

# NOTICE

The Cheyenne Housing Authority is proposing updates to its Grievance Policies for the Public Housing, Housing Choice Voucher and Multi-family programs. This Notice is to inform you that the Cheyenne Housing Authority Board of Commissioners has opened the Public Comment Period for acceptance of comments on the proposed updates.

Grievance Policy for the following programs:

- Public Housing
- Housing Choice Voucher
- Multi-family

The proposed revisions are available for review on the Cheyenne Housing Authority website at [www.cheyennehousing.org](http://www.cheyennehousing.org) or at the Cheyenne Housing Authority's offices:

- In Cheyenne at 3304 Sheridan Street, Cheyenne, Wyoming. The office is open from 8:30 AM to 5:00 PM Monday through Friday, closed from 12:00 PM to 5:00 PM every Wednesday and closed all day on the second and fourth Wednesday of the month.
- In Laramie at 1265 North 3<sup>rd</sup> Street, Laramie, Wyoming. The office is open from 10:00 AM to 12 Noon, and from 1:00 PM to 5 PM Monday through Friday. The office is closed every Wednesday from 12 Noon to 5 PM for training.

Comments on the proposed revisions to the Grievance Policies are to be submitted in writing (US Mail, email, or hand delivered to the Cheyenne Housing Authority) before 12 NOON Monday July 6, 2020 to:

Sarah Smith  
Deputy Director  
3304 Sheridan Street  
Cheyenne, WY 82009  
ssmith@cheyennehousing.org

# MULTI-FAMILY GRIEVANCE POLICY

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## 1.0 PURPOSE AND SCOPE

To set forth the requirements, standards and criteria to assure that a Tenant is afforded an opportunity for a meeting with the Housing Authority if the tenant disputes within a reasonable time any Housing Authority action or failure to act in accordance with the tenant's lease with the Housing Authority.

The following are issues that can be addressed through these grievance policies:

- Contest a termination of tenancy
- Contest a termination of assistance
- Dispute a change in rent
- Dispute amounts deducted from a security deposit

## 2.0 DEFINITIONS

For the purpose of this Grievance Policy, the following definitions are applicable:

- A. **"Complainant"** shall mean any tenant whose grievance is presented to the CHA in accordance with this policy.
- B. **"Landlord"** shall mean a person selected in accordance with these policies to hear grievances and render a decision with respect thereto.
- C. **"Tenant"** shall mean the adult person (or persons) other than a live-in aide:
  - 1. Who resides in the unit and who executed the lease with the CHA as lessee of the premises, or, if no such person now resides in the premises,
  - 2. Who resides in the unit and who is the remaining head of household of the tenant family residing in the unit.
- D. **"Tenant Organization"** includes a tenant management corporation.
- E. **"Promptly"** shall mean within the time period indicated in a notice from CHA of a proposed action which would provide the basis for a grievance if the tenant has received a notice of a proposed action from the agency.

### **3.0 OBTAINING A MEETING**

#### **3.1 REQUEST FOR A MEETING**

The tenant shall submit a written request for a meeting to CHA within ten (10) calendar days from the date of the notice of proposed action. The written request shall specify:

- A. The reasons for the grievance; and
- B. The action or relief sought.

#### **3.2 SELECTION OF A MEETING OFFICER (LANDLORD)**

A grievance meeting shall be conducted by an agency official familiar with the tenant lease and proposed action (landlord).

#### **3.3 FAILURE TO REQUEST OR APPEAR TO A MEETING**

If the tenant does not request or appear at a meeting in accordance with this section, then the CHA's disposition of the grievance shall become final. However, failure to request or appear at a meeting does not constitute a waiver by the tenant of the right thereafter to contest the CHA's action in disposing of the complaint in an appropriate judicial proceeding.

#### **3.4 SCHEDULING OF MEETINGS**

Upon the tenant's compliance with this section the Landlord shall, within five (5) business days make its best efforts to convene a meeting for a time and place reasonably convenient to both the tenant and the CHA.

