

Exhibit 9-2

Tenant Grievance Hearing Process

AHFC **will** provide a tenant an opportunity for a Grievance Hearing for any dispute which a tenant may have with respect to AHFC's 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 (24 CFR 966.53). Examples include:

- Determination of the family's annual or adjusted income and the use of such income to compute the family's rental portion;
- Determination of the appropriate utility allowance (if any) for tenant-paid utilities from the utility allowance schedule;
- Determination of the unit size assigned to tenants under AHFC's occupancy standards;
- A decision to terminate assistance because of the tenant's action or failure to act;
- A determination not to grant a request for a reasonable accommodation for a family member with a disability;
- Denial of a hardship exemption to the minimum rent requirement (24 CFR 5.630).

AHFC **will not** provide a tenant with an opportunity for a Grievance Hearing for any of the following reasons:

- General policy issues, class grievances, or AHFC discretionary administrative determinations (24 CFR 966.51(b));
- Establishment of AHFC occupancy standards and schedule of utility allowances;
- Any dispute between tenants not involving AHFC (24 CFR 966.51(b));
- Complaints about problems suffered by other tenants - each tenant must report his or her own grievances (24 CFR 966.53(b));
- A forum for initiating or negotiating policy changes between a group or groups of tenants and AHFC (24 CFR 966.51);
- Failure of a tenant to timely request a Grievance Hearing (24 CFR 966.50).

9-2.1 HUD DUE PROCESS DETERMINATION

HUD has determined that Alaska law governing a Forcible Entry and Detainer (FED) action requires a pre-eviction hearing. That hearing meets all elements of HUD's regulatory due process definition. The basis for this determination is [directive number GCH-0089](#), dated November 1, 1993. As a consequence of the HUD determination, AHFC may choose to not grant a grievance procedure for:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of AHFC (24 CFR 966.51(a)(2));

- Any violent or drug-related criminal activity on or off the property (24 CFR 966.51(a)(2)).

Grievances related to complaints about operational matters will be referred to the respective property manager where the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the AHFC Section 504/ ADA Compliance Officer.

9-2.2 CONTINUED ASSISTANCE DURING THE GRIEVANCE HEARING PROCESS

If a tenant is eligible to participate in the Grievance Hearing process, AHFC will not move forward with an adverse action until the tenant has completed the process.

AHFC may make changes in tenant rent or deny a transfer for a family that wants to move while the grievance hearing process is pending.

9-2.3 TENANT NOTIFICATION

AHFC will provide prompt notice of any decision to terminate a tenancy, re-determine the tenant's rent, or deny assistance. Any such notice will contain the following information:

- A brief statement of the reasons for the decision. If a denial is due to criminal screening, a copy of the record is included.
- A statement that the tenant has the right to examine AHFC documents relevant to the decision;
- If eligible, a statement that the tenant may request a Grievance Hearing if she/he disagrees with the decision.
- A statement that the tenant has the right to be represented by counsel.
- A statement that the family's written request must occur by the deadline stated in the notice.
- A statement that if the tenant fails to request the grievance procedure by the deadline, AHFC will continue with the action against them and the tenant has the right to contest the action in court.
- A copy of the *Public Housing Program Grievance Procedure*, form LR412.

9-2.4 PUBLIC HOUSING PROGRAM GRIEVANCE PROCEDURE (FORM LR412)

This form contains Grievance Hearing procedures as well as a request form a tenant can use. The form states:

- The tenant's written request must be postmarked or received by AHFC within ten (10) calendar days from the notice date.
- The tenant's rights during the process.

- Before receiving a Grievance Hearing, a tenant must participate in the Informal Settlement Meeting process.
- When an escrow deposit is required to participate in the Grievance Hearing process.
- Possible outcomes of the Grievance Hearing process.
- How the tenant can request a reasonable accommodation to participate in the process.

Upon receiving the family's request, AHFC will proceed with the grievance hearing process as described below.

