

GRIEVANCE PROCEDURE

A. Purposes and Scope

To set forth the requirements, standards, and criteria for a grievance procedure to be established and implemented by the Little River County Housing Authority to assure that a Public Housing resident is afforded an opportunity for a hearing if the resident disputes within a reasonable time any Housing Authority action or failure to act involving the resident's Lease with the Housing Authority or Housing Authority regulations which adversely affect the individual resident's rights, duties, welfare or status.

The Grievance Procedure provided herein shall be incorporated in each individual resident's Lease by reference.

B. Applicability

Little River County Housing Authority's Grievance Procedure shall be applicable to all individual grievances as defined herein. Excluded from this Policy are any grievances concerning a termination of tenancy or eviction that involves:

- a. Any activity, not just criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the Authority;
- b. Any violent or drug related criminal activity on or near such premises; or
- c. Any criminal activity that resulted in felony conviction of a household member.

This Grievance Procedure shall not be applicable to disputes between residents not involving the Housing Authority or to class grievances.

This Grievance Procedure is not intended as a forum for initiating or negotiating policy changes between a group of residents and the Housing Authority's Board of Commissioners. The Grievance Procedure does not apply to determinations that affect applicants.

C. Applicable Definitions

"LRCHA" where used herein means the Little River County Housing Authority.

"Authority" where used herein means Little River County Housing Authority.

"Complainant" shall mean any resident whose grievance is presented to the Authority in accordance with paragraphs D and E herein.

"Elements of Due Process: shall mean an eviction action or termination of tenancy in a State or local court in which the following procedural safeguards are required:

- a. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;
- b. Right of the resident to be represented by counsel;
- c. Opportunity for the resident to refute the evidence presented by the Authority, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have; and
- d. A decision on the merits.

"Hearing Officer" shall mean a person selected in accordance with paragraph F herein, to hear grievances and render a decision with respect thereto. Hearing Officer throughout may also refer to a panel.

"Resident" 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 LRCHA 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 resident family residing in the unit.

"Grievance" shall mean any dispute which the resident may have with respect to Authority action or failure to act in accordance with the individual resident's Lease or Authority regulations which adversely affect the individual resident, resident's rights, duties, welfare or status.

D. Informal Settlement of Grievance

1. Any grievance shall be personally presented, either personally or in writing (no telephone calls accepted) to the Authority office located at 215 North Madden Street in Foreman, AR or 251 Federal Street in Ashdown, AR within ten (10) calendar days after the grievant event, so the grievance may be discussed informally and settled without a hearing.
2. A summary of such discussion shall be prepared within ten (10) working days of the date of discussion and one copy shall be given to the resident and one retained in the resident's file. The summary shall specify:
 - a. The names, addresses and phone numbers of the participants;
 - b. Date and time of the meeting;
 - c. Nature of the proposed disposition of the complaint and specific reasons therefore;
 - d. The right of the complainant to a hearing; and
 - e. The procedure by which a hearing may be obtained.

E. Procedures to Obtain a Hearing

1. The complainant shall submit a written request for a hearing to the Authority office within ten (10) calendar days from the date of the summary of discussion letter referenced in paragraph D2 herein. The written request shall specify:
 - a. The reason for the grievance; and
 - b. The action or relief sought.
2. If the complainant requests a hearing in a timely manner, the Authority shall schedule a hearing within ten (10) working days of the Authority receiving the complainant's request.

F. Selection of Hearing Officer or Hearing Panel

1. The hearing officer shall be an impartial person(s) appointed by the Authority; and
2. Will be a person(s) other than the person who made or approved the Authority's action under review, or a subordinate of that person. It may be an officer or employee of the Authority.
3. LRCHA shall nominate a slate of impartial persons to sit as hearing officers or hearing panel members. Such persons may include but will not be necessarily limited to LRCHA Board members, LRCHA staff members, residents, professional arbitrators, or others. No person shall be listed on the slate of members unless such person has consented to serve as hearing officer or on a hearing panel.
4. LRCHA will maintain a log of hearing officer decisions and make the log available to the hearing officer, prospective complainants and his/her representative. At a minimum, the log will include: date of the hearing decision, general reason for the grievance hearing and whether the decision was in favor of the complainant or the Housing Authority.

G. Failure to Request a Hearing

If the complainant does not request a hearing in accordance with paragraph E herein, then the Authority's disposition of the grievance under "The Informal Settlement of Grievance" (D herein) shall become final. Failure to request a hearing shall not constitute a waiver by the complainant of his/her rights thereafter to contest the Authority's action in disposing of the complainant in an appropriate judicial proceeding.

H. Hearing Prerequisite

All grievances shall be personally presented or requested in writing in accordance with paragraph D herein as a condition precedent to a hearing. If the complainant shows good cause why he/she failed to proceed in accordance with paragraph D to the hearing officer or hearing panel, the provisions of this subsection may be waived by the hearing officer or hearing panel.

