

# THE PUBLIC HOUSING TENANT HANDBOOK

This handbook is intended to give you a better understanding of what is expected of you as a resident, and what you can expect from the Pennington County Housing and Redevelopment Commission. Items contained herein are incorporated into your lease as stated in Section 23 and Section 25 of your lease agreement.

## **EMERGENCY CONTACT**

Police 911 In the event the family needs immediate police assistance  
Fire 911 In the event the family needs immediate fire department assistance  
Ambulance 911 In the event the family needs immediate medical assistance

### **Maintenance Emergencies**

605-394-6865 Maintenance personnel are on call to handle any maintenance emergency happening outside the normal hours of operation. Families should follow the instructions on the recording once they have dialed the phone number. After hours calls should be for maintenance emergencies only.

Other Family Emergency Contacts and Phone Numbers

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## **HOURS OF OPERATION**

The PCHRC administrative office is open from 7:30 a.m. until 4:30 p.m. Monday thru Friday and families are able to contact their property manager or another member of management by calling 605-394-5350. Maintenance personnel are on call to handle any maintenance emergency happening outside the normal hours of operation by calling 605-394-6865 and following the instructions on the recording.

The PCHRC observes the holidays below and the administrative office and maintenance shop will be closed. Maintenance personnel will be on call to handle any maintenance emergency by calling 605-394-6865 and following the instructions on the recording.

**New Year's Day** – January 1st  
**Martin Luther King Day** – Third Monday in January  
**President's Day** – Third Monday in February  
**Memorial Day** – Last Monday in May  
**Juneteenth** – June 19<sup>th</sup>  
**Independence Day** – July 4<sup>th</sup>  
**Labor Day** – First Monday in September  
**Veteran's Day** – November 11<sup>th</sup>  
**Thanksgiving** – Fourth Thursday and Fourth Friday in November  
**Christmas** – December 25th

## **IN CASE OF FIRE**

Depending on which property your family resides dictates what steps you need to take in the event of a fire.

### **Residents of the high-rises (Fire sprinklers present)**

1. Leave the immediate area of the fire;
2. Evacuate building if you are able to;
3. “Shelter in place” if you are not in immediate area of fire;
4. Call 911

### **Residents of all other properties**

1. Evacuate the building;
2. Call 911

## **UNIT INSPECTIONS**

The PCHRC will inspect public housing dwelling units quarterly to ensure that each unit meets the PCHRC housing standard of decent, safe, and sanitary. Work Orders will be submitted and completed to correct any deficiencies and the family will be billed for any tenant caused damages. Families will be notified of any maintenance charges on their billing statement sent out on or about the 25<sup>th</sup> day of each month. Families could be inspected monthly if they repeatedly fail the quarterly inspection.

## **GARBAGE COLLECTION**

Garbage collection service is provided with either dumpster service or regular weekly curbside collection. Families in projects with dumpsters are to place all garbage inside the dumpsters and should refrain from piling garbage alongside. Families with regular curbside collection should not place garbage out for collection until their regularly scheduled pick-up day. Families can find out their scheduled pick-up day by contacting Rapid City Solid Waste at 605-355-3496. Solid Waste advises that garbage must be bagged and tied and placed in a city container no closer than 4 feet from any other object or structure and that containers be placed curbside or in designated alley location by 7:00 a.m. Items that the regular garbage service will not pick up can be hauled away by PCHRC maintenance personnel every Friday. Families must contact the maintenance office to make arrangements for pick-up of these items. Items must be placed in front of the unit.

## **TRASH CHUTE USE PROCEDURE**

The trash chutes in the high-rises are only for small items that fit into a small grocery bag (example: Walmart bag). Please make sure that the bag is securely fastened so that the items inside cannot fall out of the bag. The following items are examples of what **ARE NOT** allowed to be placed in the garbage chute: syringes, glass, flammable materials, aerosol cans, sticky materials, grease/oil, raw meats, liquids of any type, newspaper, magazines, clothing, long items, carpeting, cardboard boxes, pizza boxes, diapers, cat litter, and dog waste.

