

*Appendix IV*

**Grievance Procedure**

**GRIEVANCE PROCEDURE  
for the  
HOUSING AUTHORITY OF THE COUNTY OF KERN**

Housing Authority of the County of Kern (HACK) shall be designated as MANAGEMENT herein.

This procedure shall be applicable for all disputes which a resident may have with respect to MANAGEMENT'S action or failure to act in accordance with the Lease Agreement, or MANAGEMENT'S regulations which adversely affect the individual resident's rights, duties, welfare or status. This procedure shall not apply to any grievance concerning termination of tenancy based upon "any criminal activity, or drug related criminal activity on or near the premises, which threatens the health, safety or right to peaceful enjoyment of the premises of other residents or HACK employees."

The grievance procedure also shall not be applicable to disputes between residents not involving HACK, or to class grievances. This procedure is not intended as a forum for initiating or negotiating policy changes. Specific procedures relating to complaints or grievances protected under Section 504 are included on pages 6 and 7.

1. DEFINITIONS:

- A. Complainant shall mean any resident whose grievance is presented to MANAGEMENT in accordance with Paragraph 3 herein.
- B. Tenant/or Resident shall mean any lessee or the remaining head of household of any resident/family residing in low income public housing or other affordable housing, other than a live-in aide, operated by MANAGEMENT.
- C. Hearing Officer shall mean a person duly selected in accordance with Paragraph 2 herein to hear grievances and render a decision with respect thereto.

2. SELECTION OF HEARING OFFICER:

- A. "A grievance hearing shall be conducted by an impartial person or persons appointed by HACK, other than a person who made or approved the HACK action under review or a subordinate of such person."

"HACK shall consult with Resident organizations before HACK appointment of each hearing officer or panel member. Any comments or recommendations submitted by Resident organizations shall be considered by HACK before appointment."

- B. In lieu of the procedure set forth in Paragraph "A" of this section, HACK

may provide for the appointment of a hearing officer by any method which is approved by the majority of tenants (in any building, group of buildings, project, or group of projects to which the method is applicable) voting in an election or meeting of tenants held for that purpose.

3. INFORMAL SETTLEMENT OF GRIEVANCE:

- A. Any grievance shall be personally presented, either orally, or in writing, to the HACK administrative office so that the grievance may be discussed informally and settled without a hearing. The grievance must be presented within five (5) calendar days of HACK's act or failure to act which is the basis for the grievance, "or when Resident knows, or should have reasonably known, of act or omission to act that is the basis for the grievance."
- B. A written summary and disposition of such discussion shall be prepared by HACK within five (5) business days of the meeting and one be provided to the resident and one copy shall be retained by HACK in the resident's file. The summary shall contain the following information:
  - 1. Names of the participants;
  - 2. Date(s) of the meeting(s);
  - 3. Nature of the disposition of the complaint;
  - 4. Specific reasons for the disposition;
  - 5. Procedures to obtain a hearing if the Complainant is not satisfied with the disposition.

4. PROCEDURE TO OBTAIN A HEARING:

- A. If the COMPLAINANT is not satisfied with the disposition of the informal discussion, he/she must submit a written request for a formal hearing to MANAGEMENT within five (5) calendar days of receipt of the written summary of the informal discussion.
- B. The request for a hearing must specify the reason(s) for the grievance and the action or relief sought.
- C. The request for a hearing must be accompanied by any and all monies required to be deposited into escrow, as required in Paragraphs 7 below.
- D. After notification of the results of an INS appeal, or in lieu of request of appeal to the INS, a family may request that HACK provide a hearing regarding ineligible immigration status. This request must be made either within 14 days of the date HACK mails or delivers the notice in accordance with Chapter 2, or within 14 days of the mailing of the INS appeal decision.

