



PICKAWAY METROPOLITAN HOUSING AUTHORITY

PUBLIC HOUSING, LOUISE TERRACE, PICKAWAY TERRACE, EDEN PLACE

GRIEVANCE PROCEDURE

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GRIEVANCE PROCEDURE

The following Pickaway Metropolitan Housing Authority (PMHA) Grievance Procedure is adopted and applies to Public Housing, Pickaway Terrace, Eden Place, Louise Terrace:

I. DEFINITIONS APPLICABLE TO THE GRIEVANCE PROCEDURE: (966.53, 966.51(a)(2)(i))

- A. **Grievance:** Any dispute a **Tenant** may have with respect to PHA action or failure to act in accordance with the individual Tenant's lease or PHA regulations that adversely affects the individual Tenant's rights, duties, welfare or status.
- B. **Complainant:** Any Tenant (as defined below) whose grievance is presented to the PHA in accordance with the requirements presented in this procedure.
- C. **Due Process Determination:** A determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the dwelling unit.
- D. **Expedited Grievance:** A procedure established by the PHA for any grievance concerning a termination of tenancy or eviction that involves:
 - (1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the PHA's public housing premises by other residents or employees of the PHA; or
 - (2) Any drug-related or violent criminal activity on or off such premises.
- E. **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 Tenant of the grounds for terminating the tenancy and for eviction;
 - (2) Right of the Tenant to be represented by counsel;
 - (3) Opportunity for the Tenant 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 Tenant may have;
 - (4) A decision on the merits of the case.
- F. **Hearing Officer:** An impartial person selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person to hear grievances and render a decision with respect thereto.
- G. **Tenant:** 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 household of the Tenant family residing in the dwelling unit.
- H. **Resident Organization:** An organization of residents, which also may include a resident management corporation.

II. APPLICABILITY OF THIS GRIEVANCE PROCEDURE (966.51)

Related to applicants, PMHA will offer the opportunity to an informal hearing to public housing applicants for the purpose of disputing denials of admission. Informal hearings are provided for public housing applicants. An applicant is someone who has applied for admission to the public housing program, but is not yet a tenant in the program. Informal hearings are intended to provide a means for an applicant to dispute a determination of ineligibility for admission to a project [24 CFR 960.208(a)]. Applicants to public housing are not entitled to the same hearing process afforded tenants under the PHA grievance procedure [24 CFR 966.53(a) and PH Occupancy Guide Book, p. 58].

In accordance with the applicable Federal regulations (24 CFR 966.50) this grievance procedure shall

be applicable to all individual grievances (as defined in Section 1 above) between Complainant 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 Complainant 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 drug-related criminal activity on or near such premises; or
 - (3) Any criminal activity that resulted in felony conviction of a household member [966.51(2)(i)(A)(B) and (C)]
- B. The PHA grievance procedure shall not be applicable to disputes between Complainants 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 tenants and the PHA's Board of Commissioners [966.51(b)]

This grievance procedure is incorporated by reference in all Tenant dwelling leases and will be furnished to each Tenant and all resident organizations upon request. [966.52(c)]

Any changes proposed in this grievance procedure must provide for at least 30 days notice to Tenants 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 requested orally or in writing, including emailed requests, to the PHA's office **within ten days of the grievable event** so that the grievance may be discussed informally and settle without a formal hearing. Within 10 business days of receipt of the request the PHA will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

The informal settlement may be conducted remotely as required by the PHA, or may be conducted remotely upon consideration of the request of the tenant.

If a tenant fails to attend the scheduled meeting without prior notice, the PHA will reschedule the appointment only if the tenant can show good cause for failing to appear, 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.

A summary of such discussion shall be prepared within 10 business days and one copy shall be given to the tenant and one retained in the PHA's tenant file. The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied. A copy of this summary shall also be placed in Complainant's file.

Grievances related to complaints about operational matters that are received by the PHA's central office will be referred to the Executive Director or his/her designee. If the Executive Director designates a person to conduct the informal settlement, the designee cannot be a person who made or approved the action under review, or a subordinate of such person.

The informal settlement of grievances is not applicable for those grievances for which the expedited grievance procedure applies.

IV. FORMAL GRIEVANCE HEARING

If the Complainant is dissatisfied with the decision arrived at the informal settlement hearing, the Complainant must submit a written request for a hearing to the PMHA office, 176 Rustic Drive, Circleville, OH 43113 **within 5 business days of 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

If the Complainant has complied with all requirements for requesting a hearing, a hearing must be scheduled by the hearing officer. Within 10 business days of receiving the written request for a hearing the hearing officer will schedule and send written notice of the scheduled hearing to both the Complainant and the PHA.