## **NO SMOKING POLICY**

Smoking is prohibited in all dwelling units and common areas of all PCHRC owned buildings and sites. Families are responsible for ensuring that their guests comply with this policy. As referenced in the dwelling lease, residents are to refrain from littering any of the grounds so smokers should dispose of their tobacco products in proper containers prior to entering PCHRC property.

## **PETS/ANIMALS**

Common household pets will be allowed in all public housing units with prior approval and the execution of a pet policy. As referenced in the dwelling lease, residents are to refrain from littering any of the grounds so pet owners are required to clean up after their animal. It is not the responsibility of our maintenance staff to clean up after the tenants, their households, or their pets/animals.

Pets/animals will be kept inside the dwelling unit and are not allowed to be tied in the yard, when walked they must be on a leash at all times and not allowed to roam freely.

## **RESIDENT ADVISORY PANEL**

A Resident Advisory Panel has been established in accordance with Quality Housing & Work Responsibility Act of 1998 with the purpose of providing input from participants and making recommendations regarding the development and implementation of the annual PHA Plan. In addition, the Panel forms the basis for any Hearing Panel needed when a formal grievance procedure has been requested by a family. The PCHRC encourages residents to apply for participation on the Panel. This Panel meets on a regular basis and consists of residents/participants of our housing programs. Panel members receive a \$20.00 stipend for each meeting they attend. Please contact the Executive Director for further information and details on applying for the panel.

## **GENERAL CARE OF THE UNIT**

Families must promptly notify the PCHRC of any needed repairs. You will not be charged for repairs or replacements due to normal wear and tear. Families will be responsible for all other damages, including holes in walls and doors, which is considered excessive damage, as well as damage to equipment such as mowers, sprinklers, appliances, etc.

Families may not paint or make any alterations or repairs without prior written consent from the property manager.

No decals, tape, putty or stars are to be posted to doors, walls, ceilings or appliances.

Do not nail, tack, or glue carpet to tile or hardwood floors.

Pictures and other wall hangings should be hung with small finishing nails. Do not use adhesives, glues or putty.

No mirrors, hooks, or other permanent fixtures should be attached to doors.

No signs, posters, etc. may be displayed from windows or doors.

No additional locks may be installed. Additional keys may be purchased from PCHRC.

Do not leave hoses connected to outdoor faucets during temperatures below 32 degrees to avoid damage caused by freezing pipes.

No additional telephone or cable TV outlets are to be installed without permission from management.

Do not store any items behind or beside the refrigerator, range, furnace, or hot water heater to avoid damage to these units and fire.

Families living in single family homes are responsible for lawn care and snow removal from sidewalks and driveways. Families will be charged for the time and materials used if it becomes necessary for PCHRC maintenance personnel to perform these tasks. In multi housing units' maintenance will be responsible for mowing and snow removal.

- Lawn mowers may be signed out at the PCHRC maintenance shop located next to our main office at 1805 West Fulton Street.
- Lawn mowers are required to be returned within 24 hours after sign out. Any lawn mowers not returned within the 24 hours will be charged a \$10.00 late charge per day.

Weekly property inspections will be conducted by the Property Managers and families will have 48 hours to correct and violations issued for the following:

- Un-mowed and cluttered yards
- Trampolines, fire pits, charcoal grills, and swimming pools of any kind are not allowed
- Indoor furniture such as living room furniture and dining room furniture, etc. needs to stay in the unit not on patios and porches

Vehicles, trailers, etc. must not be driven or parked on the lawn. Families will be held responsible for any damage to lawns and or sprinkler systems.

## **RULES OF OCCUPANCY**

No person should be living in the unit that is not on the lease and accommodation of the family's guests or visitors is limited to fourteen (14) days within a forty-five (45) day period without prior written approval by management.

Rent is due on the first day of the month and is considered by the PCHRC as delinquent if not paid by the seventh day of the month. Families will be charged a \$20.00 late fee and issued a lease termination when they have not paid their rent in full by the seventh.

