

## Lake County Housing Authority

### Summary of Changes to the Grievance Procedure

Old G.P Page #	New G.P. Page #	Description of Change	Reason
14-1		Removed Informal hearings for Applicants and Informal hearings for Non-citizens.	These are procedures not policies.
14-9	1	The new Grievance Procedure conforms to the revised HUD regulation at 24 CFR part 955.5	Comply with HUD rules
		The new Grievance Procedure will use senior staff of the Housing Choice Voucher program as hearing officers	Improve timeliness of hearings



## GRIEVANCE PROCEDURE

### A. Purpose and Scope

To afford tenants of public housing an opportunity for a hearing if the tenant disputes within a reasonable period of time any Authority action or failure to act, involving the tenant's lease with the Authority, or Authority's regulations that adversely affect the individual tenant's rights, duties, welfare or status. This Grievance Procedure is included by reference in all public housing leases.

### B. Applicability

1. The grievance procedure shall be applicable to all individual grievances (as defined in Subsection C) between the tenant of the federally-assisted public housing projects and the Authority.
2. The grievance procedure shall not be applicable to disputes between tenants not involving the Authority or class grievances.
3. This procedure shall not be used as a forum for initiating or negotiating policy changes between tenants and the Authority.
4. All grievances involving an act or omission of the Authority relating to a lease shall be commenced within 10 business days of such alleged act or omission.
5. The failure by a tenant to request such a grievance hearing within 10 days of the Authority's alleged act or omission shall preclude any request for a grievance hearing from occurring unless waived in writing by the Authority.

### C. Definitions

1. "The Authority" means the Lake County Housing Authority.
2. "Complainant" means any tenant whose grievance is presented in writing<sup>1</sup> to the Authority or at the project management office.
3. "Grievance" means any dispute which a tenant may have with respect to the Authority's action or failure to act in accordance with the individual tenant's lease or the Authority's rules which adversely affect the individual tenant's rights, duties, welfare or status.
4. "Hearing Officer" means a person selected in accordance with Subsection E to hear grievances and render a decision with respect thereto.
5. "Tenant" means a lessee or a remaining head of household of any family residing in the Authority's federally-assisted public housing projects. No family member other than the head of household may request a Grievance.
5. "Drug-related criminal activity" means the illegal manufacture, sale, distribution, or use of a drug, or the possession of a drug with intent to manufacture, sell, or use the drug.

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<sup>1</sup> Or some other method of communication requested by a tenant with a disability.

6. “Federally-assisted public housing project” means a low-income federal assisted public housing project as established by the United States Housing Act of 1937, as amended.

D. Meetings to attempt an Informal Settlements

1. Meeting Regarding Delinquency of Rent.

- a) When any tenant has been delinquent in payment of rent, the Authority shall provide the tenant with a written notice no later than six days from the date rent was due that shall inform the tenant of the delinquency and schedule a meeting/informal hearing between the tenant and the Authority or its agent. The written notice shall:
- (1) Inform the tenant that continued delinquency shall result in the tenant's eviction;
  - (2) Inform the tenant of the tenant's right to apply for an interim adjustment in rent if the tenant has experienced a decrease in income or an increase in deductions;
  - (3) explain to the tenant the steps of the grievance and eviction processes and how the processes protect the tenant;
  - (4) provide the tenant with a sample letter for requesting a grievance hearing;
  - (5) set forth the location, date, and time, which shall be no earlier than fourteen days from the date of the written notice, at which the tenant may meet with the Authority or its agent to discuss the delinquency in rent; and
  - (6) Inform the tenant that the tenant shall either attend the meeting/informal hearing or, if applicable, contact the Authority or the Authority's agent before the meeting time to reschedule the meeting.
- b) At the meeting/informal hearing described in subsection (a), the Authority or its agent shall:
- (1) Inquire into the cause of the tenant's delinquency and offer suggestions that the Authority may feel appropriate, if any, to address the causes of delinquency;
  - (2) Consider whether a reasonable payment plan is appropriate for the tenant's situation and, if appropriate, offer a payment plan to the tenant; and
  - (3) Inform the tenant of and explain the issues as required under subsection (a) (1), (2), and (3).
- c) If the tenant fails to attend or reschedule the meeting/informal hearing provided for in subsection (b), the Authority shall provide the tenant with a second written notice. The notice shall inform the tenant that:
- (1) The Authority will terminate the tenant's tenancy because of the tenant's outstanding rent delinquency and the tenant's failure to respond to the Authority's written notice issued pursuant to subsection (a);

