

## **Exhibit 9-2**

### **Tenant Grievance Hearing Process**

#### **HUD Regulations 24 CFR 966.50**

Purpose and scope. The purpose of this subpart is to set forth the requirements, standards and criteria for a grievance procedure to be established and implemented by public housing agencies (PHAs) to assure that a PHA tenant is 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 the PHA or PHA regulations which adversely affect the individual tenant's rights, duties, welfare or status.

#### **HUD Regulation 24 CFR 966.51**

Applicability.

(a)

(1) The PHA grievance procedure shall be applicable (except as provided in paragraph (a)(2) of this section) to all individual grievances as defined in §966.53 of this subpart between the tenant and the PHA.

#### **HUD Regulation 24 CFR 966.52**

Requirements.

(a) Each PHA shall adopt a grievance procedure affording each tenant an opportunity for a hearing on a grievance as defined in §966.53 in accordance with the requirements, standards, and criteria contained in this subpart. A PHA may establish an expedited grievance procedure as defined in §966.53.

(b) The PHA grievance procedure shall be included in, or incorporated by reference in, all tenant dwelling leases pursuant to subpart A of this part.

#### **AHFC Policy**

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

## 1. Tenant Notification

### HUD Regulation 24 CFR 966.52

(c) The PHA shall provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the PHA grievance procedure, and providing an opportunity to present written comments. Subject to requirements of this subpart, comments submitted shall be considered by the PHA before adoption of any grievance procedure changes by the PHA.

(d) The PHA shall furnish a copy of the grievance procedure to each tenant and to resident organizations.

### AHFC Policy

AHFC will provide prompt notice of any decision to deny assistance, re-determine the family's portion of rent, or terminate assistance. The notice will conform to the requirements of each action as prescribed in HUD regulations. See:

1. Admission and Eligibility chapter for waiting list and eligibility denials.
2. Examinations and Interviews chapter for determining the family's rent portion.
3. Termination of Tenancy chapter for terminations.

## 2. Grievance Hearing Not Required

### HUD Regulation 24 CFR 966.51(b)

The PHA grievance procedure shall not be applicable to disputes between tenants not involving the PHA or to class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the PHA's Board of Commissioners.

### AHFC Policy

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

1. Discretionary administrative determinations by the PHA.
2. Establishment of AHFC occupancy standards and schedule of utility allowances.
3. Complaints about problems suffered by other tenants - each tenant must report his or her own grievance.
4. Failure of a tenant to request timely a Grievance Hearing.

## 2.A HUD Due Process Determination

### HUD Regulation 24 CFR 966.51(a)(2)

(i) The term due process determination means a determination by HUD that law of the jurisdiction requires that the tenant must be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in §966.53(c)) 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.

(ii)

(iii) For guidance of the public, HUD will publish in the FEDERAL REGISTER a notice listing the judicial eviction procedures for which HUD has issued a due process determination. HUD will make available for public inspection and copying a copy of the legal analysis on which the determinations are based.

(iv) If HUD has issued a due process determination, the PHA may evict the occupants of the dwelling unit through the judicial eviction procedures which are the subject of the determination. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's administrative grievance procedure.

### HUD Regulation 24 CFR 966.52(e)

The PHA must not only meet the minimal procedural due process requirements contained in this subpart but also satisfy any additional requirements required by local, state, or federal law.

### AHFC Policy

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 Hearing for:

- Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of AHFC;
- Any violent or drug-related criminal activity on or off the property.

### 3. Process

#### **HUD Regulation 24 CFR 966.54**

Informal settlement of grievance.

Any 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 that the grievance may be discussed informally and settled without a hearing.

#### **HUD Regulation 24 CFR 966.56**

Procedures governing the hearing.

(a) The 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.

#### **AHFC Policy**

AHFC **will** provide a participant an opportunity for a Grievance Hearing to review the following decisions.

1. A determination of the tenant's annual or adjusted income and the use of such income to compute the tenant's rental portion;
2. A determination of the appropriate utility allowance for tenant-paid utilities from the PHA utility allowance schedule;
3. A determination of the family unit size under AHFC occupancy standards;
4. A decision to terminate assistance due to a family's violation of National Standards for the Physical Inspection of Real Estate (NSPIRE);
5. A decision to terminate a lease for a family due to the family's action or failure to act;
6. A decision not to grant a reasonable accommodation request for a family member with a disability; and
7. Denial of a hardship exemption to the minimum rent requirement.

### **3.A Expedited Grievance Hearing**

#### **HUD Regulation 24 CFR 966.52(a)**

Requirements. Each PHA shall adopt a grievance procedure affording each tenant an opportunity for a hearing on a grievance as defined in §966.53 in accordance with the requirements, standards, and criteria contained in this subpart. A PHA may establish an expedited grievance procedure as defined in §966.53.

#### **AHFC Policy**

AHFC does not have an expedited grievance procedure for Public Housing tenants.

