

HOUSING AUTHORITY OF THE CITY OF SEATTLE
MANUAL OF OPERATIONS

SUBJECT: Grievance Procedure

SCOPE: This policy applies only to residents of federally-subsidized public housing operated by the Seattle Housing Authority.

It does not apply to:

1. applicants for SHA housing, except as specifically provided herein;¹
2. guests of residents and live-in-aides;
3. residents of public housing units subject to partnership agreements, regulatory agreements and/or financial agreements that have been incorporated into a management plan approved by HUD and/or SHA; the policies set forth in those documents shall take precedence for residents of such units;
4. residents of the Seattle Senior Housing Program;
5. Section 8 Housing Choice Voucher Program participants, including Project-Based;²
6. Referendum 37 Program residents; or
7. residents of any other non-federally subsidized program unless specifically extended to those programs by reference in policies, regulatory or financial agreements or procedures governing those programs.

POLICY: The Housing Authority shall direct its best efforts toward resolving resident grievances at the lowest possible level of the Housing Authority's organizational structure, while providing residents an opportunity for a fair and impartial hearing where resolution of grievances at the staff level is not possible. This policy shall be part of SHA's public housing dwelling lease, by reference. The policy shall meet the regulatory requirements set forth in 24 CFR 966.50-57. Whenever the requirements of these policies conflict with the requirements of 24 CFR 966.50-57, the requirements of 24 CFR 966.50-57 shall prevail.

A grievance is any dispute a resident may have with respect to SHA action or failure to act in accordance with the lease or regulations that adversely affects the individual resident's rights, duties, welfare or status. The grievance policy is applicable only to individual resident issues relating to SHA. It shall not be applicable to disputes between residents that do not involve the Housing Authority or to class grievances, and shall not be used as means of initiating or negotiating Housing Authority policy changes subject to the Housing Authority Board of Commissioner approval.

The Housing Authority shall provide an opportunity for a fair and impartial hearing of the grievance provided that the grievance hearing request is made in a timely manner. If no request is made or if a

¹ When SHA rejects an applicant for its' housing programs, the Housing Authority will provide an informal hearing, which is not a grievance hearing. The purpose of the informal hearing is to permit the applicant to discuss the reasons for rejection, present contrary evidence, additional proof of eligibility, and claim mitigating circumstances if available. See Manual L10.4-1.

² The grievance policy for the Section 8 Program is set forth in the Section 8 Administrative Plan.

request is not made in a timely manner as defined below, the resident shall be deemed to have waived his or her right to a grievance hearing under this policy.

IMPLEMENTING POLICY:

A. Informal settlement of grievances by a resident.

The first required step in the grievance process is to attempt an informal settlement. Grievances always originate with a resident, who may present the grievance initially either orally or in writing (SHA-744). Grievances shall be accepted at the site's management office. The resident must file the grievance within 10 business days of the grievable event. If the grievance involves allegations of discrimination or harassment against staff, the resident shall submit the grievance to the next level of supervision or to the Director of the department.

If the grievance involves a lease termination for criminal activity or behavior that threatens the health, safety or right to peaceful enjoyment of the premises of the other residents or employees of the Housing Authority, the informal review does NOT apply and the resident must file for a formal grievance hearing within 5 business days as outlined in the notice of lease termination.

Grievances received by the Office of General Counsel, that have not been informally reviewed by management shall be referred to the site's management office for review and the resident notified of the referral. This requirement may be waived if the resident is able to show good cause for by-passing this step in the grievance policy.

SHA shall contact the resident within 10 business days of receipt of the grievance, to meet and discuss the issue informally and to attempt to settle the grievance if possible.

If the resident is not satisfied with the outcome of the informal review, he or she may submit a written request (SHA-744) for a formal grievance hearing to the site's management office within 10 business days of the date of receiving the results of the informal review.

If the resident does not request a hearing within 10 business days, the Housing Authority's disposition of the grievance under the informal settlement of grievances shall become final. The resident's failure to request a hearing shall not constitute a waiver by the resident of his or her right to contest the Housing Authority's action in any subsequent judicial proceeding.

B Hearing Officer.

The formal grievance hearing shall be conducted by an impartial person appointed by SHA. Persons may be employees of SHA or contracted independent hearing officers. No person who made or approved the action being grieved or who has some interest in the matter under review, or who appears to lack impartiality, shall be appointed.

C. Community Service Requirement.

For grievances involving issues of the Community Service Requirement, refer to Manual Section L12.8-1, Exhibit 2.