- E. HACK may extend the period of time for requesting a hearing (for a specified period) upon good cause shown.
- F. Informal hearing on the basis of ineligible immigration status is as follows:
  - 1. For tenants, the procedures for the hearing before HACK are set forth in Paragraph 10.
  - 2. For applicants, the procedures for the informal hearing before the Housing Authority are as follows:
    - a. The applicant shall be provided a hearing before any person(s) designated by HACK (including an officer or employee of HACK), other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision;
    - b. The applicant shall be provided the opportunity to examine and copy, at the applicant's expense and at a reasonable time in advance of the hearing, any documents in the possession of HACK pertaining to the applicant's eligibility status, or in the possession of the INS (as permitted by INS requirements), including any records and regulations that may be relevant to the hearing;
    - c. The applicant shall be provided the opportunity to present evidence and arguments in support of eligible immigration status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;
    - d. The applicant shall be provided the opportunity to controvert evidence relied upon by the Housing Authority and to confront and cross-examine all witnesses on whose testimony or information the Housing Authority relies;

- e. The applicant shall be entitled to be represented by an attorney, or other designee, at the applicant's expense, and to have such person make statements on the applicant's behalf.
- f. The applicant shall be entitled to arrange for an interpreter to attend the hearing, at the expense of the applicant or HACK, as may be agreed upon by both parties;
- g. The applicant shall be entitled to have the hearing recorded by audiotape; and
- h. HACK shall provide the family with a written final decision based solely on the facts, presented at the hearing within 14 days of the date of the informal hearing. The decision shall state the basis for the decision.

G. Judicial Relief. A decision against a family member under the INS appeal process or the informal hearing, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial process.

5. FAILURE TO REQUEST A HEARING:

If the complainant does not request a hearing in writing within five (5) calendar days of receipt of the written summary and disposition of the informal discussion, MANAGEMENT'S disposition of the matter under 3B above the grievance shall become final and the COMPLAINANT shall forfeit his/her right to such a hearing.

6. PREREQUISITE TO HEARING:

The informal discussion procedure set forth in Paragraph 3 herein is a condition precedent to the formal hearing process except where the COMPLAINANT can show good cause why he/she failed to proceed with such informal discussion.

7. ESCROW REQUIREMENTS-RENT:

A. Before a hearing is scheduled in any grievance involving the amount of

rent which MANAGEMENT claims is due, the COMPLAINANT shall pay to MANAGEMENT, to be placed in an escrow account, an amount equal to the amount of rent claimed due.

- B. As and when rent becomes due thereafter, until such time as the complaint is resolved by decision of the hearing officer, the COMPLAINANT shall continue to deposit the amount of monthly rent into the escrow account maintained by MANAGEMENT.
- C. The failure to make payments into an escrow account as required in this section A and B above shall terminate the COMPLAINANT'S right to participate in the grievance procedure, and MANAGEMENT shall be entitled to retain all monies already paid into escrow to be applied toward amounts claimed due.

8. SCHEDULE OF HEARINGS:

- A. When a COMPLAINANT'S request for a hearing is timely and properly filed with MANAGEMENT in accordance with Paragraphs 3, 4 and 7 herein, a hearing shall be promptly scheduled by the hearing officer.
- B. Except in extenuating circumstances, said hearing shall be scheduled to be held at a time not less than seven (7) nor more than twenty (20) days after the complaint is received by the hearing officer pursuant to Paragraph 9.A herein.
- C. Said hearing shall be held at a place and time convenient to the COMPLAINANT and MANAGEMENT.
- D. COMPLAINANT shall be notified in writing at least five (5) days in advance of the time and place of the hearing.

9. ISSUES WHICH HAVE BEEN PREVIOUSLY DECIDED:

The hearing officer may render a decision without proceeding with the hearing, if he/she determines that the issue has been previously decided in another proceeding.

10. HEARING PROCEDURES:

- A. The COMPLAINANT shall have the right to:
  - 1. Examine before the hearing and, at the expense of the complainant, to copy all documents, records and regulations of Management that are relevant to the hearing. Any document not so made available after request therefore by the complainant may not be relied on by Management at the hearing;
  - 2. The right to be represented by counsel or other person chosen as his/her representative;
  - 3. A private hearing;
  - 4. Present evidence and arguments in support of the complainant and cross-examine witnesses; and
  - 5. A decision based solely and exclusively upon the facts presented at the hearing or any previous hearings on the same or similar issues.
- B. The COMPLAINANT must first demonstrate that he or she is entitled to the relief sought or the decision of the hearing officer shall be in favor of MANAGEMENT.
- C. If the COMPLAINANT satisfies the requirements of 10.B above, then MANAGEMENT must justify its action or failure to act.
- D. The hearing shall be conducted informally without regard to the rules of evidence applicable to judicial proceedings.