I. Escrow Deposit

Before a hearing is scheduled in any grievance involving the amount of rent which the Authority claims is due, the complainant shall pay to the Authority an amount equal to the amount of the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The complainant shall thereafter deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer or hearing panel. These requirements may be waived by the Authority in extenuating circumstances. Unless so waived, the failure to make such payments shall result in a termination of the Grievance Procedure. Failure to make payment shall not constitute a waiver of the right the complainant may have to contest the Authority's disposition of the grievance in any appropriate judicial proceeding.

J. Scheduling of Hearing

Upon complainant's compliance with the paragraphs E, H and I herein, a hearing shall be scheduled within fourteen (14) working days, for a time and place reasonably convenient to both the complainant and the Authority.

A written notification specifying the time, place and procedures governing the hearing shall be delivered to the complainant and the Legal Department. The notification will also inform complainant of the following rules:

- a. If the complainant is unable to appear for the hearing as scheduled, he/she must contact LRCHA at least 24 hours in advance of the hearing time to reschedule.
- b. A hearing will only be rescheduled less than 24 hours in advance in the event of an emergency. A hearing will only be rescheduled more than once in the event of an emergency. The Authority reserves the right to require documentation of an emergency.

K. Procedures Governing the Hearing

The hearing shall be held before a hearing officer or hearing panel, as appropriate. The complainant shall be afforded a fair hearing, which shall include:

- a. The opportunity to examine and copy before the hearing any Authority documents, including records and regulations, that are directly relevant to the hearing (at complainant's expense). The complainant will be allowed to copy any documents related to the hearing at a cost of .25 cents per page. Research time is to be compensated at \$20 per hour or \$5 per quarter hour or fraction thereof. The complainant must request discovery of LRCHA documents no later than 12:00 p.m. on the business day prior to the hearing. Any document not so made available, after request by the complainant, may not be relied on by the Authority at the hearing.
- b. The right to be represented by counsel or other person chosen as the resident's representative, and to have such person make statements on the resident'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 resident's complaint, to controvert evidence relied on by the Authority or management, and to confront and cross-examine all witnesses upon whose testimony or information the Authority or management relies.
- e. A decision based solely and exclusively upon the facts presented at the hearing.

The hearing officer or hearing panel may render a decision without proceeding with the hearing if the hearing officer or hearing panel determines that the issue has been previously decided in another proceeding.

If the complainant or the Authority fails to appear at a scheduled hearing, the hearing officer or hearing panel may make a determination to postpone the hearing for not to exceed five (5) working days or make a determination that the party has waived his/her rights to a hearing.

Both the complainant and the Authority shall be notified of the determination by the hearing officer or hearing panel.

A determination that the complainant has waived his/her rights to a hearing shall not constitute a waiver of any right the complainant may have to contest the Authority's disposition of the grievance in an appropriate judicial proceeding.

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the Authority must sustain the burden of justifying the Authority's action or failure to act against which the complaint is directed.

The hearing shall be conducted informally by the hearing officer or hearing panel and oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to the admissibility under the rules of evidence applicable to judicial proceedings.

The hearing officer or hearing panel shall require the Authority, the complainant, council and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer or hearing panel 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.

The complainant (non-citizens or disabled individuals) or the Authority may arrange, in advance and at the expense of the party making the arrangement, for a transcript or an audio tape of the

hearing. Any interested party may purchase a copy of such transcript or audio tape. Audio tapes will be maintained by the Housing Authority for two (2) years from the date of the hearing.

The Authority will provide reasonable accommodations for persons with disabilities to participate in the hearing. The Authority must be notified within 24 hours of the hearing date if special accommodations are required.

Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants. If the resident is visually impaired, any notice to the resident which is required under these procedures must be in an accessible format.

L. Decision of the Hearing Officer or Hearing Panel

The hearing officer or the hearing panel will render the decision, together with the reasons therefore, in writing within five (5) working days of the date of the hearing. A copy of the decision shall be sent to the complainant at the address verified at the hearing, and to the Authority.

The Authority shall retain a copy of such decision in the complainant's file.

A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the Authority and made available for inspection by a prospective complainant, his representative, or the hearing panel or hearing officer.

The decision of the hearing officer or hearing panel shall be binding on the Authority which shall take all actions, or refrain from any actions, necessary to carry out the decision unless the Executive Director determines that:

- a. The grievance does not concern the Authority's action or failure to act in accordance with or involving the complainant's Lease, or Authority regulations, which adversely affect the complainant's rights, duties, welfare or status;
- b. The decision of the hearing officer or hearing panel is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and the Authority.

A decision by the hearing officer, hearing panel, or Executive Director in favor of the Authority or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, any rights the complainant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

M. Authority Eviction Actions

If resident is entitled to and begins proceedings under these procedures, eviction will not occur until a decision on the grievance is rendered.