- (2) The tenant has ten business days from receipt of the second written notice to request a grievance hearing; and
  - (3) If the tenant fails to request a grievance hearing within ten business days, the Authority has the right to proceed with the eviction.
- d) If the tenant meets with the Authority as provided for in subsection (b), the Authority shall decide, based upon the facts discussed at the meeting, what action is appropriate to address the tenant's case. The Authority shall notify the tenant of such decision in writing. If the Authority decides to proceed with an action to terminate the tenancy, the Authority shall further inform the tenant in the same written notice that:
- (1) The tenant has ten business days from receipt of this notice to request a grievance hearing; and
  - (2) If the tenant fails to request a grievance hearing within ten business days, the Authority has the right to proceed with the eviction.
2. Meeting regarding a Grievance other than Rent Delinquency
- a) When a tenant has a grievance about any subject other than rent delinquency, the PHA shall:
    - (1) Inform the tenant that the first step in resolving any dispute about the PHA's actions or failure to act is the informal settlement discussion;
    - (2) Explain to the tenant the steps of the grievance and eviction processes and how the processes protect the tenant;
    - (3) Provide the tenant with a sample letter for requesting a grievance hearing;
    - (4) Set forth the location, date, and time, which shall be no earlier than fourteen days from the date of the written notice, at which the tenant may meet with the Authority or its agent to discuss the matter that is in dispute;
    - (6) Inform the tenant that the tenant shall either attend the meeting/informal hearing or, if applicable, contact the Authority or the Authority's agent before the meeting time to reschedule the meeting.
3. Informal Settlement of Grievances

Any grievance shall be personally presented, either orally or in writing, to the project office of the project in which the complainant resides as a condition before a hearing under this procedure. At the time of the meeting/informal hearing the complainant's personal presentation must explicitly notify the project office that the tenant is invoking the grievance procedure. If the project office and tenant agree to a resolution in writing, the grievance shall be terminated. If the matter is not informally resolved, a summary of such discussion shall be prepared within 5 business days and a copy shall be given to the tenant. The summary shall specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons thereof, and shall specify the procedures by which a hearing under this chapter may be obtained if the complainant is not satisfied.

#### E. Procedure to Obtain a Grievance Hearing

1. Request for Grievance Hearing relating to delinquency of rent – The complainant shall submit a written request (or other communication method used by a person with a

disability) for a hearing to the Authority's project office within 10 business days after receipt of the summary of discussion at the informal meeting. The written request shall specify:

- a) The reason for the grievance; and
  - b) The action or relief sought.
2. Request for Hearing other than for delinquency of rent - The complainant shall submit a written request (or other communication method used by a person with a disability) for a hearing to the Authority's project office within 10 business days after receipt of the summary of discussion at the informal meeting. The written request shall specify:
- a) The reason for the grievance; and
  - b) The action or relief sought.
3. Failure to Request a Hearing – If the complainant does not request a hearing within 10 days of receiving the summary of the informal discussion, the Authority's disposition of the grievance following the meeting/informal hearing shall become final. Failure to request a hearing shall not constitute a waiver by the complainant of his right thereafter to contest the Authority's action in disposing of the complaint in an appropriate judicial proceeding. If the complainant shows good cause for failing to proceed in accordance with the informal procedure to the hearing officer, this provision may be waived by the hearing officer in writing with reasons given. If the Authority and tenant agree to a resolution in writing, the grievance shall be terminated.
- 4 Selection of the Hearing Officer – A grievance hearing shall be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person:
- a) The Authority shall nominate two or three senior members of the PHA's Voucher program staff to serve as hearing officers.
  - b) The slate of potential hearing officers shall be submitted to the resident organizations. Written comments from the organizations shall be considered by the Authority

The Authority shall appoint the final list of nominees as hearing officers. The final list of hearing officers shall be provided to the resident organizations. The Authority shall contact the hearing officers in random order to request their participation as hearing officers.

