

GRIEVANCE PROCEDURES

PREAMBLE

The intent of these procedures are to comply with 24 CFR 966.50 et seq, and pursuant to the Department of Housing and Urban Development's March 8, 2016 Final Rule titled 'Streamlining Administrative Regulations for Public Housing, Housing Choice Voucher, Multifamily Housing, and Community Planning and Development Programs' (Final Rule, 81 FR 1274 [March 8, 2016])

1. **RIGHT TO A HEARING:** This grievance procedure shall provide the Tenant an opportunity of a hearing on any proposed adverse action by the Housing Authority of the City of San Buenaventura concerning an individual tenant. This PHA shall bypass the grievance procedure for terminations involving: (a) An eviction for any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other tenants or employees of the PHA. (b) Any eviction for drug-related criminal activity on or near such premises.
2. **DEFINITIONS:** (a) Complainant shall mean any tenant whose grievance is presented to the PHA or at the project management office (b) Expedited grievance means a procedure established by the PHA for any grievance concerning a termination of tenancy or eviction that involves: 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 any drug related or violent criminal activity on or off such premises. (a) Grievance or Complaint is defined as a dispute arising from any proposed PHA adverse action affecting the individual tenant. (b) Hearing Officer is an impartial person appointed by the PHA, other than a person who made or approved the PHA action under review or a subordinate of such person. PHAs must describe their policies for selection of a hearing officer in their lease forms as required by CFR § 966.4, changes to which are subject to a 30-day comment period as described in §966.3.
3. **REQUEST FOR HEARING:** (a) Any grievance or complaint concerning any proposed adverse action by the PHA, a tenant must submit a written request for a hearing at the PHA or project management office for a hearing within a reasonable time (generally five working days). The written request for a hearing must be date-stamped and filed in the PHA office along with the complaint and answer. The Hearing Officer shall be advised as promptly as possible for a date, time and place reasonable convenient to the complainant. The PHA shall inform the complainant thereof in writing. (1) If the complainant does not request a hearing within the five day time period allowed, he waives his right to the hearing, and the PHA's proposed disposition of the grievance will become final. This shall not, however, constitute a waiver of the complainant's right thereafter to contest the PHA's disposition of his grievance in an appropriate judicial proceeding. ***
4. **HEARING OFFICER:** The hearing shall be conducted by an impartial person appointed by the PHA, other than a person who made or approved the PHA action under review or a subordinate of such person. See definition above.
5. **HEARING PROCEDURE:** (a) Hearing Officer: The hearing under the PHA's grievance procedure shall be conducted by the Hearing Officer in an impartial and fair manner. (b) Examination of Relevant Materials: The Tenant shall be permitted to examine and copy, at his expense, any relevant non-privileged documents in the possession or control of the PHA, including records or regulations. (c) Representation of Tenant: At his own expense, the Tenant may be represented at the hearing by a person of the Tenant's choice. (d) The Hearing: The hearing shall be private unless the tenant requests and the Hearing Officer agree to a public hearing. 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 notice specifying the time, place, and the procedure governing the hearing must be delivered to the complainant and the appropriate official. If the complainant or the PHA fails to appear at the scheduled hearing, the hearing officer may make a determination to postpone the hearing for no more than five (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 right to a hearing will not constitute a waiver of any right the complainant has to contest the PHA's disposition of the grievance in an appropriate judicial proceeding. (e) At the hearing the tenant has 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 relies. The Hearing shall be informal, and any oral or documentary evidence limited, however, to facts and issues raised by the complaint and answer, may be received by the Hearing Officer without regard to whether that evidence would be admissible under rules of evidence employed in judicial proceedings. (f) Accommodation of Persons with Disabilities: The PHA will provide reasonable accommodation for persons with disabilities to participate in the hearing process.
6. **DECISIONS OF THE HEARING OFFICER:** (a) The decision of the Hearing Officer shall be based solely and exclusively upon facts presented at the hearing and upon applicable regulations. To the extent that the decision is not inconsistent with State Law, the United States Housing Authority Act of 1937, as amended, HUD regulations of the Annual Contributions Contract, the decision of the Hearing Officer shall be binding on the PHA. (b) If both parties agree to suggest a proposed decision to the Hearing Officer each party shall submit same to the Hearing Officer for his consideration. (c) The Hearing Officer shall prepare a written decision, including a statement of findings and conclusions; as well as the reasons of basis therefor, upon all material issues raised by the parties. This shall be done within a reasonable time after the date of the hearing. Copies thereof shall be mailed or delivered to the parties and/or their representatives. (d) The written decision of the Hearing Officer will not be maintained by the PHA, except in the complainants file, however, a log of the hearing officer decisions shall be, and will be made available to hearing officers, prospective complainants, and their representative. The log will at minimum include: the date of the hearing decision, the general reason for the grievance hearing, and whether the decision was in the favor of the complainant or the PHA (e) Any judicial decision or related settlement pertaining to the decision of the Hearing Officer shall also be maintained in a similar fashion (f) 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 will retain a copy in complainant's folder, and the log as described above. The decision of the hearing officer will be binding on the PHA unless the PHA Board of Commissioners determines that: 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, 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, no affect in any manner whatever, any rights of the complainant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

7. **APPEALS FROM THE HEARING OFFICER DECISION:** A decision by the Hearing Officer which is in favor of the PHA and/or denies the complainant his requested relief in whole or in part, shall not constitute a waiver, nor affect in any manner whatever rights the tenant may have to a trial de novo in judicial proceedings which may thereafter be brought in the manner. In such judicial proceedings; the PHA shall, by stipulation or other appropriate means, be limited to invoking against the complainant the grounds originally relied on by the PHA in its proposed disposition of the complaint or grievance.
8. **NOTICE OF LEASE TERMINATIONS:** (a) The PHA must notify the tenant of the opportunity for a hearing on the proposed lease termination, by giving notice of proposed adverse action or combined with the statutory notice of lease termination. If the tenant makes a timely request for a hearing, the lease does not terminate and may not be evicted from the unit until completion of PHA grievance hearing. (b) Notice of lease terminations must contain a specific statement of the reasons for the lease termination. If tenant fails to quit the premises by the expiration date on the "Notice" appropriate legal action will be brought against him. If he chooses to contest legal action, the PHA or project management must prove that the reasons upon which it originally relied constituted good cause for eviction under the applicable law, rules and regulations.
9. **LIMITED ENGLISH PROFFICIENCY:** PHA must and will comply with HUD's "Final Guidance on 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: https://www.hud.gov/program_offices/fair_housing_equal_opp/promotingfh/lep-mfh-faq

*****In compliance with the Disabilities Act, if you need special assistance to participate in your requested hearing, please contact the Housing Authority at (805) 648-5008 or through the California/Relay services. Notification of 48 hours in advance of the hearing date will enable the Housing Authority to make reasonable arrangements to ensure accessibility to the hearing.**

*****The Violence Against Women and Department of Justice Reauthorization Act of 2005 provides protection for victim of domestic violence, dating violence and stalking who are residents in public housing assistance. If you believe you are a victim protected under this act, please contact our office immediately.**