

CHAPTER 7 PART 1
SHELTON HOUSING AUTHORITY
PUBLIC HOUSING GRIEVANCE PROCEDURE

1. RIGHT TO A HEARING

Upon the filing of a written request within a reasonable timeframe as provided in these procedures, a resident shall be entitled to a hearing before a Hearing Officer.

Applicability

In accordance with Federal Regulation 24 CFR § 966.51, this Grievance Procedure shall be applicable to all individual grievances between the tenant and the Shelton Housing Authority. The Shelton Housing Authority grievance procedure is not applicable to disputes between tenants not involving the Shelton Housing Authority or to any 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 Shelton Housing Authority's Board of Commissioners.

2. DEFINITIONS

For the purpose of this Grievance Procedure, the following definitions are applicable:

- A. "Grievance"** shall mean any dispute which a resident may have with respect to the PHA's action or failure to act in accordance with the individual resident's lease or Authority regulations which adversely affect the individual resident's rights, duties, welfare, or status. Grievance does not include any dispute a resident may have with PHA concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of PHA's public housing premises by other residents or employees of PHA; or any violent or drug-related criminal activity on or near such premises. Nor shall this process apply to disputes between residents not involving the PHA or to class grievances.
- B. "Complainant"** shall mean any resident whose grievance is presented to the PHA or at the development management office in accordance with sections 3 and 4 of this procedure.
- 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 resident of the grounds for terminating the tenancy and for eviction.
 - 2. Right of the resident to be represented by counsel.
 - 3. Opportunity for the resident to refute the evidence presented by the Agency including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the resident may have.
 - 4. A decision on the merits.
- D. "Hearing Officer"** shall mean a person selected in accordance with section 4 of these procedures to hear grievances and render a decision with respect thereto.
- E. "Informal Settlement"** The first step in the hearing process is an informal settlement of the grievance. If the grievance involves a lease termination for criminal activity or behavior that threatens the health, safety or right to peaceful enjoyment of the premises of the other residents or employees of Shelton Housing Authority, there is no informal settlement, and

the resident must request a formal grievance hearing. The Shelton Housing Authority will accept grievances either orally or in writing submitted to the Shelton Housing Authority office within ten (10) calendar days of the event. Within ten (10) calendar days of receipt of the request, the Shelton Housing Authority will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

Shelton Housing Authority will prepare a summary of such discussion within ten (10) calendar days of the Informal Settlement meeting, one (1) copy will be given to the tenant, and one (1) retained in the Shelton Housing Authority's tenant file.

- F. "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 Shelton Housing Authority 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.
- G. "Resident Organization"** includes a resident management corporation.
- H. "Promptly"** (as used in section 3, and 4 (D)), shall mean within the time period indicated in a notice from Shelton Housing Authority of a proposed action which would provide the basis for a grievance if the resident has received a notice of a proposed action from the agency.

3. PROCEDURES PRIOR TO A HEARING

Any grievance shall be promptly and personally presented, either orally or in writing, to the Shelton Housing Authority office or to the office of the development in which the resident resides so that the grievance may be discussed informally and settled without a hearing. This must occur within ten (10) calendar days of the occurrence or non-occurrence of the event. A summary of such discussion shall be prepared within ten (10) calendar days and one copy shall be given to the resident, and one retained in Shelton Housing Authority's resident file. The summary shall specify the names of the participants, dates of the meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore and shall specify the procedures by which a hearing under these procedures may be obtained if the resident is not satisfied.

4. PROCEDURES TO OBTAIN A HEARING

A. REQUEST FOR HEARING

The resident shall submit an oral or written request for a hearing to the Shelton Housing Authority or the development office within ten (10) calendar days from the date of the mailing of the summary of the discussion pursuant to section 3. The written request shall specify:

- 1. The reasons for the grievance; and
- 2. The action or relief sought.

B. SELECTION OF A HEARING OFFICER

A hearing officer, who shall be the Executive Director of Kearney Housing Agency or designee, shall conduct a grievance hearing.

C. FAILURE TO REQUEST A HEARING

If the resident does not request a hearing in accordance with this section, then the Shelton Housing Authority's disposition of the grievance under section 3 shall become final. However, failure to request a hearing does not constitute a waiver by the resident of the

right thereafter to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

D. HEARING PREREQUISITE

All grievances shall be promptly presented in person, either orally or in writing, pursuant to the informal procedure prescribed in section 3 as a condition precedent to a hearing under this Section. However, if the resident can show good cause why there was failure to proceed in accordance with section 3 to the Hearing Officer, the provisions of this subsection may be waived by the Hearing Officer.

