

FAMILY'S RIGHT TO A GRIEVANCE HEARING

A tenant (defined by HUD as any adult member who has executed a lease) is entitled to both an informal meeting and a grievance hearing when there is an adverse action to be taken by the Housing Department, as defined in the regulations at 24 CFR 966.4.

A resident has a broad right to grieve a Housing Department action or non-action which may adversely affect the individual interest of the tenant (24 CFR 966.53). Whether or not a type of proposed adverse action is explicitly listed in the rule, the tenant has the right to grieve on any such subject, except for a termination of tenancy that has been excluded from the grievance process.

- A. Any and all notices of a proposed adverse action issued by the Housing Department shall inform the family of:
 - 1. The reason for the proposed adverse action with enough specificity to allow them to prepare a defense;
 - 2. The timeframe and procedures for requesting a grievance hearing; if applicable.
 - 3. The date of the proposed adverse action;
 - 4. Tenant's right to make a reply as they may so desire; and
 - 5. Tenant's right to examine any documents of the Housing Department which are directly relevant to the proposed adverse action.

- B. If there is a determination by the Housing Department that the family is not entitled to a grievance hearing, as may be the case for a termination of tenancy for criminal activity or drug-related criminal activity, the notice shall indicate:
 - 1. The grievance hearing is not applicable to this termination action;
 - 2. The specific judicial action to be used.

PERSONS EXCLUDED FROM THE GRIEVANCE PROCEDURE

- A. A minor child shall not have the right to grieve nor the automatic right of leasehold succession. Neither shall a non-resident relative nor a guardian acting on behalf of the minor child(ren) have the right to grieve nor an automatic right of leasehold succession. Rather, the grievance shall be

- restricted to a remaining family member with legal capacity to assume the tenancy.
- B. A live-in aide is not entitled to a grievance hearing as they are neither a family member nor a party to the lease.
 - C. It is the decision of the Housing Department to exclude from the grievance procedure tenants involved in:
 - 1. Criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises by other residents or employees of the Housing Department;
 - 2. Any violent or drug-related criminal activity on or off such premises; or;
 - 3. Any criminal activity that resulted in a felony conviction of a household member.

TENANT'S REQUIREMENT TO ESTABLISH AN ESCROW ACCOUNT FOR DISPUTES INVOLVING NON-PAYMENT OF RENT OR OTHER CHARGES

This section does not apply to residents of Sunnyslope Manor and Fillmore Gardens.

If the tenant elects to grieve a proposed termination for non-payment of rent the tenant must comply with the following:

- A. At least three (3) working days prior to the hearing the tenant must deposit into an escrow account approved by the Housing Department, an amount equal to the amount of tenant rent due the first of the month preceding the month in which the tenant requested the grievance hearing.
- B. The manager of the escrow account(s) shall be identified to the tenant in the notice that Housing Department sends to the family establishing the date/time and location of the hearing.
- C. The Escrow Account Manager (EAM) shall be required to issue a receipt to the family for all such payments made each time a payment is made. Each receipt shall identify the date and amount of the most recent payment plus the aggregate amount accumulated in the escrow account.
- D. Tenant must provide a copy of any/all such receipts at the initial grievance hearing or any subsequent hearings which are directly or indirectly related to the dispute of payments owed the Housing Department.

- E. Failure of the family to make the required payments will terminate the grievance process; however, this does not preclude a tenant from seeking judicial relief if they continue to dispute the amounts the Housing Department contends are owed under the lease.
- F. The Housing Department reserves the right to waive these escrow requirements, in whole or in part, dependent upon any extenuating circumstances of an individual tenant family. However, any such waivers do not preclude the Housing Department from exercising its right to seek judicial relief for amounts the Housing Department contends are owed under the lease.

PROCEDURES GOVERNING THE GRIEVANCE HEARING

Each family will be provided with a copy of the Housing Department's HUD approved grievance procedure at the time of lease execution and upon request whenever the family indicates they want a grievance hearing as a result of a proposed adverse action to be taken by the Housing Department.

At the informal stage, families are asked to present their grievances to Housing Department management to provide an opportunity for the grievance to be cured without a hearing if possible. A meeting will be arranged at a mutually agreeable time within 10 working days. The resident will present the grievance and the Housing Department staff person responsible for the area will attempt to settle the grievance. Within five working days, the Housing Department will provide the resident with a written summary of the informal hearing. The summary will include the names of the participants, the date(s) of the meeting, the nature of and the reasons for the proposed disposition and the procedures for obtaining a formal hearing if the complainant is not satisfied. A copy of the summary will be placed in the resident's file.