#### **3.5 RESCHEDULING OF MEETINGS**

The tenant may request to reschedule a meeting for good cause. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a meeting must be made in writing prior to the meeting date. At its discretion, CHA may request documentation of the "good cause" prior to rescheduling the meeting.

If the tenant does not appear at the scheduled time, and was unable to reschedule the meeting in advance due to the nature of the conflict, the tenant must contact CHA within 24 hours after the scheduled meeting time, excluding weekends and holidays. The CHA will reschedule the meeting only if the tenant can show good cause for the failure to appear.

#### **4.0 INFORMAL HEARING POLICIES FOR DENIAL OR TERMINATION OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS**

The family may request that the CHA provide for an informal meeting after the family has notification of the Department of Homeland Security (IDHS) decision on appeal, or in lieu of request of appeal to the DHS. The family must make this request within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the DHS appeal decision.

#### **5.0 GRIEVANCE POLICY FOR APPLICANTS**

A person or family who has applied for admission (the applicant) but has been determined ineligible for admission may request an informal meeting to contest the determination of ineligibility. Reasons for ineligibility include:

- Unable to disclose and provide verification of SSNs for all household members
- Does not sign and submit verification consent forms or the Authorization for Release of Information
- Has household characteristics that are not appropriate for the specific type of unit available at the time, or has a family of a size not appropriate for the unit sizes that are available
- Includes family members who did not declare citizenship or noncitizenship status, or sign a statement electing not to contend noncitizen status
- Does not meet the owner's tenant screening criteria

The purpose of the informal meeting is to permit the applicant to fully understand the reasons for the denial, present evidence and arguments in support of the applicant and present mitigating circumstances in explanation of past events or behavior.

The applicant shall submit, orally or in writing, a written request for a meeting to CHA within fourteen (14) calendar days from the date of the mailing of the denial letter.

Upon the applicant's compliance with this section the Meeting Officer shall, within ten (10) business days, make their best effort to schedule and convene a meeting for a time and place reasonably convenient to both the applicant and the CHA. A written notification specifying the time and place shall be delivered to the applicant and the appropriate agency official.

The Meeting Officer will consider the following factors in deciding whether to uphold or overturn the denial of admission:

- Whether or not the reasons for denial were clearly stated in the notice;
- Whether the reasons for denial are supported by facts and CHA policy; and
- Whether information of mitigation submitted by the applicant justifies approving the application.

After the meeting, the Meeting Officer will decide and notify the applicant by mail, within five (5) business days of the close of the meeting, whether the denial should be upheld or overturned.

The Meeting Officer shall be a member of the owner's staff who was not involved in the initial decision to deny admission or assistance.

# HCV GRIEVANCE POLICY

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## **16-III.A. OVERVIEW**

Both applicants and participants have the right to disagree with, and appeal, certain decisions of the PHA that may adversely affect them. PHA decisions that may be appealed by applicants and participants are discussed in this section.

The process for applicant appeals of PHA decisions is called the “informal review.” For participants (or applicants denied admission because of citizenship issues), the appeal process is called an “informal hearing.” PHAs are required to include informal review procedures for applicants and informal hearing procedures for participants in their administrative plans [24 CFR 982.54(d)(12) and (13)].

## **16-III.B. INFORMAL REVIEWS**

Informal reviews are provided for program applicants. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program. Informal reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements [*Federal Register* 60, no. 127 (3 July 1995): 34690].

### **Decisions Subject to Informal Review**

The PHA will offer an informal review to applicants for whom assistance is being denied. Denial of assistance includes: denying listing on the PHA waiting list; denying or withdrawing a voucher; refusing to enter into a HAP contract or approve a lease; refusing to process or provide assistance under portability procedures.

### **Scheduling an Informal Review**

A request for an informal review can be made, orally or in writing, to the PHA by the close of the business day, no later than ten (10) calendar days from the date of the PHA’s notice of denial of assistance.

Upon the Applicant’s compliance with this section the Hearing Officer shall, within five (5) business days make its best efforts to convene a hearing for a time and place reasonably convenient to both the tenant and the PHA.

