



GRIEVANCE PROCESS for APPLICANTS and PARTICIPANTS

THA Form BP XXXX
(last revised August 10, 2020), v19

1. PURPOSE

This Grievance Process is for individuals and families who receive subsidized housing or rental assistance from Tacoma Housing Authority (THA) (“Participants”) of a type defined below, or who applied to receive it (“Applicants”). The Grievance Process allows Participants and Applicants to dispute some types of THA decisions and failures to act that affect their housing or assistance in ways that are harmful to them. The purpose of the Grievance Process is to allow for a review whether THA’s decisions or failures to act comply with the governing law, lease documents, and THA policies.

Participants and Applicants do not have to use the Grievance Process. If they do not, THA’s decision or inaction becomes final. In that case, or if they use this Grievance Process but fail to change THA’s decision or inaction, they may still challenge THA’s decision or inaction in a court of law. In an eviction, THA would file the court case. To contest other types of THA’s decisions or inactions in court, the Participant or Applicant will have to file the court case.

2. DEFINITIONS

2.1 “**Participant**” is an adult person (other than a live-in aid) and his/her/their authorized family members who:

- (1) signed a residential lease with THA that also confers a THA rental subsidy and who continues to reside in the leased premises, or who recently resided there and wishes to contest THA’s assessment of a debt for damages to the property or unpaid rent; **or**,

- (2) signed a Voucher issued by THA that confers tenant-based rental assistance to pay rent to a private landlord and continues to receive the rental assistance; **or**,

- (3) signed a Housing Assistance Payment contract with THA and a landlord for project-based rental assistance tied to a dwelling unit that they rent and continue to occupy.

2.2 “**Applicant**” is a person who applied to become a Participant and whose application THA has denied.

2.3 “**THA**” means the Tacoma Housing Authority, and for purposes of this Grievance Process, the term also includes any corporate entity that THA owns, controls, or manages.

2.4 “**Decision**” means decision, determination, or action.

3. WHO CAN AND WHO CANNOT USE THIS GRIEVANCE PROCESS AND FOR WHAT PURPOSES

3.1 Who Can and Cannot Use this Process

This Grievance Process is available only to Participants and Applicants.

This Grievance Process is not available to other people who are not Participants or Applicants, including people who may rent or receive other forms of housing or rental assistance financed by THA but who have no contractual relationship with THA.

3.2 Issues Not Subject to Grievance Process

This Grievance Process is not available to contest the following issues:

- (1) THA decisions or inactions affecting THA social services or other THA programs;
- (2) decisions or inactions by people or organizations other than THA, such as a landlord's denial of an application to rent an apartment that comes with THA rental assistance, or a determination by such a landlord to evict;
- (3) THA termination of a project based rental assistance HAP contract because of an eviction by a non-THA landlord;
- (4) THA's discretionary decisions or inactions;
- (5) general policy issues or class grievances;
- (6) establishment of THA's schedule of utility allowances for families in the program;
- (7) THA's decision not to extend a voucher term;
- (8) THA's decision not to approve a tenancy;
- (9) THA's decision that an assisted unit is not in compliance with the applicable Housing Quality Standards (HQS), unless THA has decided to terminate the Participant's assistance for a breach of the HQS caused by the family;

(10) THA's decision that a unit does not comply with HQS because of family size or composition;

(11) THA's decision to exercise or not to exercise any right or remedy under a HAP contract.

4. RIGHT TO A LAWYER OR OTHER REPRESENTATIVE

A Participant/Applicant may arrange to be represented by a lawyer or any other person at any stage of this Grievance Process. THA will not be responsible for arranging this representation or paying for it. THA will also not be responsible for paying any other fees or costs the Participant/Applicant may incur in the Grievance Process.

5. APPLICANTS: INFORMAL REVIEW

An Applicant may request an Informal Review of a THA decision denying their application for housing or rental assistance. The notice of denial will explain how the Applicant can do that.

An Informal Review can be a way for the Applicant to talk about the issue with THA. The goal of the review is to help both sides understand the issue better so that the parties can try to agree on a resolution. Even if the outcome does not change THA's decision, at least it may help the Applicant better understand THA's reasons for it. The outcome of the Informal Review will be THA's final decision.