### **3.B Continued Assistance During the Process**

#### **AHFC Policy**

1. 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.
2. If the tenant is not on a Contract or Market Rent rate, subsidy will continue until the conclusion of the grievance process.
3. 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.

### **3.C Family Requirements**

A tenant family interested in appealing an AHFC decision must:

- Submit their written request within ten (10) calendar days of the AHFC notice date. The request must be postmarked or received by AHFC by the appropriate deadline.
- Participate in the Informal Settlement Meeting Process before appealing further for a Grievance Hearing.
- Notify AHFC if they plan to have legal representation at the Informal Settlement Meeting or Grievance Hearing.
- Notify AHFC in advance of the Informal Settlement Meeting or Grievance Hearing if they need a reasonable accommodation to allow a family member with a disability to participate in the process.

Upon receiving the tenant's timely request, AHFC will proceed with the informal settlement meeting.

### 3.D AHFC Requirements

AHFC will promptly schedule the appropriate meeting with a written notice containing:

- The date, time, and location of the hearing.
- A listing of the tenant's rights including:
  - The right to request documentation from their file (a fee may apply; see the Information Requests exhibit).
  - The right to have witnesses or present documentation in support of their position.
  - The right to request legal or personal representation. Any attorney fees or other costs are at the family's expense.

## 4. Conducting the Grievance Hearing

### 4.A Conducting the Informal Settlement Meeting

#### HUD Regulation 24 CFR 966.54

Informal settlement of grievance.

... 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.

#### AHFC Policy

This meeting requirement may be waived for good cause by the PHD Director upon written request by the tenant.

AHFC will conduct the Informal Settlement Meeting as follows.

- The meeting may be conducted in person or by telephone.
- The meeting may be conducted by the AHFC staff person responsible for the notice or a supervisor familiar with the cause for the notice.
- The person conducting the meeting shall notify the tenant, in writing, of AHFC's decision within ten (10) business days of the Informal Settlement Meeting. The notification will include a brief statement of the reasons for the decision.
- The family will have an opportunity to request a Grievance Hearing if they disagree with the decision.

A family's failure to attend the Informal Settlement Meeting waives their right to a Grievance Hearing, unless waived for good cause by AHFC.

#### **4.B Conducting the Grievance Hearing**

##### **HUD Regulation 24 CFR 966.56**

Procedures governing the hearing.

(a) The 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.

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

(1) The opportunity to examine before the grievance hearing any PHA documents, including records and regulations, that are directly relevant to the hearing. (For a grievance hearing concerning a termination of tenancy or eviction, see also §966.4(m).) 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.

(2) 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;

(3) The right to a private hearing unless the complainant requests a public hearing;

(4) 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

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

(d) 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.

(e) 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.

##### **AHFC Policy**

1. Public Housing Division (PHD) Central Office coordinates and schedules the Grievance Hearing.
2. PHD Central Office maintains the official record of the Grievance Hearing.

## 5. Hearing Officer Selection and Duties

### **AHFC Policy**

1. The Central Office coordinator will select a hearing officer.
2. The hearing officer shall not have had any previous participation in the events that are the subject of the grievance.
3. The hearing officer shall require AHFC staff, the tenant, 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.

### 5.A Failure to Appear

#### **HUD Regulation 24 CFR 966.56(c)**

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.

#### **AHFC Policy**

If a party fails to appear, the hearing officer will conduct 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.

### 5.B Hearing Officer Decision Content

#### **HUD Regulation 24 CFR 966.57**

Decision of the hearing officer.

(a) 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. proceedings, which may thereafter be brought in the matter.



### **AHFC Policy**

1. The Hearing Officer has ten (10) business days from the completion date of the hearing to render a written decision.
2. 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 court rules governing administrative appeals."
3. The decision is sent to the Central Office coordinator for distribution to all parties.
4. AHFC will keep a copy of the decision in the family's file.

## **6. Effect of Decision**

### **HUD Regulation 24 CFR 966.57**

(b) 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.

(c) 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

## **7. Definitions**

### **HUD Regulation 24 CFR 966.53**

Definitions. For the purpose of this subpart, the following definitions are applicable.

### **7.A Complainant**

#### **HUD Regulation 24 CFR 966.53(b)**

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

## 7.B Elements of Due Process

### HUD Regulation 24 CFR 966.53(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 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.

## 7.C Grievance

### HUD Regulation 24 CFR 966.53(a)

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.

## 7.D Expedited Grievance

### HUD Regulation 24 CFR 966.53(d)

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.

## 7.E Hearing Officer

### HUD Regulation 24 CFR 966.53(e)

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.

## 7.F Resident Organization

### HUD Regulation 24 CFR 966.53(g)

Resident organization includes a resident management corporation.

## **7.G Tenant**

### **HUD Regulation 24 CFR 966.53(f)**

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.

## **Numbered Memo**

23-25 NSPIRE