### **Informal Review Procedures [24 CFR 982.554(b)]**

The informal review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person.

The applicant must be provided an opportunity to present written or oral objections to the decision of the PHA.

### **Informal Review Decision [24 CFR 982.554(b)]**

In rendering a decision, the PHA will evaluate the following matters:

Whether or not the grounds for denial were stated factually in the notice to the family

The validity of the grounds for denial of assistance: If the grounds for denial are not

specified in the regulations or policy, then the decision to deny assistance will be overturned.

The validity of the evidence: The PHA will evaluate whether the facts presented prove the grounds for denial of assistance. If the facts prove that there are grounds for denial, and the denial is required by HUD, the PHA will uphold the decision to deny assistance. If the facts prove the grounds for denial, and the denial is discretionary, the PHA will consider the recommendation of the person conducting the informal review in making the final decision whether to deny assistance.

The PHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 10 business days of the informal review, to the applicant and his or her representative, if any, along with proof of mailing.

If the decision to deny is overturned as a result of the informal review, processing for admission will resume.

If the family fails to appear for their informal review, the denial of admission will stand and the family will be so notified.

### **16-III.C. INFORMAL HEARINGS FOR PARTICIPANTS [24 CFR 982.555]**

PHAs must offer an informal hearing for certain PHA determinations relating to the individual circumstances of a participant family. A participant is defined as a family that has been admitted to the PHA's HCV program and is currently assisted in the program. The purpose of the informal hearing is to consider whether the PHA's decisions related to the family's circumstances are in accordance with the law, HUD regulations and PHA policies.

The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request an informal hearing has elapsed, and any requested hearing has been completed. Termination of assistance for a participant may include any or all of the following:

- Refusing to enter into a HAP contract or approve a lease
- Terminating housing assistance payments under an outstanding HAP contract
- Refusing to process or provide assistance under portability procedures

#### **Decisions Subject to Informal Hearing**

Circumstances for which the PHA must give a participant family an opportunity for an informal hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
- A determination of the family unit size under the PHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules

- A determination to terminate a family's Family Self Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow account [24 CFR 984.303(i)]

The PHA will offer participants the opportunity for an informal hearing as required to by the regulations listed above.

## **Informal Hearing Procedures**

### ***Notice to the Family [24 CFR 982.555(c)]***

When the PHA makes a decision that is subject to informal hearing procedures, the PHA must inform the family of its right to an informal hearing at the same time that it informs the family of the decision.

For decisions related to the family's annual or adjusted income, HAP calculation, the determination of the appropriate utility allowance, and the determination of the family unit size, the PHA must notify the family that they may ask for an explanation of the basis of the determination within ten (10) calendar days. The PHA will make its best efforts to provide an explanation within five (5) business days of the date the request was received. If the family does not agree with the decision, they will have ten (10) calendar days to request an informal hearing on the decision.

For decisions related to the termination of the family's assistance, the notice must contain a brief statement of the reasons for the decision, a statement that if the family does not agree with the decision, the family may request an informal hearing on the decision, and a statement of the deadline for the family to request an informal hearing.

### ***Scheduling an Informal Hearing [24 CFR 982.555(d)]***

A request for an informal hearing can be made orally or in writing to the PHA by the close of the business day, no later than ten (10) calendar days from the date of the PHA's notice to terminate assistance.

Upon the Participant's compliance with this section the Hearing Officer shall, within five (5) business days make its best efforts to convene a hearing for a time and place reasonably convenient to both the Participant and the PHA.

The family 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 family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

### ***Pre-Hearing Right to Discovery [24 CFR 982.555(e)]***

Participants and the PHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any PHA documents that are directly relevant to



the hearing. The family must be allowed to copy any such documents at their own expense. If the PHA does not make the document available for examination on request of the family, the PHA may not rely on the document at the hearing.

The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at the PHA offices before the hearing, any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

For the purpose of informal hearings, *documents* include records and regulations.

The family will be allowed to copy any documents related to the hearing at a cost consistent with the CHA Public Records Rules. The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

***Participant's Right to Bring Counsel [24 CFR 982.555(e)(3)]***

At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.