5.1 Written Request for Informal Review

An Applicant who wants an Informal Review must submit a written request for it. To do that, he, she or they may use THA Form XXX and submit it to THA's office, or use THA's on-line request feature if available.

5.2 Deadline for Requesting Informal Review

The written request for an Informal Review must be postmarked or must arrive at THA within ten (10) business days from the date of THA's denial notice.

5.3 Manner and Time of Informal Review

THA will arrange a time, place, and manner to have the Informal Review. THA will seek to schedule it to occur within seven (7) business days of the request. The review may be in person, by telephone, or by video conference. Public health directives may determine how to do this.

5.4 Who Conducts the Informal Review

THA selects the person to conduct the Informal Review. That person cannot be the person, or a subordinate of the person, who made or approved of the denial at issue. The person who did make that decision may still be helpful to inform the discussion. For that reason, THA may ask that person to attend. That person will not make the decision in the Informal Review.

5.5 Chance to Present Written or Oral Objections to THA's Denial

At the Informal Review, the Applicant may present written or oral objections to the denial decision.

5.6 Final Decision

After the Informal Review, THA will notify the Applicant of THA's final decision, including a brief statement of the reasons for the final decision. THA will seek to do this within seven (7) business days of the Informal Review. THA's final decision will be binding on THA and the Applicant, and will not be subject to further THA review.

6. PARTICIPANTS: TWO PART GRIEVANCE PROCESS

Participants may contest certain types of THA decisions, or THA's chronic or serious failures to act that harm their interest in their THA housing or rental assistance. The purpose of the Grievance Process is to give a Participant a chance to show that the decision or failure to act violates the law, HUD regulations, or THA's policies.

This two-part grievance process is not available to Applicants. Their recourse shows in Section 5 above.

6.1 When Grievance Process Is Available to Participants

This Grievance Process is available to allow the Participant to dispute whether any of the following THA decisions or inactions relating to the individual circumstances of a Participant are in accordance with the law, HUD regulations and THA policies:

- (1) a determination setting the family's annual or adjusted income, and the use of such income to compute the housing assistance payment;
- (2) a determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule;
- (3) a determination of the family unit size under the PHA subsidy standards;
- (4) a determination to evict or terminate rental assistance for a participant family because of an action or failure to act by the Participant or a family member or guest for whom the Participant is responsible;

- (5) a determination to evict or terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules;
- (6) a determination that a THA tenant owes money to THA for damages to the property or unpaid rent;
- (7) a decision or a chronic or serious failure to act that adversely affects the Participant's rights, obligations, welfare or status under the lease, program documents or law.

6.2 Written Request for Grievance Process

A Participant who wants to use the Grievance Process must submit a written request. To do that, he, she or they may use THA Form XXX and submit it to THA's office or use THA's on-line request feature if available.

6.3 Deadline for Requesting Grievance Process

6.3.1 Non-Immigration Cases

In non-immigration cases, the written request for a Grievance Process must be postmarked or delivered to THA within the following time periods:

- (1) within ten (10) business days from the date of THA's notice of the decision at issue, except as provided in section (2) below, (The notice will state this deadline);
- (2) within three (3) business days from the date of THA's notice to terminate a tenancy that alleges criminal conduct presenting a serious threat to the health and safety of others or to the property (The notice will state

this deadline). For purposes of this section, a conviction or arrest is not necessary;

- (3) to contest THA's chronic or serious failure to act, within a reasonable time of when the failure became apparent.

6.3.2 Immigration Cases

When the termination of assistance or eviction is based upon the Participant's immigration status, the Participant must file a Grievance request within thirty (30) calendar days of notice of THA's notice of termination or eviction sent to the Participant's last known address.

6.4 Grievance Process in Two Parts

The Grievance Process for Participants has two parts to it. The **first** part is an Informal Settlement Talk. The Informal Settlement Talk is an optional step that the Participant can use, or skip and go directly to the **second** part, a Grievance Hearing. The written request form will ask the Participant to state whether he, she or they want the Informal Settlement Talk.

6.5 Time, Place and Manner of Grievance Process

Upon receiving a timely request for a Grievance Process, THA will seek to schedule the process so the Informal Settlement Talk, if requested, occurs within seven (7) business days of the request and the Grievance Hearing within ten (10) business days of the request. These talks and hearings may be in person, by telephone, or by video conference. Public health directives may determine how to do this.

