

SMHA's Grievance Procedure

Purpose.

The purpose of this document is to set forth grievance procedures to assure that SMHA tenants are afforded an opportunity for a hearing if the tenant disputes, within a reasonable time, any PHA action or failure to act involving the tenant's lease with SMHA or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status in relation to their participation in SMHA's public housing program.

Applicability.

SMHA's grievance procedure is applicable to all individual grievances between the tenant and the PHA, as defined in the Definitions section of this document, with the exception of below:

When HUD has determined that the law in the PHA's 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. If HUD has issued a due process determination, a PHA may exclude from the PHA administrative grievance procedure under this subpart any grievance concerning a termination of tenancy or eviction that involves:

- (A) Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA;
- (B) Any violent or drug-related criminal activity on or off such premises; or
- (C) Any criminal activity that resulted in felony conviction of a household member.

Requirements.

Each PHA shall adopt a grievance procedure affording each tenant an opportunity for a hearing on a grievance as defined in the regulations (§966.53).

The PHA grievance policy shall be included in, or incorporated by reference in, all tenant dwelling leases.

The PHA shall provide at least 30 day notice to tenants and resident organizations setting forth any proposed changes in the PHA grievance policy and procedure and provide an opportunity to present written comments. Comments submitted shall be considered by the PHA before adoption of any grievance procedure changes by the PHA.

SMHA will furnish a copy of the grievance policy & procedure to each tenant and to resident organizations.

SMHA will not only meet the minimal procedural due process requirements contained in their grievance procedures but also satisfy any additional due process requirements that are required by local, state, or federal law.

Definitions for this Procedure

Grievance shall mean any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status in relation to SMHA's public housing program.

Complainant shall mean any tenant whose grievance is presented to the PHA or at the project management office.

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 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.

Expedited grievance means 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.

Hearing officer means an impartial person or persons selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training. PHAs must describe their policies for selection of a hearing officer in their lease forms as required by §966.4, changes to which are subject to a 30-day comment period as described in §966.3.

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 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.

Resident organization includes a resident management corporation.

Procedures for the Grievance Process

SMHA employs a two step process for resolution of grievances arising when a tenant disputes any PHA action or failure to act involving the tenant's lease with SMHA or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status in relation to their participation in SMHA's public housing program.

(1) Informal settlement discussion of grievance.

A resident must request an informal settlement meeting within 5 working days of the issue that has initiated the complaint (see Public Housing Request for Informal Settlement Meeting form).

The grievance shall be personally presented, either orally or in writing, to the PHA office or to the office of the project in which the complainant resides so a meeting can be scheduled and the grievance may be discussed informally and settled without a formal grievance hearing.

A summary of such discussion shall be prepared within a reasonable time and one copy shall be given to the tenant and one retained in the PHA'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 may be obtained if the complainant is not satisfied.

(2) Procedures governing the formal grievance hearing.

When a resident is dissatisfied with an answer provided in step one of the grievance process, they may proceed with requesting a formal grievance within 10 working days after receiving the decision from the informal settlement meeting in step 1 (see Public Housing Request for a Formal Grievance Hearing form).

The formal grievance hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the PHA and held before a hearing officer. A written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate official.

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

(A) The opportunity to examine before the grievance hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The tenant shall be allowed to copy any such document at the tenant's expense. If the PHA does not make the document available for examination upon request by the complainant, the PHA 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 complainant 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 the PHA or project management, and to confront and cross-examine all witnesses upon whose testimony or information the PHA or project management relies; and

(E) A decision based solely and exclusively upon the facts presented at the hearing.

If the complainant or the PHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for no more than 5 business days or may make a determination that the party has waived his right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer. A determination that the complainant has waived the complainant's right to a hearing will not constitute a waiver of any right the complainant may have to contest the PHA'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 PHA must sustain the burden of justifying the PHA action or failure to act against which the complaint is directed.

The complainant or the PHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

Accommodation of persons with disabilities. (1) 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. (2) If the tenant is visually impaired, any notice to the tenant which is required under this subpart must be in an accessible format.

Limited English Proficiency. PHAs must 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 and available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq.

Decision of the hearing officer.

The hearing officer must prepare a written decision, including the reasons for the PHA's decision within a reasonable time after the hearing. A copy of the decision must be sent to the complainant and the PHA. The PHA must retain a copy of the decision in the tenant's folder. The PHA must maintain a log of all hearing officer decisions and make that log available upon request of the hearing officer, a prospective complainant, or a prospective complainant's representative.

The decision of the hearing officer will be binding on the PHA unless the PHA Board of Commissioners determines that:

(1) The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease on PHA regulations, which adversely affects the complainant'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 PHA.