***Informal Hearing Officer [24 CFR 982.555(e)(4)]***

Informal hearings will be conducted by a person or persons approved by the PHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

The PHA has designated the following to serve as hearing officers:

- *Deputy Director or designee*

***Attendance at the Informal Hearing***

Hearings may be attended by a hearing officer and the following applicable persons:

- A PHA representative(s) and any witnesses for the PHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the PHA as a reasonable accommodation for a person with a disability

***Conduct at Hearings***

The hearing officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the hearing officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the hearing officer.

***Evidence [24 CFR 982.555(e)(5)]***

The PHA and the family must be given the opportunity to present evidence and question any witnesses. In general, all evidence is admissible at an informal hearing. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

***Hearing Officer's Decision [24 CFR 982.555(e)(6)]***

The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family.

In rendering a decision, the hearing officer will consider the following matters:

**PHA Notice to the Family:** The hearing officer will determine if the reasons for the PHA's decision are factually stated in the Notice.

**Discovery:** The hearing officer will determine if the PHA and the family were given the opportunity to examine any relevant documents in accordance with PHA policy.

**PHA Evidence to Support the PHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.

**Validity of Grounds for Termination of Assistance (when applicable):** The hearing officer will determine if the termination of assistance is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than five (5) business days after the hearing. The report will contain the following information:

***PHA Notice of Final Decision [24 CFR 982.555(f)]***

The PHA is not bound by the decision of the hearing officer for matters in which the PHA is not

required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to federal, state, or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

The PHA will mail a "Notice of Final Decision" including the hearing officer's report to the participant and their representative.

#### **16-III.D. HEARING AND APPEAL PROVISIONS FOR NONCITIZENS [24 CFR 5.514]**

Denial or termination of assistance based on immigration status is subject to special hearing and notice rules. Applicants who are denied assistance due to immigration status are entitled to an informal hearing, not an informal review.

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].
- 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.

#### **USCIS 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.

#### PHA Policy

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.

#### PHA Policy

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 Section 16-III.C. for a listing of positions that serve as informal hearing officers.

#### ***Evidence***

The family must be provided the opportunity to examine and copy at the family's expense, at a reasonable time in advance of the hearing, any documents in the possession of the PHA pertaining to the family's eligibility status, or in the possession of the USCIS (as permitted by USCIS requirements), including any records and regulations that may be relevant to the hearing.

#### PHA Policy

The family will be allowed to copy any documents related to the hearing at a cost consistent with the CHA Public Records Rules. 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 arrange for an interpreter to attend the hearing, at the expense of the family, or the PHA, as may be agreed upon by the two parties.

### ***Recording of the Hearing***

The family is entitled to have the hearing recorded by audiotape. The PHA may, but is not required to provide a transcript of the hearing.

#### PHA Policy

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 is being terminated based on immigration status, see Section 16-III.C.

### **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

# PUBLIC HOUSING & RURAL DEVELOPMENT GRIEVANCE POLICY

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## 1.0 PURPOSE AND SCOPE

To set forth the requirements, standards and criteria to assure that a Tenant is afforded an opportunity for a hearing if the tenant disputes within a reasonable time any Housing Authority action or failure to act involving the tenant's lease with the Housing Authority or involving Housing Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status.

The following are issues that cannot be addressed through these grievance policies:

- Disputes between tenants not involving the Housing Authority or class grievances
- Initiate or negotiate changes to the Housing Authority procedures or policies
- Contest a termination based on:
  - Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other tenants or employees of the Housing Authority;
  - Any violent or drug-related criminal activity on or off the premises; or
  - A criminal activity that resulted in a felony conviction of the Lessee or a Household Member

This grievance policy is incorporated into the lease by reference thereto, and is, therefore, binding upon both the Tenant and the Cheyenne Housing Authority (CHA).