If the PHA hearing will be conducted remotely, at the time the notice is sent to the family, the family will be notified:

Regarding the processes involved in a remote grievance hearing;

That the PHA will provide technical assistance prior to and during the hearing, if needed; and

That if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA and the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

The Complainant 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, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the complainant does not request a hearing, the PHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

V. EXPEDITED GRIEVANCE PROCEDURE

The PHA will not offer expedited grievance procedures.

VI. SELECTING THE HEARING OFFICER OR HEARING PANEL [966.53(e)]

The grievance hearing must be conducted by an impartial person or persons appointed by the PHA,

other than the person who made or approved the PHA action under review, or a subordinate of such person.

PHA grievance hearings will be conducted by a single hearing officer and not a panel.

The PHA will appoint an impartial person who was not involved in the decision under appeal. If a designated staff member (such as the program manager) was involved in the decision, or is a subordinate of such person, an alternate hearing officer will be selected.

The PHA may select designated staff members who were not involved in the decision under appeal in certain circumstances, such as appeals involving discrimination claims or denials of requests for reasonable accommodations.

VII. REMOTE HEARINGS

The PHA has the sole discretion to require that hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

In addition, the PHA will conduct a hearing remotely upon request as a reasonable accommodation for a person with a disability, if a Complainant does not have child care or transportation that would enable them to attend the hearing, or if the Complainant believes an in-person hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote hearing on a case-by-case basis.

If the hearing will be conducted remotely, the PHA will compile a hearing packet, consisting of all documents the PHA intends to produce at the hearing. The PHA will mail copies of the hearing packet to the Complainant, the Complainant's representatives, if any, and the hearing officer at least three days before the scheduled remote hearing. The original hearing packet will be in the possession of the PHA representative and retained by the PHA.

If the hearing is to be conducted remotely, the PHA will require the resident to provide any documents directly relevant to the hearing at least 24 hours before the scheduled hearing through the mail, via email, or text. The PHA will scan and email copies of these documents to the hearing officer and the PHA representative the same day they are received.

Documents will be shared electronically whenever possible.

VIII. PROCEDURES GOVERNING THE HEARING [966.56]

The hearing shall be held before a hearing officer. The Complainant shall be afforded a fair hearing, which shall include:

- A. The opportunity to examine before the hearing any PHA documents, including records and regulations, that are directly relevant to the hearing.

The Complainant shall be allowed to copy any such document at the Complainant's expense. If the PHA does not make the document available for examination upon request by the Complainant, the PMHA 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 Complainant'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 the Complainant's complaint to controvert evidence relied on by the PHA or project management, and to confront and cross examine all witnesses whose testimony or information the PHA or project management relies; and
- E. A decision based solely and exclusively upon the fact presented at the hearing.

At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and thereafter, the PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed. [966.56 (e)]

The hearing is conducted informally by the hearing officer. The PHA and Complainant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing.

If the PHA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine PHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the PHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

The hearing panel or officer shall require the PHA, the Complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing panel or officer 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. [966.56(f)]

The Complainant or the PHA may arrange in advance, at expense of the party making the arrangements, for a transcript of the hearing. Any interested party may purchase a copy of such transcript. [966.56 (e)]. If the complainant would like the PHA to record the proceedings by audiotape, the request must be made to the PHA by 12:00 p.m. on the business day prior to the hearing. The PHA will consider that an audio tape recording of the proceedings is a transcript.

The PHA must provide reasonable accommodation 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 procedure must be an accessible format.

IX. FAILURE TO APPEAR AT THE HEARING

If the Complainant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the Complainant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the Complainant fails to appear and was unable to reschedule the hearing in advance, the Complainant must contact the PHA within 24 hours of the scheduled hearing date, excluding

weekends and holidays. The hearing officer will reschedule the hearing only if the Complainant 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.

Both the Complainant and the PHA shall be notified of the determination by the hearing officer; Provided, that the determination that the Complainant has waived his/her right to a hearing shall not constitute a waiver of any right the complainant may have to contest the PHA’s disposition of the grievance in court [966.56(d)].

X. DECISION OF THE HEARING OFFICER [966.57]

The hearing officer will issue a written decision to the Complainant and PHA no later than 10 business days after the hearing. A copy of the decision shall be sent to the Complainant and the PHA.

The decision of the hearing officer is binding on the PHA, which shall take all actions, or refrain from any actions cited in the decision unless the PHA’s Board of Commissioners determines within a reasonable time, and 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 officer is contrary to applicable federal, state or local law, HUD regulations, or requirements of the annual contributions contract between HUD and the PHA.

When the PHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 business days of the date of the hearing officer’s decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer’s decision, it must notify the Complainant within 10 business days of this decision.

A decision by the hearing panel or officer of Board of Commissions 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 [966.57]

XI. INFORMAL HEARING WITH REGARDS TO NONCITIZENS [24 CFR 5.514]

Denial or termination of assistance **based on immigration status** is subject to special hearing and notice rules. These special hearings are referred to in the regulations as informal hearings, but the requirements for such hearings are different from the informal hearings used to deny applicants for reasons other than immigration status.