If the purpose of the Grievance Process is to contest a notice of termination of tenancy based upon criminal conduct

that presents a serious threat to the health and safety of others or to the property, THA may account for this threat with an accelerated Grievance Process schedule, while preserving the elements of due process. In these cases, the accelerated schedule will allow at least seven (7) business days notice of the date of the Grievance Hearing.

Provided that the parties may agree to adjust these schedules.

THA will mail or otherwise deliver to the Participant written notice of the following:

- date, time, place and manner of both the First Part (Informal Settlement Talk, if requested) and the Second Part (Grievance Hearing);
- copy of this Grievance Process and other rules governing the process.

A Participant's unreasonable unavailability impeding an effort to schedule the Grievance Process will result in THA scheduling it despite that unavailability. In those cases, or if the Participant does not otherwise appear at the scheduled Grievance Hearing, the Hearing Officer will decide if the nonappearance justifies a dismissal of the Grievance pursuant to Section 6.7.2.

6.6 First Part: Informal Settlement Talk

The first part of the Grievance Process for Participants is an Informal Settlement Talk with THA staff. THA encourages Participants to request this Informal Settlement Talk. It can be a way for the Participant and THA staff to talk about the issue. The goal of the talk is to help both parties understand the dispute better so that they can try to agree on a resolution. Even if the

outcome does not change THA's decision or inaction, at least it may help the Participant better understand THA's reasons for it.

6.6.1 Who at THA will Meet With the Participant for the Informal Settlement Talk

THA selects the person to meet with the Participant for the Informal Settlement Talk and lead THA's part in the discussion. That person may not be the person, or a subordinate of the person who made the decision or was responsible for the inaction at issue. That person may still be helpful to inform the discussion. For that reason, THA may ask that person to attend. That person will not make the decision in the talk on behalf of THA.

6.6.2 Result of the Informal Settlement Talk

THA will provide the Participant with a brief, written summary of the outcome of the Informal Settlement Talk.

If the Informal Settlement Talk resolves the matter, the Grievance Hearing will be cancelled. If the Informal Settlement Talk does not resolve the Grievance, then the parties will proceed with the Grievance Hearing as scheduled unless the Participant withdraws the request for the Hearing. The Participant need not take any additional action to obtain the Hearing.

6.7 Second Part: Grievance Hearing

The second part of the Participant's Grievance Process is a Grievance Hearing.

6.7.1 Selecting A Hearing Officer

THA will appoint a Hearing Officer at THA's expense. The Hearing Officer shall be an attorney.

6.7.2 *If Party Does Not Show Up*

If either the Participant or THA fails to appear at a scheduled Grievance Hearing, the Hearing Officer may postpone the Hearing for up to seven (7) calendar days. In deciding whether or for how long to postpone the hearing in an eviction case, the Hearing Officer will consider the seriousness of the alleged violations and the risk they present to the health and safety of others and the property.

Alternatively, the Hearing Officer may decide that the non-appearing party has waived the right to appear at the Grievance Hearing and on those grounds dismiss the Grievance or grant its requested relief. If that happens, both the Participant and THA will be notified of the Hearing Officer's decision.

The decision whether to postpone the Grievance Hearing or to consider the failure to appear to be a waiver will be made in the Hearing Officer's sole discretion. In exercising that discretion, the Hearing Officer will consider whether the non-appearing party can show good cause for failing to appear.

6.7.3 *Grievance Hearing Process*

The Hearing process will provide the Parties with basic safeguards of due process. This means the following:

- (1) Adequate Notice
Required notices to the Participant will be clear and timely.
- (2) Discovery by Participant
Before the Grievance Hearing, the Participant may ask THA to examine all documents, records, and regulations in THA's possession

directly relevant to the Grievance. Upon such a request, THA will give the Participant a reasonable chance to do that. Participant may copy any such document at Participant's expense.

THA may not use any document at the Grievance Hearing that it did not make available to the Participant for examination upon the Participant's request.

(3) Discovery by THA

Before the Grievance Hearing, THA may ask the Participant to examine at THA's offices any Participant documents and records that are directly relevant to the Grievance. THA is allowed at its own expense to copy any such document. If the Participant does not make a document available for this examination, the Participant may not rely on the document at the Grievance Hearing.

(4) Hearings are Private

The Grievance Hearing will not be open to the public.