Maintenance and other charges are due and payable on the first day of the month following the month in which the charge was billed. On approximately the eighth of each month, any family with maintenance charges that are still owed will be sent a thirty day notice of termination of their lease.

Utilities shut off or turned on under the name of the PCHRC for non-payment are a lease violation and could result in the immediate termination of your lease. Any utility charges incurred by the PCHRC as a result of the family not properly maintaining the services as directed by the dwelling lease will be charged back to the family.

Families must not store gasoline or other flammable or hazardous material in the unit or on the premises.

Storage must be maintained within the dwelling unit or in designated areas such as storage sheds or garages. Items must not be stored in attics and crawl spaces, under decks, carports, or in other areas outside the unit.

Families are allowed to have one operable vehicle per licensed driver not to exceed two operable vehicles per family. Family vehicles must display a PCHRC parking sticker and have current licensing. Vehicles must not be used for storage.

Families must not keep any inoperable vehicles, trailer, boats, etc. on the premises or adjacent streets. Any vehicle without a current license plate or housing sticker will be considered inoperable. Any such vehicle on the premises for more than 72 hours will be towed away at the owner's expense.

Absolutely no parking or storing of campers, pull trailers, fifth wheels, or boats on the premises or in parking areas.

Vehicles must not be left unattended while placed on jacks, ramps, blocks, or other elevating devices.

The PCHRC shall not be held responsible for loss, theft, or damage to any article or personal property, including mail.

## **TRESPASSING POLICY**

The property of the Pennington County Housing and Redevelopment Commission, is for the sole use and benefit of the residents of said developments and members of their households, their lawfully invited guests and invitee, and personnel of the Housing Authority, and such other persons who have legitimate business on said property, namely, law enforcement officers and other personnel of governmental authorities, workers for utility companies, contractors of the Authority, their employees, and such other persons as management may specifically allow. All other persons upon said premises shall be regarded as trespassers and shall be prosecuted therefore as allowed by law.

All persons who wish access to any of the foregoing developments and all persons who may be found upon the walks, ways, playground, parking lots, drives and other common areas of said developments may be requested by any law enforcement officer or authorized personnel of the Authority to identify himself or herself and to demonstrate that they are included within the class of permits as stated above. Any person who refuses to so identify himself or herself, or is unable to demonstrate that he or she is included within the class of permits stated above shall be prosecuted therefore as allowed by law.

## **VACATE PROCEDURES**

To ensure the refund of your security deposit the following must be completed:

**Notice:** A written notice to vacate must be given to Management 30-days prior to move out. The date on which management receives the notice will be the effective date of your notice to vacate.

All rent and maintenance charges must be paid in full.

### **Unit Condition**

Refrigerator: Pull away from wall and clean inside and outside (be careful not to damage floor), leave running on low.

Range: Pull range away from wall (be careful not to damage floor) and clean the outside of the range and the floor where the range sat, clean oven, broiler, burners, drip pans, cook-top and under cook-top.

Range Hood: Clean outside, underside, and filter.

Bathroom: Clean tub, shower stall, stool, sink, counter, mirror, and interior of medicine cabinet.

Shelves/Doors: Wipe off all shelves and all doors including knobs.

Walls: Must be clean, free of food, markings from crayons or other markers, and residue from cigarette smoke. Residents should not attempt to fill nail holes, patch holes, or paint walls. Any unacceptable patching or painting will be re-done by maintenance staff and the resident will be charged accordingly. Don't forget to clean the light switch covers and outlet covers.

Windows: Traverse and/or curtain rods for all windows are the property of PCHRC.

Floors: Vacuum and shampoo all carpeted areas. Clean all tiled and vinyl areas. **HIGH-RISE UNITS:** If the carpet is the property of the Tenant, the carpet, carpet tape, and tape residue must be removed and floor cleaned before the keys are turned back to management

Baseboard heaters: Clean top.