Assistance to a family may not be delayed, denied, or terminated on the basis of immigration status at any time prior to a decision under the United States Citizenship and Immigration Services (USCIS) appeal process. Assistance to a family may not be terminated or denied while the PHA hearing is

pending, but assistance to an applicant may be delayed pending the completion of the informal hearing.

A decision against a family member, issued in accordance with the USCIS appeal process or the PHA informal hearing process, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

Notice of Denial or Termination of Assistance [24 CFR 5.514(d)]

The notice of denial or termination of assistance for noncitizens must advise the family:

- That financial assistance will be denied or terminated, and provide a brief explanation of the reasons for the proposed denial or termination of assistance.
- The family may be eligible for proration of assistance.
- In the case of a participant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518].
- In the case of a tenant, the criteria and procedures for obtaining relief under the provisions for preservation of families [24 CFR 5.514 and 5.518]
- That the family has a right to request an appeal to the USCIS of the results of secondary verification of immigration status and to submit additional documentation or explanation in support of the appeal.
- That the family has a right to request an informal hearing with the PHA either upon completion of the USCIS appeal or in lieu of the USCIS appeal.
- For applicants, assistance may not be delayed until the conclusion of the USCIS appeal process, but assistance may be delayed during the period of the informal hearing process.

United States Citizenship and Immigration Services Appeal Process [24 CFR 5.514(e)]

When the PHA receives notification that the USCIS secondary verification failed to confirm eligible immigration status, the PHA must notify the family of the results of the USCIS verification. The family will have 30 days from the date of the notification to request an appeal of the USCIS results.

The request for appeal must be made by the family in writing directly to the USCIS. The family must provide the PHA with a copy of the written request for appeal and the proof of mailing.

The PHA will notify the family in writing of the results of the USCIS secondary verification within 10 business days of receiving the results.

The family must provide the PHA with a copy of the written request for appeal and proof of mailing within 10 business days of sending the request to the USCIS.

The family must forward to the designated USCIS office any additional documentation or written explanation in support of the appeal. This material must include a copy of the USCIS document verification request (used to process the secondary request) or such other form specified by the USCIS, and a letter indicating that the family is requesting an appeal of the USCIS immigration status verification results.

The USCIS will notify the family, with a copy to the PHA, of its decision. When the USCIS notifies the PHA of the decision, the PHA must notify the family of its right to request an informal hearing.

The PHA will send written notice to the family of its right to request an informal hearing within 10 business days of receiving notice of the USCIS decision regarding the family's immigration status.

Informal Hearing Procedures for Applicants 24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of denial, or within 30 days of receipt of the USCIS appeal decision.

The informal hearing procedures for applicant families are described below.

Informal Hearing Officer

The PHA must provide an informal hearing before an impartial individual, other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision. See previous section for a listing of positions that serve as informal hearing officers.

Evidence

The family will be allowed to copy any documents related to the hearing at no cost to the family. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the hearing.

The family must be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

The family must also be provided the opportunity to refute evidence relied upon by the PHA, and to confront and cross-examine all witnesses on whose testimony or information the PHA relies.

Representation and Interpretive Services

The family is entitled to be represented by an attorney or other designee, at the family's expense, and to have such person make statements on the family's behalf.

The family is entitled to request an interpreter. The PHA is obligated to provide a competent interpreter, free of charge, upon request. The family may also or instead provide its own interpreter, at the expense of the family.

Recording of the Hearing

The family is entitled to have the hearing recorded by audiotape. The PHA will not provide a transcript of an audio taped hearing.

Hearing Decision

The PHA must provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 calendar days of the date of the informal hearing. The decision must state the basis for the decision.

Informal Hearing Procedures for Residents [24 CFR 5.514(f)]

After notification of the USCIS decision on appeal, or in lieu of an appeal to the USCIS, the family may request that the PHA provide a hearing. The request for a hearing must be made either within 30 days of receipt of the PHA notice of termination, or within 30 days of receipt of the USCIS appeal decision.

For the informal hearing procedures that apply to participant families whose assistance (HCV) is being terminated based on immigration status, see previous sections of this policy. For resident families

(tenants) whose tenancy is being terminated based on immigration status, the procedure is the same as the grievance procedures for tenant families outlined in this policy.

Retention of Documents [24 CFR 5.514(h)]

The PHA must retain for a minimum of 5 years the following documents that may have been submitted to the PHA by the family, or provided to the PHA as part of the USCIS appeal or the PHA informal hearing process:

- The application for assistance
- The form completed by the family for income reexamination
- Photocopies of any original documents, including original USCIS documents
- The signed verification consent form
- The USCIS verification results
- The request for a USCIS appeal
- The final USCIS determination
- The request for an informal hearing
- The final informal hearing decision