If the family is dissatisfied with the proposed disposition of the complaint, the family may make a written request for a formal grievance hearing within five days after receipt of the summary of the informal hearing.

An adult tenant has the right to a fair hearing which includes:

- A. Opportunity to examine any Housing Department documents which are directly relevant to the hearing prior to the hearing. This includes the right to review and copy, at the tenant's expense, Housing Department policy, HUD regulations, and contents of the tenant file upon which the Housing Department will rely in its presentation of the case.
- B. Right of tenant to be represented by legal counsel or other person of his/her choice and to have such representative present oral arguments on his/her behalf.

- C. Right of tenant to a private hearing on the dispute unless the family requests, in writing, to have a public hearing.
- D. Right of tenant to controvert evidence relied on by the management and to confront and cross-examine witnesses upon whose testimony or information the Housing Department management or site staff relies.
- E. Right to a decision based solely upon the facts presented at the hearing.

The Hearing Officer or panel will consider a request for a postponement of the hearing if:

- A. Such request is made in writing, by the tenant, and received at least five(5) working days prior to the scheduled date of the hearing; and
- B. Such request includes a reason that substantiates that moving forward with the scheduled hearing would place an undue hardship on the tenant (e.g., inability to take off from work at the scheduled time without losing pay or jeopardizing employment, inability to be represented by legal counsel of the tenant's choice at the scheduled time, etc.)

When such a request is received the hearing officer or panel will determine if the request is to be approved or disapproved within three days of receiving the request. The tenant will be issued a written notice of approval or disapproval of the request to postpone. If it is disapproved the family will be expected to participate; failure to do so could result in the hearing officer ruling in favor of the Housing Department as a result of the tenant's default. If the request is approved a new date will be identified in the letter of approval. In no event shall the date of the re-scheduled hearing be more than ten (10) working days from the date of the originally scheduled hearing date, unless there is documentation that the tenant will (a) be hospitalized for a period of time exceeding the 10 day extension period or (b) the tenant will be sequestered on a jury for a period of time exceeding the 10 day extension period or (c) the tenant is involved in military duty which will be of a duration exceeding the 10 day extension period, but still less than 30 days. If the tenant will be unable to participate in the hearing which is rescheduled within the 10 day extension period, for one or more of the three reasons identified above or for a reason of equal weight, the family may be granted an additional extension for an additional ten day period at the discretion of the hearing officer. If the tenant is unable to participate within the period of the second extension period and a waiver is not granted for extenuating circumstances the Housing Department may proceed with the prepared adverse action. This does not exclude the tenant from pursuing any judicial relief available to them.

The determination of the hearing officer(s) will be rendered in writing to the tenant and the Housing Department within five working days of the close of the hearing. The decision is binding on the Housing Department unless HUD, the Assisted Housing Governing Board or its designee determines within thirty (30) days of the decision that the hearing officer(s) acted arbitrarily or exceeded their jurisdiction, or that the decision is contrary to any applicable provisions of Federal, State or local law, HUD regulations, or the ACC.

A decision which is rendered in favor of the Housing Department does not affect the tenant's right to pursue any other judicial action available to him/her.

CONDUCT OF THE HEARING

The hearing will be conducted by an impartial person or persons appointed by the Housing Department in a manner that is both informal and orderly. If any participant or spectator evidences disorderly conduct and fails to comply with the directions of the hearing officer or the hearing panel to modify the objectionable behavior, the officer/panel may dismiss the person(s) participating in the objectionable behavior and/or dismiss the case and rule in favor of the opposite party.

DECISION OF THE HEARING OFFICER OR PANEL

The hearing officer/panel is required to issue a written decision within ten days following the hearing. The written decision should include a summary of the oral and written evidence presented by both the complainant and the Housing Department and must state the reason(s) for the decision, including the policy or regulation that supports the decision made. A copy of the decision will be placed in the resident's file and an additional copy (with names and dates redacted) will be retained by the Housing Department and made available for a prospective complainant, the complainant's representative or hearing officer/panel.

A decision by the hearing officer/panel in favor of the Housing Department's action or failure to act or which denies the relief requested in whole or in part does not constitute a waiver of any rights the complainant may have to a subsequent trial or judicial review in court.