

## **ATTACHMENT "B"**

### **GRIEVANCE PROCEDURE**

#### **A. Applicability**

The Housing Authority of the County of Greene, Pennsylvania, hereafter referred to as HACG, Grievance Procedure shall be applicable to all individual grievances as defined below, between a current public housing Resident and the HACG. As Pennsylvania is a jurisdiction that requires prior to eviction a tenant be given a hearing in court containing the elements of due process, the HACG may, at its option, exclude from the HACG's grievance procedure, any grievance concerning a termination of tenancy or residency that involves:

- (i) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the other residents or employees of the HACG;
- (ii) Any drug-related criminal activity on or off the HACG premises; or
- (iii) Any criminal activity that resulted in felony conviction of a household member;

This grievance procedure is not applicable to disputes between tenants not involving the Authority or to class grievances. This grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of Residents and the Authority's Board of Commissioners.

This Grievance Procedure is incorporated by reference in all Resident dwelling leases and will be furnished to each Resident at the time of admission or upon request.

#### **B. Definitions**

1. Grievance - Any dispute which a resident may have with respect to a HACG action or failure to act in accordance with the individual Resident's lease or HACG regulations which adversely affect the individual Resident's rights, duties, welfare or status.
2. Complainant - Any Resident whose grievance is presented to the HACG central office in accordance with the requirements presented in this Procedure.

3. Elements of Due Process - An eviction action or a termination of residency in a state or local court in which the following procedural safeguards are required:
  - (a) Adequate notice to the Resident of the grounds for terminating the residency and for eviction;
  - (b) Right of the Resident to be represented by counsel;
  - (c) Opportunity for the Resident to examine all relevant documents, records, and regulations of the HACG prior to the trial for the purpose of preparing a defense;
  - (d) Opportunity for the Resident to refute the evidence presented by the HACG including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the Resident may have; and
  - (e) A decision on the merits.
4. Hearing Officer - A person selected in accordance with this Procedure to hear grievances and render a decision with respect thereto.
5. Hearing Panel – A three (3) member panel selected in accordance with this Procedure to hear grievances and render a decision with respect thereto.
6. 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 HACG 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 Resident family residing in the dwelling unit.
7. Resident Council - An organized body of residents with an adopted set of by-law's, a democratic body, and elected officers. It may include a resident management corporation.

### **C. Informal Settlement of the Grievance**

Any grievance shall be personally presented, in writing, to the HACG central office so that the grievance may be discussed informally and settled without a hearing.

In cases of the HACG's failure to act, the grievance or complaint must be submitted within a reasonable time, not in excess of five (5) business days of the HACG failure to act that is the basis of the grievance. In cases of HACG action, the grievance or complaint must be submitted within a reasonable time, not in excess of five (5) business days of the HACG's action or not in excess of the number of days stated in a letter of adverse action that is the basis for the grievance. A summary of such discussion shall be prepared by the PHA within a reasonable time, not in excess of five (5) business days. One copy shall be given to the complainant and one copy retained in the HACG resident file. The summary shall specify the names of the participants, dates of meetings, 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. The summary shall be delivered to the complainant in accordance with the lease.

#### **D. Procedure to Obtain a Formal Hearing**

1. If not satisfied with the decision at the informal hearing, the complainant shall submit a written request for a formal grievance hearing to the HACG central office within a reasonable time after receipt of the summary, not in excess of five (5) business days. The written request shall specify:
  - (a) The reasons for the grievance; and
  - (b) The action or relief sought.
2. A grievance hearing shall be conducted by an impartial person or persons appointed in accordance with this Procedure. The Hearing Officer or Hearing Panel shall consist of a person or persons other than a person who made or approved the HACG action under review. The Hearing Officer or Hearing Panel may consist of a person or persons who may be an officer or employee of the HACG.

The Executive Director of the HACG shall select a Hearing Officer or Hearing Panel. It shall be the Executive Director's decision, based on facts and circumstances of the grievance, whether to select a single Hearing Officer or a Hearing Panel consisting of three (3) persons. Careful consideration will be given in the selection of the Hearing Officer or Hearing Panel. The Executive Director is not prohibited from selecting himself/herself provided that he/she is impartial and was not the person who made or approved the HACG action.

Prior to final selection of the Hearing Officer or Hearing Panel, the Executive Director shall consult the Resident Councils, when and if one exists, of his/her

decision and allow for comment. Resident Councils shall have five (5) business days from the date of the notice to submit comments. Any recommendations or comments received shall be considered by the Executive Director in making the final selection.

The Executive Director shall have fifteen (15) calendar days after receipt of a request for a hearing in which to make a final selection of a Hearing Officer or Hearing Panel.