## 2.0 DEFINITIONS

For the purpose of this Grievance Policy, the following definitions are applicable:

- A. **"Grievance"** shall mean any dispute which a tenant may have with respect to the CHA's action or failure to act in accordance with the individual tenant's lease or Authority regulations which adversely affect the individual tenant's rights, duties, welfare or status. Grievance does not include any dispute a tenant may have with CHA concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of CHA's public housing premises by other tenants or

employees of CHA; or any violent or drug-related criminal activity on or off such premises; or any activity resulting in a felony conviction. Nor shall this process apply to disputes between tenants not involving the CHA or to class grievances.

- B. **"Complainant"** shall mean any tenant whose grievance is presented to the CHA in accordance with this policy.
- C. **"Elements of Due Process"** shall mean 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 CHA including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the tenant may have; and
  - 4. A decision on the merits.
- D. **"Hearing Officer"** shall mean a person selected in accordance with these policies to hear grievances and render a decision with respect thereto.
- E. **"Tenant"** shall mean the adult person (or persons) other than a live-in aide:
  - 1. Who resides in the unit and who executed the lease with the CHA as lessee of the premises, or, if no such person now resides in the premises,
  - 2. Who resides in the unit and who is the remaining head of household of the tenant family residing in the unit.
- F. **"Tenant Organization"** includes a tenant management corporation.
- G. **"Promptly"** shall mean within the time period indicated in a notice from CHA of a proposed action which would provide the basis for a grievance if the tenant has received a notice of a proposed action from the agency.

### **3.0 INFORMAL SETTLEMENT MEETING**

Any grievance shall be promptly presented orally or in writing, to the CHA office so that the grievance may be discussed informally and settled without a hearing. Upon notification, CHA will make its best effort to schedule and convene an informal settlement meeting within five (5) business days. A summary of such discussion shall be prepared within five (5) business days and one copy shall be given to the tenant and one retained in CHA's tenant file. 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 therefor, and shall specify the procedures by which a hearing under these policies may be obtained if the tenant is not satisfied.

### **4.0 OBTAINING A HEARING**

#### **4.1 REQUEST FOR HEARING**

The tenant shall submit a request for a hearing to CHA within ten (10) calendar days from the date of the informal settlement meeting summary. The request shall be presented orally or in writing and shall specify:

- A. The reasons for the grievance; and
- B. The action or relief sought.

#### **4.2 SELECTION OF A HEARING OFFICER**

A grievance hearing shall be conducted by an impartial person, appointed by the Executive Director or designee, other than a person who made or approved the action under review or a subordinate of such person.

#### **4.3 FAILURE TO REQUEST OR APPEAR TO A HEARING**

If the tenant does not request or appear at a hearing in accordance with this section, then the CHA's disposition of the grievance under section 3.0 shall become final. However, failure to request or appear at a hearing does not constitute a waiver by the tenant of the right thereafter to contest the CHA's action in disposing of the complaint in an appropriate judicial proceeding.

#### **4.4 SCHEDULING OF HEARINGS**

Upon the tenant's compliance with this section the Hearing Officer shall, within five (5) business days make its best efforts to convene a hearing for a time and place reasonably convenient to both the tenant and the CHA. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the tenant and the appropriate agency official.



#### **4.5 RESCHEDULING OF HEARINGS**

The tenant may request to reschedule a hearing for good cause. 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, CHA may request documentation of the "good cause" prior to rescheduling the hearing.

If the tenant does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the tenant must contact CHA within 24 hours after the scheduled hearing time, excluding weekends and holidays. The CHA will reschedule the hearing only if the tenant can show good cause for the failure to appear.

#### **5.0 POLICIES GOVERNING THE HEARING**

The tenant shall be afforded a fair hearing, which shall include:

- A. The opportunity to examine prior to the grievance hearing any Authority documents, including records and regulations that are directly relevant to the hearing. The tenant shall be provided a copy of any such document at the tenant's expense. If the CHA does not make the document available for examination upon request by the tenant, the CHA may not rely on such document at the grievance hearing.
- B. The right to be represented by counsel or other person chosen as the tenant's representative and to have such person make statements on the tenant's behalf;
- C. The right to a private hearing unless the tenant requests a public hearing;
- D. The right to present evidence and arguments in support of the tenant's complaint, to controvert evidence relied on by CHA or development management, and to confront and cross examine all witnesses upon whose testimony or information the CHA or development management relies; and
- E. A decision based solely and exclusively upon the facts presented at the hearing.

