appropriate action will be brought against him and he may be required to pay court costs and attorney fees.

X. CHANGES TO THE GRIEVANCE PROCEDURE

The Authority shall provide at least 30 days notice to tenants and resident organizations setting forth proposed changes to these Grievance Procedures and provide an opportunity for tenants and resident organizations to present written comments. Such submitted written comments shall be considered by the Authority before adoption of any changes to this Grievance Procedure by the Authority.