11. FAILURE TO APPEAR:

If the COMPLAINANT or MANAGEMENT fails to appear at a scheduled hearing, the hearing officer shall determine that the party has waived his/her right to a hearing, except in extenuating circumstances whereupon the hearing officer may postpone the hearing for up to five (5) business days.

12. DECISION OF THE HEARING OFFICER:

- A. The hearing officer shall make a decision at the conclusion of the hearing or he/she may take the matter under advisement. Within five (5) business days of the date of the hearing the decision shall be reduced to writing, including the reasons therefore, and copies sent to the COMPLAINANT and MANAGEMENT.

13. HEARING DECISION FILES:

Copies of all decisions, with all names and identifying references deleted, shall be maintained on file by MANAGEMENT and made available for inspection by prospective complainants, their representatives, or other hearing officer. In addition to the public file with identifying references deleted, HACK shall maintain a file containing the decision of the hearing with all names and identifying references.

14. ADMINISTRATIVE REVIEW OF HEARING OFFICER'S DECISION:The decision of the hearing officer shall be binding on MANAGEMENT unless the Board of Commissioners determines within thirty (30) days, and promptly notifies the COMPLAINANT, that:

- A. The grievance does not concern MANAGEMENT'S action or failure to act in accordance with or involving the lease or MANAGEMENT'S regulations; or,
- B. The decision of the hearing officer is contrary to applicable Federal, State, or local law or Department of Housing and Urban Development regulations, or HACK policies.

15. APPEAL TO INS

Upon receipt of notification that INS secondary verification failed to confirm eligible immigration status, HACK shall notify the family of the results of the INS verification, and the family shall have 30 days from the date of the notification to request an appeal of the INS results. The request for appeal shall be made by the family communicating that request in writing directly to the INS. The family must provide the Housing Authority with a copy of the written request for appeal and proof of the mailing. For good cause shown, HACK shall grant the family an extension of the time within which to request an appeal.

The INS will issue the results of the appeal to the family, with a copy to HACK, within 30

days of its receipt. The INS will inform the family and HACK of delays, if necessary.

When HACK receives a copy of the INS response, HACK shall notify the family of its right to request an informal hearing on the ineligibility determination.

16. ACCOMMODATIONS OF PERSONS WITH DISABILITIES:

- A. Management will provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants.
- B. If the Resident is visually impaired, any notice to the Resident which is required under this subpart must be in an accessible format.

17. HACK has adopted an internal grievance procedure providing for prompt and equitable resolution of complaints alleging any action prohibited by the U.S. Department of Housing and Urban Development (HUD) regulations implementing Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794). Section 504 states, in part, that "no otherwise qualified handicapped individual....shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance....."

Complaints should be address to: HACK's Personnel Officer, who has been designated to coordinate Section 504 compliance efforts.

- A. A complaint should be filed in writing or verbally, contain the name and address of the person filing it, and briefly describe the alleged violation of the regulations.
- B. A complaint should be filed within thirty (30) days after the complainant becomes aware of the alleged violation. (Processing allegations of discrimination that occurred before this grievance procedure was in place will be considered on a case-by-case basis.)
- C. An investigation, as may be appropriate, will follow a filing of complaint. The investigation will be conducted by

\_\_\_\_\_. These rules contemplate informal but thorough investigations, affording all interested persons and their representatives, if any, an opportunity to submit evidence relevant to a complaint.

Under HUD regulations, HACK need not process complaints from applicants for employment or from applicants for admission to post-secondary educational institutions.

- D. A written determination as to the validity of the complaint and a description of the resolution, if any, will be issued by \_\_\_\_\_ and a copy forwarded to the complainant no later than ninety days after its filing.
- E. The Section 504 Coordinator will maintain the files and records of HACK relating to the complaints filed.
- F. The complainant can request a reconsideration of the case in instances where he or she is dissatisfied with the resolution. The request for reconsideration should be made within thirty (30) days to Stephen Pelz, Executive Director.
- G. The right of a person to a prompt and equitable resolution of the complaint filed hereunder will not be impaired by the person's pursuit of other remedies such as the filing of a section 504 complaint with the responsible federal department or agency. Using this grievance procedure is not a prerequisite to the pursuit of other remedies.
- H. These rules will be construed to protect the substantive rights of interested persons, meet appropriate due process standards and assure that HACK complies with Section 504 and its implementing regulations.