

**SAN FRANCISCO HOUSING
AUTHORITY**

APPENDIX B:

Resident Grievance Procedures

**RESIDENT GRIEVANCE
PROCEDURES**

I. **Applicability**

- A. This Grievance Procedure is limited to disputes between individual residents and SFHA where SFHA's actions, or failure to act involving the individual resident's lease or SFHA regulations, which adversely affect the individual resident's rights, duties, welfare, or status.
- B. Situations not included:
1. Disputes between residents in which SFHA is not involved.
 2. Any changes in policies and/or procedures between groups of residents and SFHA's Board of Commissioners.
 3. Class grievances.
 4. Any criminal activity on or off SFHA property that threatens the health, safety of other residents of the SFHA, Employees or Contractors of the SFHA, persons on or near SFHA property, or member of a law enforcement agency;
 5. Any violent criminal activity, or drug-related criminal activity, on or off SFHA property, committed by the Tenant, any Household Member, any Guest, or person under the Tenant's control.
 6. Any criminal activity on or off SFHA property that threatens the rights of other SFHA residents to peaceful enjoyment of SFHA property, committed by the Tenant, any Household Member, any Guest, or any person under the Tenant's control. that results in felony conviction of a household member.
 7. Any criminal activity that resulted in felony conviction of a household member.

II. **Definitions**

- A. **Grievance.** Any dispute which a resident may have with respect to SFHA action or failure to act in accordance with the individual resident's lease or SFHA regulations which adversely affect the individual resident's rights, duties, welfare, or status.
- B. **Complainant.** Any resident whose grievance is presented to SFHA or the Development manager in accordance with the adopted procedures.
- C. **Elements of Due Process.** Any eviction or termination of residency in a

State or local court in which the following procedural safeguards are required:

1. Adequate notice to the resident of grounds for terminating the residency and for eviction;
 2. Opportunity for the resident to examine all relevant documents, records and regulations of SFHA prior to the hearing for the purpose of preparing a defense;
 3. Right of the resident to be represented by counsel;
 4. Opportunity for the resident to refute the evidence by SFHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident may have;
 5. A decision on the merits.
- D. **Hearing Officer.** A person selected to hear grievances and make a decision.
- E. **Resident.** The adult person (or persons) (other than a live-in aide):
1. Who resides in the unit, and who executed the lease with the SFHA 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 resident family residing in the dwelling unit..
- F. **Informal Settlement:** Meeting held with complainant and manager in an attempt to resolve the Grievance before going to formal grievance hearing.
- G. **Summary of Discussion.** Result of informal hearing specifying the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and specifying the procedures by which a hearing may be obtained if the complainant is not satisfied.
- H. **Escrow Account.** Money held by a third person or party as a good faith promise until a determination is made on what to do with the money.
- I. **Waiver.** To release a right or claim the complainant may have to contest the SFHA's disposition of his/her grievance.
- J. **Trial De Novo.** The right to a new trial.

III. Responsibilities for a resident requesting a hearing.

Before a complainant can request a hearing by a Hearing Officer, the grievance must be submitted for informal settlement. As a condition precedent to a formal hearing, all grievances shall be personally presented, either orally or in writing, for informal settlement to the property management office in which the complainant resides so that the grievance may be discussed informally and settled without a hearing. However, if the complainant can show good cause why he/she failed to proceed in accordance with the foregoing to the hearing panel, the Hearing Officer may waive provisions of this section.

IV. Informal Settlement of Grievance

Any request for an Informal Settlement must be presented, in writing, within ten (10) days after the SFHA makes the decision that the resident wishes to grieve. The Informal Settlement will be conducted within fifteen (15) days following receipt of the request. Grievances relating to a notice to quit must be presented within the period set forth on such notice.

A. Summary of the Informal Settlement discussion must be prepared by the SFHA within five (5) working days.

B. The Summary of Discussion will specify:

1. Names of the participants (the SFHA shall be represented by the Property Manager, District Director, and the Director of Housing Management);
2. Date and time of the meeting;
3. Nature of the proposed disposition of the complaint;
4. Specific reasons for the proposed disposition of the complaint;
5. Procedures by which a hearing may be obtained if the complainant is not satisfied;
6. Statement in bold writing that the complainant has ten (10) days after receipt to request a Hearing. If the complainant's primary language is not English this statement must be provided in the appropriate language.

C. Copies of the Summary of Discussion will be distributed as follows:

1. One copy will be sent to the complainant by Registered or Certified mail or

given personally to complainant and a signed receipt obtained from the complainant.