E. ESCROW DEPOSIT

Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which the Shelton Housing Authority claims is due, the resident shall pay to Shelton Housing 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 resident shall thereafter deposit monthly the same amount of the monthly rent in an escrow account held by Shelton Housing Authority until the complaint is resolved by decision of the Hearing Officer. Amounts deposited into the escrow account shall not be considered as acceptance of money for rent during the period in which the grievance is pending. In extenuating circumstances, Shelton Housing Authority may waive these requirements. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure. However, failure to make payment shall not constitute a waiver of any right the resident may have to contest the Shelton Housing Authority's disposition of his grievance in any appropriate judicial proceeding.

If a grievance concerns the denial of a financial hardship exemption from the minimum rent requirement or the effect of welfare benefit reductions in the calculation of family income, the requirement for an escrow deposit is waived.

F. SCHEDULING OF HEARINGS

Upon the resident's compliance with this section the Hearing Officer shall promptly schedule a hearing for a time and place reasonably convenient to both the resident and the PHA. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the resident and the appropriate agency official.

The Hearing must be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues raised by the tenant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Officer must require the Shelton Housing Authority, the tenant, 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 result in exclusion from the proceedings or in a decision adverse to the interests of the disorderly party and the granting or denial of the relief sought, as appropriate.

5. PROCEDURES GOVERNING THE HEARING

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

- A.** The opportunity to examine before the grievance hearing any Shelton Housing Authority documents, including records and regulations that are directly relevant to the hearing. The resident shall be provided a copy of any such document at the resident's expense. If Shelton Housing Authority does not make the document available for examination upon request by the resident, the Shelton Housing Authority may not rely on such document at the grievance 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 resident 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 development management, and to confront and cross examine all witnesses upon whose testimony or information the Shelton Housing Authority or development management relies; and
- E. A decision based solely and exclusively upon the facts presented at the hearing.
- F. The resident or Housing Authority can arrange in advance at their own expense for a transcript of the hearing. Anyone can purchase a copy of the transcript.

The Hearing Officer may render a decision without holding a hearing if the Hearing Officer determines that the issue has been previously decided at another hearing.

If either the resident or PHA fails to appear at a scheduled hearing, the Hearing Officer may postpone the hearing for up to five (5) calendar days or determine that the missing party has waived their right to a hearing. Both Shelton Housing Authority and the resident shall be notified of the Hearing Officer's decision. This decision shall not waive a resident's right to contest the disposition of the grievance in an appropriate judicial proceeding.

The following accommodation will be made for persons with disabilities:

- i. The Shelton Housing Authority shall 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.
- ii. If the resident is visually impaired, any notice to the resident that is required by these procedures must be in an accessible format.

If the resident is a person with limited English proficiency the Shelton Housing Authority will comply with HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons."

6. INFORMAL HEARING PROCEDURES FOR DENIAL OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS

The participant family may request that Shelton Housing Authority provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the USCIS. The participant family must make this request within thirty (30) days of receipt of the Notice of Denial or Termination of Assistance, or within thirty (30) days of receipt of the USCIS appeal decision.

7. DECISION OF THE HEARING OFFICER

The Hearing Officer shall prepare a written decision, together with the reasons therefor, within fourteen (14) calendar days after the hearing. A copy of the decision shall be sent to the resident and the Shelton Housing Authority. Shelton Housing Authority shall retain a copy of the decision in the resident's file. The Shelton Housing Authority will maintain a log of all hearing officer decisions. The log shall contain the date of the hearing, the general reason for the grievance hearing (i.e. failure to pay rent, community service noncompliance, etc.) and who the decision favored. The log shall be available to the hearing officer or a prospective complainant or the complainant's representative.

The decision of the Hearing Officer shall be binding on the Shelton Housing Authority who shall take all actions, or refrain from any actions, necessary to carry out the decision unless Shelton Housing Authority's Board of Commissioners determines within reasonable time, and promptly notifies the complainant of its determination, that:

- A.** The grievance does not concern Shelton Housing Authority action or failure to act in accordance with or involving the resident's lease or Authority regulations, which adversely affect the resident's rights, duties, welfare, or status.
- B.** The decision of the Hearing Officer is contrary to applicable Federal, State, or local law, Authority regulations, or requirements of the Annual Contributions Contract between Shelton Housing Authority and the U.S. Department of Housing and Urban Development.

A decision by the Hearing Officer or The Board of Commissioners in favor of Shelton Housing Authority or which denies the relief requested by the resident in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the resident may have to a trial do novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.