D. Escrow Deposits for Grievances for Non-payment of Rent (24 CFR 966.56 (e)).

If a grievance involves the amount of rent owed by the resident, before a hearing is scheduled, the resident must pay into an escrow account with SHA the amount of rent that is due and owing as of the first of the month preceding the month in which the act or failure to act took place. Monthly thereafter the resident shall deposit the same amount of rent into the escrow

account until the complaint is resolved by decision of the hearing officer. At that time, funds from the escrow account shall be disbursed to SHA or the resident according to the hearing officer decision. SHA shall waive this requirement if the resident is paying minimum rent and the grievance is based on a request for a hardship exemption or imputed welfare income. Failure to make an escrow deposit when due shall result in termination of the grievance procedure, and all rent owed by the resident shall become immediately due and payable. Failure to make an escrow deposit, however does not waive the resident's right to contest the Housing Authority's action in any judicial proceeding.

E. Expedited Hearing.

If the grievance involves a lease termination for criminal activity or behavior that threatens the health, safety or right to peaceful enjoyment of the premises of the other residents or employees of the Housing Authority, the Housing Authority may, in its sole discretion, use an expedited hearing that provides priority in scheduling the hearing and compresses review times and dates for decisions.

F. Grievance Hearing (24 CFR 966.56).

The resident who has requested the hearing shall be afforded a fair hearing which shall include:

1. the opportunity to examine before the hearing any Housing Authority documents, including records and regulations related to the adverse action. The resident shall be allowed to copy, at the resident's expense, any document(s) available. If SHA does not make any available and requested document available for examination, then SHA may not rely on such document at the hearing;
2. the right to be represented by counsel or other person chosen by the resident;
3. a public hearing unless the resident requests a private hearing;
4. the right to present evidence and arguments in support of the complaint, to controvert evidence relied upon by the Housing Authority, and to confront and cross-examine all Housing Authority witnesses; and
5. a decision based upon the facts presented at the hearing.

A request to examine any Housing Authority documents, including records and regulations related to the adverse action, must be received no later than 3 business days prior to the scheduled grievance hearing. An appointment to examine the documents shall be scheduled with the Senior Property Manager or Property Manager for a time convenient to both parties. The documents shall be made available at the management office. No resident will be allowed to "borrow" such documents for review or to otherwise take such documents out of the management office. Requested copies of any documents shall be provided as soon as is reasonably possible. Payment for copies shall be due upon receipt.

The rules of evidence of a judicial proceeding shall not apply in grievance hearings and both oral and written evidence will be permitted. All hearing participants must conduct themselves in an orderly fashion. The hearing officer may exclude any disorderly party from the proceedings and grant or deny relief as appropriate. All hearings will be tape recorded. The resident may request, in advance, a recorded transcript of the hearing. Such transcripts shall be made available at the resident's expense.

The Housing Authority shall provide reasonable accommodations to allow persons with disabilities to participate in the hearing.

1. Reasonable accommodation may include, subject to SHA's Interpreter and Translation policy (reference manual section), a qualified sign language interpreter, reader, accessible location, or attendant.
2. For residents who are visually impaired, notices required under this policy and procedure shall be in an accessible format.

G. Failure to Appear.

If the resident or Housing Authority fails to appear at a scheduled hearing without prior notice or explanation, the hearing officer shall dismiss the hearing and declare default, denying the relief requested by the party not appearing.

H. Grievance Hearing Decision.

The hearing officer shall issue a written decision within 10 business days following the hearing. The decision shall state the reason(s) for the hearing officer's decision. The decision of the hearing officer shall be final and the Housing Authority shall take no actions inconsistent with the decision unless the Housing Authority's Board of Commissioners determines, and promptly notifies the resident of its determination, that:

1. the grievance does not concern Housing Authority action or failure to act in accordance with or involving the resident's lease or Housing Authority regulations, which adversely affect the resident's rights, duties, welfare, or status; or
2. the decision of the hearing officer is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the Housing Authority.

A decision by the hearing officer or Board of Commissioners in favor of the Housing Authority shall not constitute a waiver of, nor affect in any manner, any rights the resident may have in any later judicial proceedings.

RESPONSIBILITY: The Housing Operations Department shall implement the grievance policy and procedures in the field operations. The Office of General Counsel shall: provide guidance in handling resident grievances and retain independent hearing officers; Eviction and Grievance Coordinator (Coordinator) shall manage the scheduling of hearings and track the completion and outcomes of hearings.