The Hearing Officer may render a decision without holding a hearing if the Hearing Officer determines that the issue has been previously decided at another hearing.

If either the tenant or CHA fails to appear at a scheduled hearing, the Hearing Officer may postpone the hearing for up to five (5) business days or may determine

that the missing party has waived their right to a hearing. Both the CHA and the tenant shall be notified of the Hearing Officer's decision. This decision shall not waive a tenant's right to contest the disposition of the grievance in an appropriate judicial proceeding.

The following accommodation will be made for persons with disabilities:

- A. The CHA shall provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants.
- B. If the tenant is visually impaired, any notice to the tenant that is required by these policies must be in an accessible format.

The CHA will comply with HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" issued on January 22, 2007.

## **6.0 INFORMAL HEARING POLICIES FOR DENIAL OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS**

The participant family may request that the CHA provide for an informal hearing after the family has notification of the Immigration and Naturalization Service (INS) decision on appeal, or in lieu of request of appeal to the INS. The participant family must make this request within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

## **7.0 DECISION OF THE HEARING OFFICER**

The Hearing Officer shall make their best effort to prepare a written decision, together with the reasons therefor, within five (5) business days, but no later than ten (10) business days after the hearing. A copy of the decision shall be sent to the tenant and the CHA. CHA shall retain a copy of the decision in the tenant's folder. The CHA will maintain a log of all hearing decisions and make that log available upon request for inspection by a prospective complainant, his or her representative, or the Hearing Officer.

The decision of the Hearing Officer shall be binding on the CHA who shall take all actions, or refrain from any actions, necessary to carry out the decision unless the CHA's Board of Commissioners determines within a reasonable time, and promptly notifies the complainant of its determination, that:

- A. The grievance does not concern CHA's action or failure to act in accordance with or involving the tenant's lease or Authority regulations, which adversely affect the tenant's rights, duties, welfare or status;
- B. The decision of the Hearing Officer is contrary to applicable Federal, State, or local law, Authority regulations, or requirements of the Annual Contributions Contract between CHA and the U.S. Department of Housing and Urban Development.

A decision by the Hearing Officer or Board of Commissioners in favor of the CHA or which denies the relief requested by the tenant in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the tenant may have to a trial do novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

## **8.0 GRIEVANCE POLICY FOR APPLICANTS**

A person or family who has applied for admission to public housing (the applicant) but has been determined ineligible for admission may request an informal hearing to contest the determination of ineligibility.

The purpose of the informal hearing is to permit the applicant to fully understand the reasons for the denial, present evidence and arguments in support of the applicant and present mitigating circumstances in explanation of past events or behavior.

The applicant shall submit, orally or in writing, a request for a hearing to CHA within fourteen (14) calendar days from the date of the mailing of the denial letter.

Upon the applicant's compliance with this section the Hearing Officer shall, within ten (10) business days, make their best effort to schedule and convene a hearing for a time and place reasonably convenient to both the applicant and the CHA. A written notification specifying the time, place and the policies governing the hearing shall be delivered to the applicant and the appropriate agency official.

The Hearing Officer will consider the following factors in deciding whether to uphold or overturn the denial of admission:

- Whether or not the reasons for denial were clearly stated in the notice;
- Whether the reasons for denial are supported by facts and CHA policy; and
- Whether information of mitigation submitted by the applicant justifies approving the application.

After the hearing, the Hearing Officer will decide and notify the applicant by mail, within ten (10) business days of the close of the hearing, whether the denial should be upheld or overturned.

The Hearing Officer's decision is CHA's final decision on all issues related to the application. If the Hearing Officer overturns the denial, CHA shall resume processing the application. If the Hearing Officer upholds the denial, the applicant will not be admitted.