9-2.5 THE INFORMAL SETTLEMENT MEETING

The Informal Settlement Meeting is a required first step in the Public Housing Program Grievance Process (24 CFR 966.54). This is a meeting between staff and the tenant to discuss the adverse notice and possible solutions. An escrow deposit is not required to participate in this step of the grievance hearing process. This meeting requirement may be waived by the PHD Director upon written request by the tenant.

9-2.5.A Settlement Meeting Process

AHFC will conduct an Informal Settlement Meeting as follows.

1. Field staff will contact the tenant within ten (10) calendar days to schedule the meeting. The meeting will be scheduled as quickly as possible.
2. The Meeting may be conducted in person or by telephone.
3. The Meeting may be conducted by any AHFC staff person.
4. The tenant may ask someone to assist him/her at the meeting. Any attorney fees or other costs are at the tenant's expense.
5. Tenants may review AHFC records at the meeting. Document copies are at the tenant's expense. See Exhibit 1-3 for exceptions.
6. The tenant will be given an opportunity to present written or oral objections to AHFC's position, call any witnesses she/he thinks are relevant, and present any documents she/he thinks support her/his position.
7. AHFC field staff will prepare evidence for the Meeting.
8. Both parties may present additional evidence at the Meeting.

9-2.5.B Settlement Meeting Decision

The person conducting the meeting will prepare and mail a written summary of the meeting within ten (10) business days of the meeting completion (24 CFR 966.54). The summary will include:

- The names of all the persons present;
- The date of the meeting;

- A brief discussion of the outcome and reasons for such outcome;
- A statement that the tenant will have ten (10) calendar days from the date of the Settlement Meeting decision to request a grievance hearing if they disagree with the outcome. The tenant's written request must be postmarked or received by AHFC within the ten calendar days.
- A copy of the *Public Housing Program Grievance Procedure*, form LR412.

9-2.6 THE GRIEVANCE HEARING

Upon receiving the family's request, AHFC will proceed with the grievance hearing process as described below.

9-2.6.A Escrow Payments for Disputes Involving Rent

Before a hearing is scheduled in any complaint involving a dispute of the rent amount due, the tenant must pay an "escrow deposit" to AHFC (24 CFR 966.55(e)).

- Escrow deposits are due when a tenant disputes AHFC's calculation of the monthly rent amount.
- Escrow deposits are not due because of a tenant failure to pay rent.

Escrow deposit procedures for tenants are included on the *Public Housing Program Grievance Procedure* (form LR412).

1. Escrow Deposit Amount Due

The amount deposited is equal to the amount due as of the first of the month before the disputed rent was to go into effect. The tenant must continue to deposit the same amount, monthly, until the complaint is resolved by decision of the hearing officer.

If the family fails to tender an escrow deposit, the grievance hearing process terminates [24 CFR 966.55(e)(2)].

Example: Escrow Deposit Amount Due

Union Rags has a rent amount of \$325 due on May 1. On May 15, Union Rags reports timely that he is now receiving Interim Assistance. Staff processes the interim increase and sends a *Rent Change Notice* to Union Rags.

1. The Rent Change Notice is dated May 20. The new rent amount due, effective July 1, is \$400.
2. Union Rags submits a grievance hearing request on May 29 stating he disagrees with the new rent amount.
3. On June 1, Union Rags' rent amount of \$325 is due. He must pay this.

4. Staff conducts the Informal Settlement Meeting and upholds the new rent amount of \$400.
5. Staff sends Union Rags an Informal Settlement Meeting summary letter on June 10.
6. Union Rags submits a grievance hearing request on June 17 stating he still disagrees with AHFC's calculation of the new rent amount.
7. Staff will not be able to complete the process prior to July 1, the effective date of his new rent. Before proceeding with the Grievance Hearing process, Union Rags must tender \$325 to AHFC.
8. Union Rags tenders \$325, and staff sends the deposit to Central Office to post. Staff posts a note in Union Rags' memo link.
9. Staff follows the procedures to conduct the Grievance Hearing.
10. On July 1, Union Rags' rent amount of \$400 is showing due, but staff will not collect it as it is in dispute.
11. On July 8, staff will not send a Nonpayment of Rent notice to Union Rags as his hearing process is not complete.
12. If Union Rags' hearing process will not be completed by August 1, Union Rags must tender an additional \$325 to AHFC.