2. One copy will be retained in the complainant's resident file at the SFHA management office

V. Procedure to obtain a Formal Hearing

If the complainant is dissatisfied with the final result of the Informal Settlement decision, he/she must submit a written request for a formal hearing to the SFHA Legal Department within ten (10) days after receiving the Summary of Discussion. . This notice shall be in English and each of the following languages: Spanish, Russian, Chinese, Cambodian or Vietnamese.

- A. The written request for a Hearing must specify:
 1. Reason(s) for the grievance;
 2. Action or relief sought
- B. A receipt signed by the complainant, or a return receipt for delivery of Registered or Certified mail, whether or not signed, will be sufficient proof to establish time of delivery for the Summary of Discussion, and/or, if applicable, the decision of the emergency transfer review panel.

VI. Failure to request a Formal Hearing

If the complainant does not request a Hearing within ten (10) days following the date of receipt of the Summary of Discussion , then:

- A. SFHA's decision of the grievance as stated in the Summary of Discussion, becomes final and effective as of SFHA's close of business on the fifth (5th) working day.
- B. Such failure shall not constitute a waiver by the complainant of his/her right to contest the SFHA's action in disposing of the complaint in an appropriate judicial proceeding.

VII. Selection of Hearing Officer

Grievance shall be presented before a hearing officer selected pursuant to these rules.

The Executive Director, in consultation with the recognized tenant associations, shall appoint three individuals to serve as grievance hearing officers. Each officer shall be charged individually with conducting hearings in accordance with the rules set forth in this policy and shall have the ability to read and write and follow and understand the procedures of the grievance process.

VIII. Schedule of hearings

Following the informal settlement meeting and upon a request for a Formal Hearing, then the following will take place:

- A. The Hearing Coordinator, an employee of the SFHA who shall be charged with setting hearing dates, will promptly schedule a hearing. The time and place for the hearing will be reasonably convenient to both the complainant and the SFHA.
- B. The Hearing Coordinator will schedule the hearings for the second Friday of each month. The hearings will be held before one of the three designated Hearing Officers, who shall rotate responsibilities on a monthly basis. The Hearing Officer shall hear all grievances pending at the time of the monthly hearing. Any resident may object, on a one-time basis, to the designated Hearing Officer or to the time and place of the hearing. However, the objection must be filed and delivered to the Hearing Coordinator at least 24 hours before the hearing is scheduled to commence. Failure to file an objection in compliance with this rule will be considered a waiver of any right to object to the Hearing Officer or time and place of the hearing.

If the tenant objects to time, place and/or the Hearing Officer, then the hearing shall take place at the next regularly scheduled monthly hearing date.

- C. Written notification will be delivered to the complainant and appropriate SFHA official by Registered, Certified Mail, or delivered personally and a signed receipt obtained. The written notification will specify:
 1. Time of Hearing;
 2. Place of Hearing; and
 3. Procedures governing the Hearing.
- D. Receipts signed by the complainant or SFHA Official, or return receipts for delivery of Registered or Certified mail, whether signed or not, will be sufficient to establish delivery.

IX. Procedure governing hearing

- A. The Hearing shall be held before a Hearing Officer.
- B. The complainant and SFHA shall be afforded a fair Hearing providing the basic safeguards of due process which include:
 - 1. The opportunity upon request to examine before and during the Hearing, and, at the expense of the complainant, to copy all documents, including records and regulations, of the SFHA that are directly relevant to the Hearing;
 - 2. The right to be represented by counsel or other person chosen as his/her representative;
 - 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 his/her complaint, to controvert evidence relied on by the SFHA, and to confront and cross-examine all witnesses upon whose testimony or information SFHA relies; and
 - 5. A decision based solely and exclusively upon the evidence presented at the hearing.
- C. The Hearing Officer may render a decision without proceeding with the Hearing if the Hearing Officer determines that the issue has been previously decided in another proceeding.
- D. At the Hearing, the complainant must first make a showing of an entitlement to the relief sought, and thereafter SFHA must sustain the burden of justifying the SFHA action or failure to act against which the complaint is directed.
- E. The Hearing shall be conducted informally by the Hearing Officer and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- F. The Hearing Officer shall require the SFHA, the complainant, Counsel and other participants or spectators to conduct themselves in an orderly fashion.

- G. 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 granting or denial of the relief sought, as appropriate.
- H. The complainant or SFHA may arrange, in advance and at the expense of the party making such request, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

X. Failure to appear at hearing

- A. Failure of either party or their representative to appear at the Hearing shall enable the Hearing Officer to determine that the non-appearing party has waived its right to a hearing.
- B. The complainant and the SFHA will both be notified in writing of the determination and/or decision by the Hearing Officer.
- C. Emergency or other serious situations will be considered on a case by case basis in the determination that the party has waived his/her right to a hearing.
- D. Failure of the complainant to appear at the Hearing or a determination the complainant has waived his/her right to a hearing shall not constitute a waiver of any right the complainant may have to contest the (SFHA's) disposition of the grievance in an appropriate judicial proceeding.