- Lights: Clean globes and replace all missing or burned-out light bulbs.
- Cupboards: Clean inside, outside, top of cupboards, and all drawers.
- A/C Cover: The leather air conditioner covers for Memorial Park Apartments, Sunny Haven Apartments, Prairie Village Apartments, and the High-rises are the property of the PCHRC.
- Cable TV: Remotes, cable boxes, and cables that are property of Mid Continent Communications but provided by PCHRC must remain in the dwelling unit.
- Trash: Must be removed from dwelling unit, storage area, and properly disposed of in dumpster or waste containers provided.
- Thermostat: Please set thermostat at 65 degrees if you are not going to be present for the move-out inspection.

When you are completely finished with the dwelling unit and ready to turn the keys in it will be necessary for you to call 394-5350 and make arrangements with your property manager for a move-out inspection. This inspection should be scheduled at least 24 hours in advance. The move-out inspection is your opportunity to meet with your property manager to review the condition of the unit. **WE STRONGLY URGE YOU TO ATTEND THIS INSPECTION.**

The keys are to be returned to the inspector at the time of the move-out inspection. If you absolutely cannot attend the move-out inspection, leave the keys in the unit, lock the door, or in the case of dead bolt locks drop the keys in the drop box located on site, and notify management that you are finished with the dwelling unit.

### **SECURITY DEPOSIT TRANSMITTAL UPON MOVE OUT**

When a tenant vacates a unit their security deposit will be held until the cost of any repairs for damages can be determined. A letter will be sent automatically upon the residents move out stating the security deposit is being held until the cost of any repairs for damages can be determined. Once the charges, if any, have been determined the balance of the deposit will be returned. If the security deposit is not sufficient to cover the cost of damages and other charges, a notice explaining the charges will be sent allowing thirty days for payment. If payment has not been received within the thirty days allowed, a warning letter will be sent advising the former tenant that if payment is not received within ten days, their account will be turned over to a collection agency. If payment is still not received, the account will be turned over to a collection agency.



# GRIEVANCE PROCEDURE FOR PUBLIC HOUSING RESIDENTS

## REQUIREMENTS 14-III.A

PHAs must have a grievance procedure in place through which residents of public housing are provided an opportunity to grieve any PHA action or failure to act involving the lease or PHA policies which adversely affect their rights, duties, welfare, or status. The PHA must not only meet the minimal procedural due process requirements provided under the regulations, but must also meet any additional requirements imposed by local, state or federal law.

The PHA grievance procedure must be included in, or incorporated by reference in, the lease.

### PHA Policy

The PHA grievance procedure will be incorporated by reference in the tenant lease.

The PHA must provide at least 30 days notice to tenants and resident organizations setting forth proposed changes in the PHA grievance procedure, and provide an opportunity to present written comments. Comments submitted must be considered by the PHA before adoption of any changes to the grievance procedure by the PHA.

### PHA Policy

Residents and resident organizations will have 30 calendar days from the date they are notified by the PHA of any proposed changes in the PHA grievance procedure, to submit written comments to the PHA.

The PHA must furnish a copy of the grievance procedure to each tenant and to resident organizations.

## DEFINITIONS 14-III.B

There are several terms used by HUD with regard to public housing grievance procedures, which take on specific meanings different from their common usage. These terms are as follows:

- **Grievance** – 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

- **Complainant** – any tenant whose grievance is presented to the PHA or at the project management office
- **Due Process Determination** – 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 before eviction from the dwelling unit
- **Expedited Grievance** – a procedure established by the PHA for any grievance or termination that involves:
  - Any criminal activity that threatens the health, safety, or right to peaceful enjoyment or the PHA’s public housing premises by other residents or employees of the PHA; or
  - Any drug-related criminal activity on or off the premises
- **Elements of Due Process** – an eviction action or a termination of tenancy in a state or Local court in which the following procedural safeguards are required:
  - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction
  - Right of the tenant to be represented by counsel
  - 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
  - A decision on the merits
- **Hearing Officer** – an impartial person or selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. The individual or individuals do not need legal training.
- **Tenant** – the adult person (or persons) (other than a live-in aide)
  - 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,
  - Who resides in the unit, and who is the remaining head of household of the tenant family residing in the dwelling unit
- **Resident Organization** – includes a resident management corporation

#### **APPLICABILITY 14-III.C**

Grievances could potentially address most aspects of a PHA’s operation. However, there are some situations for which the grievance procedure is not applicable.