PROCEDURE:

A. Expedited Hearing on Lease Terminations.

1. For grievances involving a lease termination based upon criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of the other residents or employees of the Housing Authority, or drug-related criminal activity on or near SHA property, an expedited hearing may be used.
2. The grievance must be submitted no later than 5 business days as outline on the lease termination notice. Grievances received after this timeframe will not be considered.
3. The Coordinator shall give priority to expedited hearings and shall attempt to schedule such hearings within 10 business days of receiving the hearing request. The Office of General Counsel shall to the extent possible, prepare, serve and file the summons and complaint and other court documents and schedule court dates while the grievance hearing is being scheduled and heard.

B. Informal settlement

1. Staff who receives a resident's grievance shall review the issue and attempt to contact the resident within 10 business days to discuss and resolve the grievance informally without a hearing, if possible. The review may be conducted by administrative staff, Property Manager or Senior Property Manager. If a resident grievance involves an allegation of discrimination or harassment by staff, the grievance shall be referred to the next level of supervision or the Director of the department.

The grievance must be submitted no later than 10 business days after the grievable event. Grievances received after this timeframe will not be considered. The grievance may be made orally or in writing (SHA-744).

2. After the review of the grievance, the resident shall be notified of the decision and the procedures by which a formal grievance hearing may be obtained if the resident is not satisfied.

C. Formal Grievance Hearing

1. Hearing Officer

- a. The Office of General Counsel shall retain and appoint hearing officers.
- b. Hearing officers will include senior staff of Housing Operations and independent contractors.
- c. The Office of General Counsel shall provide information on SHA policies and procedures as needed or requested by the hearing officers.

2. Escrow Deposits for Grievances for Non-payment of Rent

- a. If a grievance involves the amount of rent owed by the resident, the resident must pay into an escrow account with SHA, the amount of rent that SHA says is due.
- b. The Coordinator notifies the resident of this requirement and the procedures for making the escrow deposits.
- c. The resident shall submit to the Coordinator, either by US mail or hand delivery to the Central Office, a money order or cashier's check made out to the Seattle Housing Authority in the amount of the rent due to SHA, and monthly thereafter shall deposit the amount of the monthly rent in an escrow account until the dispute is resolved.
- d. At any point the resident fails to make the required escrow deposit in a timely manner, the grievance proceedings shall terminate. The Coordinator shall notify the resident in writing of the missed deposit and resulting termination of the grievance proceedings.
- e. After the decision of the hearing officer, the escrow account balance is disbursed in accordance with the decision.

3. Obtaining a Hearing

- a. If the resident is not satisfied with the outcome of the informal review of the grievance, he or she may submit a written request for a formal hearing to the site's management office within 10 business days, as applicable, of the date the result of the informal review is received. The original hearing request received by the management office is forwarded to the Coordinator and a copy kept in the resident file.
- b. If the SHA-744 is used for requesting the formal grievance hearing management staff shall indicate on the bottom of the form if an informal review occurred per policy. If a letter is received, management should indicate on the letter or by attaching a note.
- c. The written request shall specify:
 1. the reasons for requesting the grievance; and
 2. the action or relief sought.
- d. If no hearing request is received, the Housing Authority's disposition of the grievance under the informal settlement of grievances shall become final. The resident's failure to request a hearing shall not constitute a waiver by the resident of his or her right to contest the Housing Authority's action in any judicial proceeding.
- e. Any written grievance request received by the Coordinator that was not first considered informally is referred back to the site's management office for an informal review and possible settlement without a hearing and a notice sent to the resident advising them that an informal review is the first required step in this grievance process. If it is determined the resident has good cause for by-passing the informal review, the Coordinator may waive this requirement. The reason for waiving this requirement will be documented in the Coordinator's file along with the resident's written request for the hearing.

- f. If it is determined the resident has complied with the conditions of the grievance policy, the Coordinator schedules the hearing. The Coordinator sends a written notification specifying the time, place and procedures governing the hearing to the resident, with a copy to the Senior Property Manager and to the assigned hearing officer.

4. Accommodations

- a. The Coordinator shall receive all requests for accommodation by a resident. If staff is aware of a resident's need for an interpreter due to limited English, or other interpreter need, such as sign language, this information is to be shared with the Coordinator. If an interpreter is requested, the Coordinator shall consistent with SHA policy, arrange for an interpreter to be present at the hearing.
- b. Other accommodation needs such as accessible location or large print shall also be handled by the Coordinator.