A decision by the hearing officer or Board of Commissioners in favor of the PHA or which denies the relief requested by the complainant in whole or in part will 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.

Stark Metropolitan Housing Authority

Grievance Procedures

SMHA's Grievance Procedures

I have received a copy of the Stark Metropolitan Housing Authority's Grievance Procedures. I understand and agree that it is my responsibility to fully read and understand the procedure. I understand that this policy allows certain protections to me and outlines my ability to request a grievance concerning my lease and tenancy.

Head of Household's Printed Name

Date

Head of Household's Signature

Date

Resident's Printed Name

Date

Resident's Signature

Date

Resident's Printed Name

Date

Resident's Signature

Date

Resident's Printed Name

Date

Resident's Signature

Date

SMHA Representative

Date

Stark Metropolitan Housing Authority

Public Housing Grievance Packet

To: SMHA Public Housing Residents

These forms are to be used as follows:

Step 1 - Public Housing Request for Informed Settlement of Grievance

- Complete this form and submit it to your Property Manager or the SMHA Central Office.
- This **must** be done within **five (5) working days** of the issue that has initiated the complaint. You will receive a written response within five (5) working days.

If you are dissatisfied with the answer provided to you in Step 1, you can proceed to Step 2. You cannot proceed to Step 2 UNTIL Step 1 has been completed.

Step 2 - Public Housing Request for a Formal Grievance Hearing Form

- Complete this form and submit to your Property Manager or the SMHA Central Office along with a copy of the original answer provided to you by SMHA to your complaint from Step 1.
- This request **must** be made within **ten (10) working days** of the answer to Step 1. SMHA will promptly schedule a formal grievance hearing and notify of the date and time of the hearing in writing.

This process is in accordance with the SMHA Admissions and Continued Occupancy Plan – Grievances and Appeals process.

Stark Metropolitan Housing Authority

Public Housing Request For Informed Settlement of Grievance Form

According to SMHA policy, any grievance or complaint must be personally presented, if possible, to the Central Office of SMHA or to the management office of the development in which Complainant resides so that the grievance may be informally discussed and settled without a hearing. The grievance must be signed by the Complainant and filed in such office by him or his representative within a reasonable time, not in excess of five (5) working days of the SMHA action or failure to act which is the basis of the grievance.

Please state the particular grounds upon which your grievance is based:

Please state the SMHA action that you're requesting:

Name(s) of Complainant(s)

Representative Name (if applicable)

Signature of Complainant

Representative Address (if applicable)

Address of Complainant(s)

Telephone Number

Representative Phone # (if applicable)

Date

If this form was not presented personally to SMHA by the tenant, but by their representative, please provide SMHA with the contact information of that representative. **All forms MUST be signed by the Complainant.**

An answer, in writing, to the Complainant dated and signed by the development manager or appropriate official, shall be mailed to the Complainant within five (5) working days. A copy of the answer shall be filed with the Complainant in the appropriate project office. The answer shall specify:

The proposed disposition of the complaint and the specific reasons thereof.

The right of the Complainant to a hearing.

The procedure by which a hearing may be obtained. The answer may challenge whether a proper grievance under this procedure has been stated.

Stark Metropolitan Housing Authority

Public Housing Request For A Formal Grievance Hearing Form

YOU CANNOT FILE THIS FORM UNTIL YOU HAVE GONE THROUGH STEP ONE OF THE GRIEVANCE PROCEDURE!

Due to the fact that I am dissatisfied with the proposed disposition of my complaint as stated in the development manager's or other SMHA official's answer, I am submitting a written request to the SMHA Central Office requesting a Formal Grievance Hearing. This written request must be made within ten (10) working days of the date of the answer to my original complaint. **In addition to this written request, you must provide a copy of your original complaint answer that you received from SMHA.** The hearing officer shall be advised of your hearing request and a hearing will be scheduled as promptly as possible. You will be informed in writing as to the time and date of the hearing.

Please check the appropriate reason that the grievance is being requested:

_____ SMHA has initiated an eviction action against me.

_____ SMHA has undertaken a rent change regarding my housing file which I do not agree with.

_____ SMHA has denied my request for transfer.

_____ SMHA has denied my eligibility to receive public housing assistance based on my completed application.

_____ (Other) Please explain: _____

Please state in detail the particular grounds upon which your grievance is based:

Name(s) of Complainant(s)

Representative Name (if applicable)

Signature of Complainant

Representative Address (if applicable)

Address of Complainant(s)

Telephone Number

Representative Phone # (if applicable)

Date

If this form was not presented personally to SMHA by the tenant, but by their representative, please provide SMHA with the contact information of that representative. **All forms MUST be signed by the Complainant.**