The grievance procedure is applicable only to individual tenant issues relating to the PHA. It is not applicable to disputes between tenants not involving the PHA. Class grievances are not subject to the grievance procedure and the grievance procedure is not to be used as a forum for initiating or negotiating policy changes of the PHA.

If HUD has issued a due process determination, a PHA may exclude from the PHA grievance procedure 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 premises of other residents or employees of the PHA;
- Any violent or drug-related criminal activity on or off such premises; or
- Any criminal activity that resulted in felony conviction of a household member in states without due process determinations, PHAs must grant opportunity for grievance hearings for all lease terminations, regardless of cause, with the following exception: PHAs may use expedited grievance procedures for the excluded categories listed above. These expedited grievance procedures are described in Section 14-III.E. below.

If HUD has issued a due process determination, the PHA may evict through the state/local judicial eviction procedures. In this case, the PHA is not required to provide the opportunity for a hearing under the PHA's grievance procedure as described above.

#### PHA Policy

The PHA is located in a HUD-declared due process state. Therefore, the PHA will Not offer grievance hearings for lease terminations involving criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the PHA, for violent or drug-related criminal activity on or off the premises, or for any criminal activity that resulted in felony conviction of a household member.

See Chapter 13 for related policies on the content of termination notices.

#### **INFORMAL SETTLEMENT OF GRIEVANCE 14-III.D**

HUD regulations state that any grievance must be personally presented, either orally or in writing, to the PHA office or to the office of the housing development in which the complainant resides so that the grievance may be discussed informally and settled without a hearing.

### PHA Policy

The PHA will accept requests for an informal settlement of a grievance either orally or in writing, to the PHA office within 10 business days of the grievable event. Within 10 business days of receipt of the request the PHA will arrange a meeting with the tenant at a mutually agreeable time and confirm such meeting in writing to the tenant.

If a tenant fails to attend the scheduled meeting without prior notice, the PHA will reschedule the appointment only if the tenant can show good cause for failing to appear, or if it is needed as a reasonable accommodation for a person with disabilities.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

HUD regulations require that a summary of such discussion will be prepared within a reasonable time and one copy will be given to the tenant and one retained in the PHA's tenant file.

The summary must specify the names of the participants, dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and will specify the procedures by which a hearing may be obtained if the complainant is not satisfied.

### PHA Policy

The PHA will prepare a summary of the informal settlement within ten business days; one copy to be given to the tenant and one copy to be retained in the PHA's tenant file.

For PHAs who have the option to establish an expedited grievance procedure, and who exercise this option, the informal settlement of grievances is not applicable to those grievances for which the expedited grievance procedure applies.

## **PROCEDURES TO OBTAIN A HEARING 14-III.E**

### **Requests for Hearing and Failure to Request**

#### PHA Policy

The resident must submit a written request for a grievance hearing to the PHA within five business days of the tenant's receipt of the summary of the informal settlement.

If the complainant does not request a hearing, the PHA's disposition of the grievance under the informal settlement process will become final. However, failure to request a hearing does not constitute a waiver by the complainant of the right to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

### **Scheduling of Hearings**

If the complainant has complied with all requirements for requesting a hearing as described above, a hearing must be scheduled by the hearing officer promptly for a time and place reasonably convenient to both the complainant and the PHA. A written notification specifying the time, place and the procedures governing the hearing must be delivered to the complainant and the appropriate PHA official.

#### PHA Policy

Within 10 business days of receiving a written request for a hearing, staff will schedule and send written notice of the hearing to both the complainant and the PHA.