(5) Right to Present Evidence

Either party has the right to present evidence and arguments, to dispute evidence, and to question and cross-examine all witnesses who present evidence at the hearing.

(6) Informal Admission of Evidence

The Hearing Officer may hear evidence pertinent to the facts and issues raised by the Grievance, even if the evidence would be inadmissible in court or other judicial proceeding.

(7) Decision Based Only on Evidence

To the extent that a determination requires the Hearing Officer to judge disputed facts, the Hearing Officer shall make that judgment based solely upon the evidence presented at the Grievance Hearing and facts amenable to judicial notice because they are commonly known.

(8) Initial Burden of Presentation; Burden of Justification; Burden of Proof

At the Grievance Hearing, the Participant must first show an entitlement to the relief sought. Thereafter THA must sustain the burden of justifying its action or failure to act.

The Hearing Officer shall determine any disputed fact by a preponderance of the evidence.

(9) Informality and Order

The Hearing Officer will conduct the Grievance Hearing in a manner that should allow reasonable persons to meaningfully participate.

The Hearing Officer will require all parties, witnesses, and others in attendance to behave in an orderly way. Failure to comply with the directions of the Hearing Officer to keep order may result in exclusion from the proceedings and/or in a decision granting or denying the relief sought, as appropriate in the Hearing Officer's sole discretion.

(10) Hearing Transcript and Recording

The Participant or THA may arrange for a transcript of the Grievance Hearing. The party wishing to do this must, in advance, tell the other party and the Hearing Officer. The party wishing to do this is responsible for

making the arrangement for it, and paying for it. Any interested party may buy a copy of the transcript. If the transcript is not available to all parties on those terms, it may not be used for any purpose.

Either party may also request, in advance of the Grievance Hearing, that the Hearing be recorded over audio. If such a request is made, THA will make an audio recording of the Grievance Hearing. THA will provide the Participant with a copy of an audio recording so long as the Participant pays for the expense of reproducing the recording.

(11) Written Decision

The Hearing Officer will prepare a written decision within seven (7) calendar days after the Grievance Hearing; provided that in cases based upon criminal conduct that presents a serious threat to the health and safety of others or to the property the Hearing Officer may accelerate the issuance of the written decision at THA request or in the Hearing Officer's discretion.

The decision is titled "Notice of Final Decision." The written decision will briefly state the reasons for the decision. Both the Participant and THA will receive a copy promptly. THA will place a copy in the Participant's file as well as in a separate Grievance Hearing file.

Once the Hearing Officer has issued a final decision, the Grievance Process is complete, and the decision is final (except in the circumstances described in Section 6.7.4 below).

any rights to an action or defense in court or to any judicial review.

6.7.4 *Effect of Decision*

The decision of the Hearing Officer will be binding on THA unless, at THA's request, the THA Board of Commissioners reviews the decision and the Board determines within a reasonable time and promptly notifies the Participants in writing of its decision that:

- (1) the decision concerns a matter for which a Grievance Hearing is not required;
- (2) the Hearing Officer otherwise exceeded the authority of the Hearing Officer under THA's Hearing Process; or,
- (3) the decision of the Hearing Officer is contrary to (i) applicable federal, state or local laws; (ii) the United States Housing Act of 1937, as amended; (iii) Department of Housing and Urban Development regulations and requirements; (iv) THA's own regulations and policies; or (v) the Annual Contributions Contract in effect on the date of the Hearing.

Any notification to the Participant of a decision that the Hearing Officer's decision is not binding must include the reasons for the Board's decision.

A decision by a Hearing Officer that denies the relief requested by the Participant in whole or in part – or a decision by THA's Board of Commissioners under this section – will not constitute the Participant's waiver of

7. MISCELLEANOUS

7.1 Reasonable Accommodation of Persons with Disabilities

Pursuant to THA Policy XXX, THA will provide reasonable accommodation to Participants/ Applicants with disabilities to allow their participation in the Grievance Process.

7.2 English Language Learners

Pursuant to THA Policy XXX, THA will provide translation and interpretation services for Participant/Applicants who may require these services to participate in the Grievance Process.

7.3 Nonwaiver of Violations

THA's acceptance of Participant's rent payments following the service of a termination notice or during the time the Grievance Process is ongoing does not constitute THA's waiver of any violation by the Participant of obligations under the lease, contract or law.