3. If the complainant does not request a hearing in accordance with D (1) above, then the HACG's disposition of the grievance under this policy shall become final.
4. All grievances shall be personally presented, in writing, pursuant to the informal procedure prescribed in Section C above as a condition precedent to a hearing under this section. However, if the complainant shall show good cause why he failed to proceed in accordance with Section C to the Hearing Officer or Hearing Panel, the provisions of this subsection may be waived by the Hearing Officer or Hearing Panel.
5. Before a hearing is scheduled in any grievance involving the amount of rent which the HACG claims is due, the complainant shall pay to the HACG, to be held in escrow, an amount equal to the amount of 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, held by the HACG, monthly until the complaint is resolved by decision of the Hearing Officer or Hearing Panel. The HACG shall hold in escrow all deposits, on behalf of the Resident, pending resolution of the complaint. These requirements may be waived by the HACG in extenuating circumstances. Unless so waived, the failure to make such payment shall result in termination of the grievance procedure.
6. Upon complainant's compliance with subsections 1, 3, 4 and 5 of this section, a hearing shall be scheduled by the Hearing Officer or Hearing Panel promptly for a time and place reasonably convenient to both the complainant and the HACG. A written notification specifying the time, place and procedure governing the hearing shall be delivered to the complainant and the appropriate HACG official.

#### **E. Procedure Governing the Hearing**

1. The hearing shall be held before a Hearing Officer or Hearing Panel, as determined by the Executive Director.

2. The complainant shall be afforded a fair hearing, which shall include:
  - (a) The opportunity to examine before the grievance hearing any HACG documents, including records and regulations, which are directly relevant to the hearing. The complainant shall be allowed to copy any such document at the complainant's expense. If the HACG does not make the document available for examination upon such request by the complainant, the HACG may not rely on such document at the grievance hearing;
  - (b) The right to be represented by counsel or other person chosen as the complainant's representative, and to have such person make statements on the complainants 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 complainant's complaint, to controvert evidence relied on by the HACG or development management, and to confront and cross-examine all witnesses upon whose testimony or information the HACG or development management relies; and
  - (e) A decision based solely and exclusively upon the facts presented at the hearing.
3. The Hearing Officer or Hearing Panel may render a decision without preceding with the hearing if the Hearing Officer or Hearing Panel determines that the issue has been previously decided in another proceeding.
4. If the complainant or the HACG fails to appear at a scheduled hearing, the Hearing Officer or Hearing Panel may make a determination to postpone the hearing for not more than five (5) business days or make a determination that the party has waived his right to a hearing. Both the complainant and the HACG shall be notified of the determination by the Hearing Officer or Hearing Panel.
5. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the HACG 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 or Hearing Panel and oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Officer or Hearing Panel shall require the HACG, 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 or Hearing Panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and granting or denial of the relief sought, as appropriate.

7. The complainant or the HACG may arrange, in advance, 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 HACG must provide 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 complainant is visually impaired, any notice to the complainant that is required under this section must be in an accessible format.

#### **F. Decision of the Hearing Officer or Hearing Panel**

1. The Hearing Officer or Hearing Panel shall prepare a written decision, together with the reasons for the decision, within a reasonable time after the hearing, but not in excess of seven (7) business days. A copy of the decision shall be sent to the complainant and the HACG. The HACG shall retain a copy of the decision in the complainant's file. A copy of the decision, with all names and identifying references deleted, shall also be maintained on file by the HACG and made available for inspection by a prospective complainant, his representative, or the Hearing Officer or Hearing Panel.
2. The decision of the Hearing Officer or Hearing Panel shall be binding on the HACG which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the HACG's Board of Commissioners determines within a reasonable time, not to exceed thirty (30) days, and promptly notifies the complainant of its determination, that:
  - (a) The grievance does not concern HACG action or failure to act in accordance with or involving the complainant's lease or HACG regulations, which adversely affect the complainants rights, duties, welfare or status; and,
  - (b) The decision of the Hearing Officer or Hearing Panel is contrary to applicable Federal, State or Local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and the HACG.
3. A decision by the Hearing Officer or Hearing Panel, or Board of Commissioners in favor of the HACG 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 the complainant may have to a trial or judicial review in any court proceedings, which may be brought in the matter later.

**G. Eviction Actions Upon Decision of the Hearing Officer or Hearing Panel**

If a Resident has requested a hearing in accordance with Section C of this Procedure, on a complaint involving an HACG Notice of Termination of residency and the Hearing Officer or Hearing Panel upholds the HACG's action to terminate the residency, the HACG shall not commence an eviction action in a State or local court until it has served a Notice To Vacate on the Resident, and in no event shall the Notice To Vacate be issued prior to the decision of the Hearing Officer or Hearing Panel having been mailed or delivered to the complainant.

Such Notice to Vacate must be in writing and specify that if the resident fails to quit the premises within the applicable statutory period or on the termination date stated in the Notice of Termination, whichever is later, appropriate action will be brought against the Resident and he/she may be required to pay court costs and attorney fees.

**H. Amendments**

Any changes proposed in this Grievance Procedure must provide for at least thirty (30) days notice to Residents and Resident Councils, 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.