The PHA may wish to permit the tenant to request to reschedule a hearing for good cause.

#### PHA Policy

The tenant may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. The request for rescheduling must be made at least 24 hours before the hearing is to occur.

Good cause is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.

### **Expedited Grievance Procedure**

The PHA may establish an expedited grievance procedure 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 premises by other residents or employees of the PHA;
- Any drug-related criminal activity on or near such premises; or
- Any criminal activity that resulted in felony conviction of a household member.

In such expedited grievances, the informal settlement of grievances as discussed in 14-III.D is not applicable.

The PHA may adopt special procedures concerning expedited hearings, including provisions for expedited notice or scheduling, or provisions for expedited decision on the grievance.

PHA Policy

The PHA will not offer expedited grievance procedures.

**SELECTION OF HEARING OFFICER 14-III.F**

The grievance hearing must be conducted by an impartial person or persons appointed by the PHA, other than the person who made or approved the PHA action under review, or a subordinate of such person. The PHA must describe their policies for selection of a hearing officer in their lease.

PHA Policy

PHA grievance hearings will be conducted by a single hearing officer.

The PHA will appoint a staff member who was not involved in the decision under appeal. If a designated staff member (such as the program manager) was involved in the decision, or is a subordinate of such person, an alternate hearing officer will be selected.

The PHA may select designated staff members who were not involved in the decision under appeal in certain circumstances, such as appeals involving discrimination claims or denials of requests for reasonable accommodations.

PHAs must describe their policies for selection of a hearing officer in their lease forms. Changes to the public housing lease are subject to a 30-day comment period.

**PROCEDURES GOVERNING THE HEARING 14-III.G**

**Rights of Complainant**

The complainant will be afforded a fair hearing. This includes:

- The opportunity to examine before the grievance hearing any PHA documents, including records and regulations that are directly relevant to the hearing. The tenant must 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.

### PHA Policy

The tenant will be allowed to copy any documents related to the hearing. The family must request discovery at least 24 hours prior to the hearing.

- The right to be represented by counsel or other person chosen to represent the tenant, and to have such person make statements on the tenant's behalf.

### PHA Policy

Hearings may be attended by the following applicable persons:

A PHA representative(s) and any witnesses for the PHA

The tenant and any witnesses for the tenant

The tenant's counsel or other representative

Any other person approved by the PHA as a reasonable accommodation for a person with a disability

- The right to a private hearing unless the complainant requests a public hearing.
- 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.
- A decision based solely and exclusively upon the facts presented at the hearing.

### **Failure to Appear**

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 five business days or may make a determination that the party has waived his/her right to a hearing. Both the complainant and the PHA must be notified of the determination by the hearing officer: Provided, that a determination that the complainant has waived his/her 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.

There may be times when a complainant does not appear due to unforeseen circumstances which are out of their control and are no fault of their own.

## PHA Policy

If the tenant does not appear at the scheduled time of the hearing, the hearing officer will wait up to 30 minutes. If the tenant appears within 30 minutes of the scheduled time, the hearing will be held. If the tenant does not arrive within 30 minutes of the scheduled time, they will be considered to have failed to appear.

If the tenant fails to appear and was unable to reschedule the hearing in advance, the tenant must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The hearing officer will reschedule the hearing only if the tenant can show good cause for the failure to appear, or it is needed as a reasonable accommodation for a person with disabilities.

“Good cause” is defined as an unavoidable conflict which seriously affects the health, safety, or welfare of the family.

## **General Procedures**

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.

The hearing is conducted informally by the hearing officer. The PHA and the tenant must be given the opportunity to present oral or documentary evidence pertinent to the facts and issues raised by the complaint, and to question any witnesses.

## PHA Policy

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

**Oral evidence:** the testimony of witnesses

**Documentary evidence:** a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, emails, words, pictures, sounds, videotapes or symbols or combinations thereof.