5. Escrow Deposit – Concurrent with filing a request for hearing and before a hearing is scheduled in any grievance related to rent, the complainant shall pay to the Authority the full amount of rent due and payable as of the first of the month. The complainant shall thereafter make a timely deposit of the amount of the monthly rent monthly to the Authority until the complaint is resolved by decision of the hearing officer. If the dispute involves the amount of rent which the Authority claims is due, the complainant shall specify what portion of the current rent is in dispute and the reasons therefore. The Authority shall hold the rent amount in escrow until the disposition of the grievance is final.

Tenants paying minimum rent will not be required to make escrow deposits.

6. Scheduling of Hearings – Upon the complainant’s compliance with paragraphs 1 or 2 and 4 of this section and selection of a hearing officer, a hearing shall be scheduled promptly by the hearing officer for a time and place reasonably convenient to both the complainant and the Authority. A written notification specifying the time, place and procedures governing the hearing shall be delivered to the complainant and the appropriate official of the Authority.

F. Procedures Governing the Hearing

1. The hearing shall be held before a hearing officer.
2. The complainant shall be afforded a fair hearing providing the basic safeguards of due process which shall include:
  - a) The opportunity to examine before the hearing and, at the expense of the complainant, to copy all documents, records and rules of the Authority that are relevant to the hearing. Any document not made available after request with reasonable notice by the complainant may not be relied on by the Authority at the hearing;
  - b) The right to be represented by counsel or other person chosen as his representative at the expense of the complainant;
  - 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 complainant’s complaint, to controvert evidence relied on by project management, and to confront and cross-examine all witnesses on whose testimony or information the project management 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 the scheduled hearing, the hearing officer may make a determination to postpone the hearing for not more than 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 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 Authority’s disposition of the grievance in an appropriate judicial proceeding.
5. At the hearing, the complainant must first show he is entitled to the relief sought and thereafter the Authority must sustain the burden of justifying the Authority’s 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 decision adverse to the interests of the disorderly party and 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. Accommodation of persons with disabilities.
  - a) The Authority must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, provision of documents in other than written form, or attendants.
  - b) If the tenant is visually impaired, any notice to the tenant which is required under this subpart must be in an accessible format.
9. Accommodation of persons with Limited English Proficiency
  - a) If a tenant with Limited English Proficiency requests a translator during the hearing, PHA will make arrangements to provide a qualified translator at PHA's expense.

G. Decision of the Hearing Officer

1. The hearing officer shall prepare a written decision, together with the reasons therefore, within 10 business days after the hearing. A copy of the decision shall be sent to the complainant and the Authority. 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 by 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 determines within ten business days, 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 rules, which adversely affect the complainant's rights, duties, welfare or status; or
  - b) The decision of the hearing officer is contrary to applicable Federal, State or local law, Department of Housing and Urban Development regulations or requirements of the annual contributions contract between the Department of Housing and Urban Development and the Authority.
3. A decision by the hearing officer or Authority in favor of the Authority or that denies relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, any rights the complainant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.
4. If the complainant has requested a hearing on a complaint involving the Authority's notice of proposed termination of tenancy and the hearing officer upholds the Authority's action to terminate the tenancy, the Authority shall not commence a new eviction proceeding until it has served a notice to vacate on the complainant. 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 shall be in writing and shall specify that if the complainant 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 complainant and the complainant may be required to pay court costs and attorney fees. Unless so determined in the hearing, this Section shall not affect the validity and effectiveness of an existing eviction proceeding, notice of proposed termination, notice to vacate, and other notices served on the complainant by the Authority prior to the complainant's actual submission of a written request for hearing.

#### H. When no Grievance will be Offered

in states where HUD has issued a "due process determination" finding that state law provides tenants the basic rights of due process, the PHA is not required to offer tenants a Grievance Hearing if their leases are being terminated for:

1. " Any criminal activity that threatens the health, safety or right to peaceful enjoyment or the premises of other residents of employees of the PHA; or
2. "Any violent or drug-related criminal activity on off such premises"; or
3. "Any criminal activity that results in the felony conviction of a household member". **See 24 CFR § 966.51(a)(2)**

Illinois is such a state so the Authority may proceed directly to court for evictions related to the three reasons listed above.