2. Escrow Deposit Waivers

AHFC may waive the requirement for the escrow deposit if the family requests a financial hardship exemption from the minimum rent requirement or because of the effect of a welfare benefits reduction in calculation of family income.

3. Escrow Deposit Posting

Staff will forward all escrow deposits to the Central Office for posting.

- a. Staff will include the AMP number, the tenant's name, and the tenant's code number.
- b. Staff will post a note in the tenant's Memo link regarding the escrow deposit amount paid.

The escrow deposit will not appear on the tenant's account until the grievance hearing process is complete. Staff will not serve a Nonpayment of Rent notice as long as the tenant continues paying the monthly escrow deposit amount.

4. Escrow Deposit Outcomes

- a. Once the hearing officer's decision is issued, staff will send an email to the Central Office to have the escrow deposit posted to the tenant's account.
- b. Staff will issue the *Grievance Hearing Result* (form LR411) to the tenant.

- 1) The letter will advise the tenant that the escrow will be applied to his/her account.
- 2) The *Grievance Hearing Result* will also advise the tenant if an additional amount is due. Staff will not issue a Nonpayment of Rent notice until the tenant's time to pay the increased amount has expired.
- c. Staff will refund any excess escrow amounts to the tenant within 30 calendar days of the hearing officer's decision.

5. Additional Rent Amount Due

If the tenant's escrow deposit is insufficient to cover the rent amount due, the *Grievance Hearing Result* letter will advise the tenant of the additional amount due. The tenant will have seven (7) days to pay.

If the tenant fails to pay within the seven days, follow the nonpayment of rent procedures in Chapter 8.

9-2.6.B Schedule the Grievance Hearing

Field staff will complete and submit the *Informal Hearing Request* (form PW315) to the regional manager or their designee to forward to Central Office. Central Office is responsible for coordinating and scheduling the Grievance Hearing.

1. AHFC shall appoint an impartial hearing officer.
2. After securing a hearing officer, Central Office will notify all parties in writing of the date, time, and place for the hearing.
3. The hearing may be held in person or telephonically.
4. If the tenant discloses that legal counsel will represent, field staff will notify Central Office at once. AHFC must notify the tenant if it will be represented by legal counsel.
5. Exhibits from both parties are due to the Central Office no later than seven (7) calendar days prior to the hearing.
6. AHFC field staff will prepare exhibits for the hearing.
7. AHFC field staff will submit an exhibit list, copies of the exhibits, and a list of any witnesses to the hearing scheduler in accordance with the deadlines in the *Informal Hearing Notification*.
8. Both parties may present additional evidence at the hearing.

9-2.6.C Rights of the Tenant

Prior to the hearing, the tenant will be given an opportunity to examine any AHFC documents that are directly relevant to the hearing.

1. The tenant may copy any such document at the family's expense. The term "document" includes records and regulations. Refer to Exhibit 1-3 for documentation fee guidelines.
2. At the tenant's own expense, a lawyer or other representative may represent the tenant.
3. The tenant will be given the opportunity to present evidence, present objections, and may question any witness.
4. The tenant will be provided a written decision from the Hearing Officer within ten (10) business days following the completion of the hearing stating the reasons for the decision.
5. The parties have up to 30 days to file an appeal of the decision in the State of Alaska Superior Court.

9-2.6.D Persons Representing AHFC

The AHFC staff member who made the decision to issue a notice of adverse action or their supervisor will prepare and present the documentation to prove the AHFC case. The documentation will include all exhibits and a witness list. At times, AHFC may be represented by legal counsel, and counsel may assist staff with preparation of the documentation.

1. Exhibit Preparation

Exhibits will be prepared and submitted prior to the hearing. However, additional exhibits may be presented at the hearing with copies made for all parties.