**Demonstrative evidence:** Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

**Real evidence:** A tangible item relating directly to the case.

*Hearsay Evidence* is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the



matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If the PHA fails to comply with the discovery requirements (providing the tenant with the opportunity to examine PHA documents prior to the grievance hearing), the hearing officer will refuse to admit such evidence.

Other than the failure of the PHA to comply with discovery requirements, the hearing officer has the authority to overrule any objections to evidence.

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.

#### PHA Policy

If the complainant would like the PHA to record the proceedings by audiotape, the request must be made to the PHA at least 24 hours in advance of the hearing.

The PHA will consider that an audio tape recording of the proceedings is a transcript.

#### **Accommodations of Persons with Disabilities**

The PHA must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required in the grievance process must be in an accessible format.

See Chapter 2 for a thorough discussion of the PHA's responsibilities pertaining to reasonable accommodation.

#### **Limited English Proficiency**

The PHA must comply with HUD's LEP Final Rule in providing language services throughout the grievance process.

#### **DECISION OF THE HEARING OFFICER 14-III.H**

The hearing officer must issue a written decision, stating the reasons for the decision, within a reasonable time after the hearing. Factual determinations relating to the individual circumstances of the family must be based on a preponderance of evidence

presented at 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. A log of all hearing officer decisions must also be maintained by the PHA and made available for inspection by a prospective complainant, his/her representative, or the hearing officer.

### PHA Policy

In rendering a decision, the hearing officer will consider the following matters:

**PHA Notice to the Family:** The hearing officer will determine if the reasons for the PHA's decision are factually stated in the notice.

**Discovery:** The hearing officer will determine if the family was given the opportunity to examine any relevant documents in accordance with PHA policy.

**PHA Evidence to Support the PHA Decision:** The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the PHA's conclusion.

**Validity of Grounds for Termination of Tenancy (when applicable):** The hearing officer will determine if the termination of tenancy is for one of the grounds specified in the HUD regulations and PHA policies. If the grounds for termination are not specified in the regulations or in compliance with PHA policies, then the decision of the PHA will be overturned.

The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The report will contain the following information:

#### **Hearing information:**

- Name of the complainant
- Date, time and place of the hearing
- Name of the hearing officer
- Name of the PHA representative(s)
- Name of family representative (if any)
- Names of witnesses (if any)

**Background:** A brief, impartial statement of the reason for the hearing and the date(s) on which the informal settlement was held, who held it, and a summary of the results of the informal settlement. Also includes the date the complainant requested the grievance hearing.

**Summary of the Evidence:** The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

**Findings of Fact:** The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

**Conclusions:** The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the PHA's decision.

**Order:** The hearing report will include a statement of whether the PHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the PHA to change the decision in accordance with the hearing officer's determination. In the case of termination of tenancy, the hearing officer will instruct the PHA to restore the family's status.

## **Procedures for Further Hearing**

### PHA Policy

The hearing officer may ask the family for additional information and/or might adjourn the hearing in order to reconvene at a later date, before reaching a decision. If the family misses an appointment or deadline ordered by the hearing officer, the action of the PHA will take effect and another hearing will not be granted.

## **Final Decision**

The decision of the hearing officer is binding on the PHA which must take the action, or refrain from taking the action cited in the decision unless the PHA Board of Commissioners determines within a reasonable time, and notifies the complainant that:

- The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease on PHA policies which adversely affect the complainant's rights, duties, welfare, or status; or

- The decision of the hearing officer is contrary to federal, state, or local law, HUD regulations or requirements of the annual contributions contract between HUD and the PHA

#### PHA Policy

When the PHA considers the decision of the hearing officer to be invalid due to the reasons stated above, it will present the matter to the PHA Board of Commissioners within 10 business days of the date of the hearing officer's decision. The Board has 30 calendar days to consider the decision. If the Board decides to reverse the hearing officer's decision, it must notify the complainant within 10 business days of this decision.

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 must not constitute a waiver of any rights, nor effect in any manner whatever, any rights the complainant may have to a subsequent trial or judicial review in court.