XI. Decisions of the Hearing Officer

- A. The Hearing Officer shall prepare a written decision, together with the reasons, within ten (10) working days after the hearing.
- B. A copy of the decision will be sent to the complainant and the SFHA at the same time.
- C. The SFHA will retain a copy of the decision in the resident's folder.
- D. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by the SFHA and made available for

inspection by a prospective complainant, his/her representative, or the Hearing Officer.

- E. The decision of the Hearing Officer shall be binding on the SFHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision. However, the Board of Commissioners of the SFHA shall have the authority to reverse any decision of the Hearing Officer within fifteen (15) days and shall promptly notify the complainant of its determination, when:
 - 1. The grievance does not concern an act or failure to act on the part of the SFHA which adversely affects the complainant's lease, or SFHA regulations, rights, duties, welfare, or status.
 - 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 SFHA.
- F. A decision by the Hearing Officer or Board of Commissioners in favor of the SFHA or which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the complainant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

XII. Eviction actions in grievances involving lease terminations.

- A. If a resident has requested a hearing on a complaint involving a SFHA notice of termination, and the Hearing Officer upholds the SFHA's action to terminate the residency, the SFHA shall not commence an eviction action in a State or local court until it has served a notice to vacate to the resident.
- B. In no event shall the notice to vacate be issued prior to the decision of the Hearing Officer having been mailed or delivered to the complainant.
- C. Such notice to vacate must be in writing and specify that if the resident fails to quit the premises within the appropriate authorized period, or on the termination date stated in the notice of termination, whichever is later, appropriate action will be brought against him/her and he/she may be required to pay court costs and attorneys' fees.
 - 1. The Authority shall not terminate or refuse to renew the Dwelling Lease,

other than for serious or repeated violation of material terms of the lease, such as the failure to make payments due under the lease, to fulfill the resident obligations as set forth in the lease, the violation of other provisions of the lease or for other good cause.

2. Habitual lateness in payment of rent shall be considered a violation of a material term of the lease, and grounds for eviction. Habitual lateness is defined as a failure to pay rent on the date it is due three (3) times within any consecutive twelve (12) month period.
3. Every reasonable and diligent administrative effort will be made by the Authority to avoid eviction. Before the Authority may take action to terminate the lease and evict a family for any cause, it shall give adequate administrative notice before pursuing appropriate legal actions. Adequate notice shall be as follows:
 - a) Fourteen (14) days in the case of failure to pay rent.
 - b) Three (3) days in the case of a creation or maintenance of a threat to the health or safety of other tenants, Housing Authority employees or the general public.
 - c) Thirty (30) days in all other cases.

San Francisco Housing Authority

Section 8 Housing Department

Administrative Plan for the Section 8 Voucher Program



July 9, 2009

15.0 COMPLAINTS, INFORMAL REVIEWS FOR APPLICANTS, AND INFORMAL HEARINGS FOR PARTICIPANTS

15.1 COMPLAINTS

The SFHA will investigate and respond to complaints by participant families, owners, and the general public. The SFHA may require that complaints other than HQS violations be put in writing. Anonymous complaints are investigated whenever possible.

15.2 INFORMAL REVIEW FOR THE APPLICANT

A. Informal Review for the Applicant

The SFHA will give an applicant for participation in the Section 8 Existing Program prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the SFHA decision. The notice will state that the applicant may request an informal review within 10 business days of the denial and will describe how to obtain the informal review.

B. When an Informal Review is not Required

The SFHA will not provide the applicant an opportunity for an informal review for any of the following reasons:

1. A determination of the family unit size under the SFHA subsidy standards.
2. A SFHA determination not to approve an extension or suspension of a voucher term.
3. A SFHA determination not to grant approval to lease a unit under the program or to approve a proposed lease.
4. A SFHA determination that a unit selected by the applicant is not in compliance with HQS.
5. A SFHA determination that the unit is not in accordance with HQS because of family size or composition.
6. General policy issues or class grievances.
7. Discretionary administrative determinations by the SFHA.

C. Informal Review Process

The SFHA will give an applicant an opportunity for an informal review of the SFHA decision denying assistance to the applicant. The procedure is as follows:

1. The review will be conducted by any person or persons designated by the SFHA other than the person who made or approved the decision under review or a subordinate of this person.
2. The applicant will be given an opportunity to present written or oral objections to the SFHA decision.
3. The SFHA will notify the applicant of the SFHA's decision after the informal review within 14 calendar days. The notification will include a brief statement of the reasons for the final decision.

D. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the SFHA will consider evidence of whether the household member:

1. Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;
 2. Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or
 3. Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.
- E. Informal Review Procedures for Denial of Assistance on the Basis of Ineligible Immigration Status

The applicant family may request that the SFHA provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision to request the review.

15.3 INFORMAL HEARINGS FOR PARTICIPANTS

- A. When a Hearing is Required
1. The SFHA will give a participant family an opportunity for an informal hearing to consider whether the following SFHA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and SFHA policies:
 - a. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
 - b. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the SFHA utility allowance schedule.
 - c. A determination of the family unit size under the SFHA subsidy standards.

- d. A determination that a Voucher Program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the SFHA subsidy standards, or the SFHA determination to deny the family's request for an exception from the standards.
- e. A determination to terminate assistance for a participant family because of the family's action or failure to act.
- f. A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the SFHA policy and HUD rules.
- g. Denial of Assistance on the Basis of Ineligible Immigration Status.

- 2. In cases described in paragraphs 15.3(A)(1)(d), (e), and (f), of this Section, the SFHA will give the opportunity for an informal hearing before the SFHA terminates housing assistance payments for the family under an outstanding HAP contract.

B. When a Hearing is not Required

The SFHA will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

- 1. Discretionary administrative determinations by the SFHA.
- 2. General policy issues or class grievances.
- 3. Establishment of the SFHA schedule of utility allowances for families in the program.
- 4. A SFHA determination not to approve an extension or suspension of a voucher term.
- 5. A SFHA determination not to approve a unit or lease.
- 6. A SFHA determination that an assisted unit is not in compliance with HQS. (However, the SFHA will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)
- 7. A SFHA determination that the unit is not in accordance with HQS because of the family size.

8. A determination by the SFHA to exercise or not exercise any right or remedy against the owner under a HAP contract.

C. Notice to the Family

1. In the cases described in paragraphs 15.3(A)(1)(a), (b), and (c), of this Section, the SFHA will notify the family that the family may ask for an explanation of the basis of the SFHA's determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.
2. In the cases described in paragraphs 15.3(A)(1)(d), (e), and (f), of this Section, the SFHA will give the family prompt written notice that the family may request a hearing within 10 business days of the notification. The notice will:
 - a. Contain a brief statement of the reasons for the decision; and
 - b. State this if the family does not agree with the decision, the family may request an informal hearing on the decision within 10 business days of the notification.
3. In the event that a Notice of Decision to Propose Termination is issued, a presumption of innocence will be invoked and the tenant will continue to receive assistance until a final decision is made by the Hearing Officer or Appeal Officer. However, in the interest of not burdening a prospective owner, the tenant will not be permitted to transfer to another unit until the final hearing decision is made by the hearing officer or the Appeal Officer.

The Administrator reserves the right to review requests to move on a case by case basis to assess whether a safety or financial hardship matter is requiring a move.

D. Hearing Procedures

The SFHA and participants will adhere to the following procedures:

1. Discovery
 - a. The family will be given the opportunity to examine before the hearing any SFHA documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the SFHA does not

make the document(s) available for examination on request of the family, the SFHA may not rely on the document at the hearing.

- b. The SFHA will be given the opportunity to examine, at the SFHA's offices before the hearing, any family documents that are directly relevant to the hearing. The SFHA will be allowed to copy any such document at the SFHA's expense. If the family does not make the document(s) available for examination on request of the SFHA, the family may not rely on the document at the hearing.

Note: The term document includes records and regulations.

2. Representation of the Family

At its own expense, a lawyer or other representative may represent the family.

3. Hearing Officer

- a. The hearing will be conducted by any person or persons designated by the SFHA, other than a person who made or approved the decision under review or a subordinate of this person.
- b. The person who conducts the hearing will regulate the conduct of the hearing in accordance with the SFHA hearing procedures.
- c. Notwithstanding actual employees of the SFHA, the Hearing Officer will be an impartial third party who has no other contract obligations with the San Francisco Housing Authority (SFHA) or is otherwise engaged for services by the SFHA that would potentially pose a conflict of interest to the hearing officer's duties on behalf of the SFHA

4. Evidence

The SFHA and the family must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5. Issuance of Decision

The person who conducts the hearing must issue a written decision within 14 calendar days from the date of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

6. Effect of the Decision

The SFHA is not bound by a hearing decision:

- a. Concerning a matter for which the SFHA is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the SFHA hearing procedures.
- b. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.
- c. If the SFHA determines that it is not bound by a hearing decision, the SFHA will notify the family within 14 calendar days of the determination, and of the reasons for the determination.

E. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance. The Housing Authority may terminate assistance or uphold the appeal and permit continued participation in the subsidy program.

If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to