Exhibits should include the basis for adverse action, correspondence to and from the tenant regarding the action, and documents proving that AHFC properly informed the tenant of his/her obligations.

Example: Hearing Exhibits

A decision has been made to terminate a tenant for abandonment. The exhibits should include the following:

1. AHFC policy documents giving AHFC authority to terminate;
2. Back up citations from the CFR, if necessary;
3. Statement of how AHFC was made aware the tenant had moved;
4. Notice of termination to the tenant;
5. Tenant request for the hearing;
6. Copy of the outcome of the Informal Settlement Meeting;
7. Copy of pertinent pages of the lease;
8. Copy of the signed part 2 of the lease; and
9. Any other documents that prove AHFC acted within its authority and that the tenant was given proper notice of their responsibilities.

2. Exhibit Numbering

AHFC exhibits will be numbered as Exhibit 1, 2, 3, etc. Participant exhibits will be numbered as Exhibit A, B, C, etc.

For exhibits with multiple pages, staff will number with the page number and total number of pages. For example, for a three page exhibit, "page 1 of 3", "page 2 of 3", and "page 3 of 3".

9-2.7 HEARING OFFICER SELECTION AND DUTIES

Any Grievance Hearing shall be conducted by an impartial hearing officer. The hearing officer shall not have had any previous participation in the events which are the subject of the grievance. The hearing officer will not be a person supervised by the person who made the decision.

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

The hearing officer shall require AHFC staff, the tenant, other family members, counsel, and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may, at the discretion of the hearing officer, result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly party and granting or denial of the relief sought, as appropriate.

Guidance for hearing officers is located on AHFC's intranet at <http://athome/phd/manuals/manuals.htm>. The slide show is called "Hearing Officer Training."

9-2.7.A Failure to Appear

If a party fails to appear, the hearing officer will continue with the hearing, and the parties in attendance will present their case. If there are extenuating circumstances for why a party did not appear, the parties in attendance can agree to reschedule the hearing for another date.

9-2.7.B Hearing Officer Decision Content

The hearing officer will prepare a written decision, which includes an explanation why the decision was made, within ten (10) business days after the hearing. Factual determinations relating to the individual circumstances of the tenant will be based on a preponderance of the evidence presented at the hearing.

All hearing decisions must contain the following: “This decision is a final decision from which only a judicial appeal may be taken within 30 calendar days of receipt of this decision, in accordance with applicable rules of court governing administrative appeals.”

The decision is sent to PHD’s Central Office for distribution to all parties. AHFC will keep a copy of the decision in the tenant’s file.

9-2.7.C Effect of Decision

The decision of the hearing officer is binding on AHFC, unless the Director, Public Housing Division, determines and promptly notifies the tenant that AHFC is not bound by a hearing decision for the following reasons:

- The decision concerns a matter for which AHFC is not required to provide an opportunity for a Grievance Hearing, or that otherwise exceeds the authority of the person conducting the hearing under AHFC’s hearing procedures; or
- The decision is contrary to HUD regulations or requirements, or otherwise contrary to federal, state, or local law.

If AHFC determines that it is not bound by a hearing decision, AHFC will promptly notify the tenant of the determination and of the reasons for the determination.

9-2.7.D Notification to Tenant

The Central Office will mail a copy of the hearing officer’s decision to the tenant. Staff will complete the *Grievance Hearing Result* (form LR411). The letter tells the tenant how the hearing decision affects their lease agreement, account balances, escrow account, and occupancy of the unit. Staff will:

1. Call the client three calendar days after staff receipt of the decision to discuss the hearing decision with the tenant. The delay gives time for the tenant to receive the decision in the mail.
2. If the action was for termination and upheld, confirm that the tenant must vacate the unit or staff will proceed with an eviction action.
3. Staff will allow five calendar days for the tenant to vacate the unit. Staff may allow additional time for a tenant to vacate before beginning the eviction process, but no more than seven (7) calendar days.
4. Mail the tenant the *Grievance Hearing Result* with the moving deadlines specified in the letter.