5. Witnesses

- a. It is the responsibility of the Senior Property Manager or Property Manager to identify witnesses for the hearing, which may include residents, police officers or other staff members. The Senior Property Manager or Property Manager is also responsible for any communication with the witnesses, ensuring the witnesses have transportation to the hearing, providing for any needed accommodations, and preparing the witnesses to testify.
- b. SHA may reimburse resident witnesses for travel expenses, such as bus fare or taxi fare, or provide transportation in an SHA vehicle.

6. The Hearing.

- a. The Coordinator provides the day's schedule of hearings to the hearing officer and to the receptionist in the area where the hearing will be held. The receptionist shall inform the hearing officer when a resident comes for their hearing.
- b. The resident and his/her counsel or other representatives may be asked to wait in the lobby area until called by the hearing officer.
- c. Staff and witnesses who will be presenting at the hearing for SHA, shall also check in with the receptionist and wait in the lobby area until called by the hearing officer.
- d. The assigned hearing officer shall arrange the seating for the hearing giving consideration to any issues of disability, i.e., making appropriate space available for persons in wheelchairs, and safety concerns.
- e. If personal safety concerns are expressed by staff, the Coordinator may arrange for the presence of a contracted Seattle Police Officer, provide staff or witnesses the option of appearing at the hearing by speaker phone or other arrangements to address the safety concerns..
- f. The hearing officer shall call the parties to the hearing and assign the placement of the parties. The hearing officer is responsible for maintaining control and order in the hearing and may exclude any disorderly party from the proceedings, adjourn the hearing or grant or deny relief as appropriate.

- g. The hearing officer shall tape record the proceedings. Any interested party may purchase a copy of the taped transcript by contacting the Coordinator. The Coordinator shall provide a copy as soon as reasonably possible. Payment for taped transcripts shall be due upon receipt. The cost shall be to reimburse SHA for the cost incurred, including labor and material.
- h. The Housing Authority shall have the burden of proving that the resident violated the lease, Housing Authority policies, or other applicable rule or agreement and the proposed action is justified and in compliance with SHA policies and HUD regulations.
- i. The Housing Authority shall first present its case, providing details of the tenancy, the events leading to the action taken, and any supporting documentation or testimony. See Exhibit X, guide to prepare and present at a grievance hearing.
- j. Following SHA, the resident presents his/her grievance, and reasons for contesting SHA's action or inaction, and may provide additional information, testimony and supporting documentation.
- k. At the discretion of the hearing officer, any oral or written evidence relevant to the facts and issues in the grievance may be received without regard to its admissibility under the rules of evidence in judicial proceedings. The hearing officer may limit or otherwise restrict the testimony of witnesses based on the relevance of their testimony, and the number of witnesses present. The hearing officer may exclude witnesses whose testimony is or will be duplicative.
- l. Both parties are allowed to ask questions of the other party's statements, respond to questions or accusations and provide final statements. All questions and responses must be addressed to the hearing officer and not directly to the opposing party.

7. Late to Appear / Failure to Appear

- a. If the resident appears up to 10 minutes late or calls notifying SHA within 10 minutes of the scheduled hearing time that he or she will be late, due to no fault of their own, the hearing officer may allow the hearing to proceed.
- b. If the resident or SHA fails to appear at a scheduled hearing more than 10 minutes after the scheduled hearing time, without prior notice or explanation, the hearing officer shall dismiss the hearing and declare a default on the part of SHA or a waiver of the resident's right to a hearing. Waiver of the resident's right to a hearing shall not constitute a waiver of the resident's right to contest, in any judicial proceeding, the Housing Authority's decision(s) that gave rise to the grievance hearing.
- c. The Coordinator shall be notified by phone of any failure to appear.

D. Decision of the hearing officer.

- a. The hearing officer shall prepare a written decision within seven working days of the conclusion of the hearing, affirming or rejecting SHA's action and setting forth the reasons therefore. A longer time may be allowed in extenuating circumstances. A copy of the decision shall be sent to the Coordinator, who shall send the final decision to the resident and a copy to the Senior Property Manager. The Senior Property Manager or Property Manager shall retain a copy of the decision in the resident's file and the Office of General Counsel shall retain a copy with all names and identifying references deleted,

which shall be made available for inspection and copying by other residents, or their representative.

- b. The decision of the hearing officer shall not be subject to any administrative appeal.
- c. The SHA action shall be modified to incorporate the decision of the hearing officer unless a decision is made to bring a questionable decision to the Housing Authority's Board of Commissioners with the concurrence of the General Counsel and Director of Housing Operations.