

PUBLIC HOUSING GRIEVANCE PROCEDURES

I. Definitions applicable to the Grievance Procedure: [966.53]

- A. Grievance: Any dispute a Resident may have with respect to PHA action or failure to act in accordance with the individual Resident's lease or PHA regulations that adversely affects the individual Resident's rights, duties, welfare or status.
- B. Complainant: Any Resident (as defined below) whose grievance is presented to the PHA (at the central office or the development office) in accordance with the requirements presented in this procedure.
- C. Elements of due process: an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required.
 - 1. Adequate notice to the Resident of the grounds for terminating the tenancy and for eviction;
 - 2. Right of the Resident to be represented by counsel;
 - 3. Opportunity for the Resident 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 Resident may have;
 - 4. A decision on the merits of the case.
- D. Hearing Officer: A person selected in accordance with [966.55] and this procedure to hear grievances and render a decision with respect thereto.
- E. Hearing Panel: A three-member panel selected in accordance with [966.55] and this procedure to hear grievances and render a decision with respect thereto.
- F. Resident: 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 the household of the Resident family residing in the dwelling unit.
- G. Resident Organization: An organization of residents, which also may include a resident management corporation.

II. Applicability of this grievance procedure [966.51]

In accordance with the applicable Federal regulations [966.50] this grievance procedure shall be applicable to all individual grievances (as defined in Section I above) between Resident and the PHA with the following two exceptions:

- A. Because HUD has issued a due process determination that the law of the State that requires that a Resident be given the opportunity for a hearing in court which provides the basic elements of due process (as defined above) before eviction from the dwelling unit, the grievance procedure shall not be applicable to any termination of tenancy or eviction that involves:
 - 1. 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
 - 2. Any violent or drug-related criminal activity on or off such premises; or

3. Any criminal activity that resulted in felony conviction of a household member.

[966.51(2)(i)(A) (B) & (C)]

- B. The PHA grievance procedure shall not be applicable to disputes between Residents 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 residents and the PHA's Board of Commissioners. [966.51(b)]

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

Any changes proposed in this grievance procedure must provide for at least thirty (30) days notice to Residents and Resident Organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by the PHA before any revisions are made to the grievance procedure. [966.52(c)]

III. Informal settlement of a grievance [966.54]

Any grievance must be personally presented, either orally or in writing, to the PHA's central office or the management office of the development in which the complainant resides **within ten (10) calendar days after the grievable event.**

Grievances related to complaints about operational matters that are received by the PHA's central office will be referred to the person responsible for the management of the development in which the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Housing Programs Manager or Executive Director.

As soon as the grievance is received, it will be reviewed by the management office of the development or the Housing Programs Manager (if applicable) to be certain that neither of the exclusions in paragraphs II.A or II.B above 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 therefore.

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

Within five (5) business days following the informal discussion, the PHA shall prepare and either hand deliver or mail to Resident a summary of the discussion that must specify the names of the participants, the dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore,

and shall specify the procedures by which a formal hearing under this procedure may be obtained if the complainant is not satisfied. A copy of this summary shall also be placed in Resident's file.

IV. Formal Grievance Hearing

If the complainant is dissatisfied with the settlement arrived at in the informal hearing, the complainant must submit a written request for a hearing to the management office of the development where Resident resides **no later than five (5) business days after the summary of the informal hearing is received.**

The written request shall specify:

The reasons for the grievance;

The action of relief sought from the PHA; and

Several dates and times **in the following ten (10) business days** when the complainant can attend a grievance hearing.

If the complainant requests a hearing in a timely manner, the PHA shall schedule a hearing on the grievance at the earliest time possible for the complainant, PHA and the hearing officer or hearing panel, **but in no case later than ten (10) business days** after the PHA received the complainant's request.

If the complainant fails to request a hearing within five working days after receiving the summary of the informal hearing, the PHA's decision rendered at the informal hearing becomes final and the PHA is not obligated to offer the complainant a formal hearing unless the complainant can show good cause why he/she failed to proceed in accordance with this procedure. **[966.55(c) and (d)]**

Failure to request a grievance hearing does not affect the complainant's right to contest the PHA's decision in a court hearing. **[966.54(c)]**

V. Selecting the Hearing Officer or Hearing Panel [966.55(e)(4)(i)]

The hearing may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of this person.

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA hearing procedures.

VI. Escrow deposit required for a hearing involving rent [966.55(e)]

Before a hearing is scheduled in any grievance involving the amount of rent which the PHA claims is due under this lease, the complainant shall pay to the PHA an amount equal to the 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.

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This requirement will not be waived by the PHA unless the complainant is paying minimum rent and the grievance is based on a request for a hardship exemption or the resident's welfare benefits have been reduced for welfare fraud or failure to comply with economic self sufficiency requirements. **In these cases only**, rent need not be escrowed.

VII. Scheduling hearings [966.565(a)]

Within ten (10) business days of receiving a written request for a grievance hearing, the hearing officer will schedule and send written notice of the hearing to both the complainant and WVHA.

The Resident may request to reschedule a hearing for good cause, 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. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, WVHA may request documentation of the “good cause” prior to rescheduling the hearing.

VIII. Procedures governing the hearing [966.56]

The complainant will be afforded a fair hearing. This includes:

- A. The opportunity to examine before the grievance hearing and WVHA documents, including records and regulations that are directly relevant to the hearing. The resident must be allowed to copy any such document at the Resident’s expense. If WVHA does not make the document available for examination upon request by the complainant, WVHA may not rely on such document at the grievance hearing.
 - 1. The Resident will be allowed to copy any documents related to the hearing at a cost of \$0.25 per page. The family must request discovery of WVHA documents no later than 12:00 p.m. on the business day prior to the hearing.
- B. The right to be represented by counsel or other person chosen to represent the resident, and to have such person make statements on the Resident’s behalf.
 - 1. Hearings may be attended by the following applicable persons:
 - a. A WVHA representative(s) and any witnesses for WVHA
 - b. The Resident and any witnesses for the resident
 - c. The Resident’s counsel or other representative
 - d. Any other person approved by WVHA as a reasonable accommodation for a person with a disability
- 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 Resident’s complaint, to controvert evidence relied on by WVHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information WVHA or project management relies.
- E. A decision based solely and exclusively upon the facts presented at the hearing.

IX. Failure to appear at the hearing [966.56(c)]

If the Resident does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30

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minutes. If the Resident appears within 30 minutes of the scheduled time, the hearing will be held. If the Resident does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the Resident fails to appear and was unable to reschedule the hearing in advance, the Resident must contact WVHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the Resident can show good cause for the failure to appear, or 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.

X. Decision of the hearing officer [966.56]

The hearing officer shall prepare a written decision, together with the reasons for the decision **within ten (10) business days** after the hearing. A copy of the decision shall be sent to the complainant.

The PHA shall retain a copy of the decision in the Resident's file.

The decision of the hearing officer shall be binding on the PHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the PHA's Board of Commissioners determines within ten working days, and promptly notifies the complainant of its determination that:

- A. The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease or PHA regulations, which adversely affect the complainant's rights, duties, welfare or status.
- B. The 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 PHA.
- C. A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any way, the rights of the complainant to a trial or judicial review in any court proceedings which may be brought in the matter later.