

**GRIEVANCE PROCEDURES POLICY
FOR PUBLIC HOUSING AND SECTION 8 PROPERTIES, OWNED BY
FRANKLIN COUNTY CONSOLIDATED HOUSING AUTHORITY**

1. PURPOSE AND SCOPE

The purpose of these procedures and requirements is to set forth the requirements, standards and criteria for residents of Public Housing and Section 8 Programs of Franklin County Consolidated Housing Authority (FCCHA) to be afforded an opportunity of a hearing. A hearing may be held if the resident disputes within a reasonable time any FCCHA action or failure to act involving the resident's lease with FCCHA or regulations which adversely affect the individual resident's rights, duties, welfare or status. The grievance procedure provided herein shall be incorporated in each individual resident's lease.

2. APPLICABILITY

- A. This grievance procedure shall be applicable to all individual grievances of residents of Public Housing and Section 8 Programs of FCCHA defined herein under the hearing-definitions.
- B. This grievance procedure shall not be applicable to disputes between residents not involving FCCHA, class grievances, or to any property owned by FCCHA other than Public Housing and Section 8 Programs. This grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group of residents and FCCHA's Board of Commissioners.

3. DEFINITIONS

The following definitions are applicable to the grievance procedures and requirements herein:

- A. "Resident" shall mean the adult person (or persons) other than a live-in aide:
 - 1) who resides in the unit and who executed the lease with FCCHA as lessee of the dwelling unit, or;
 - 2) who resides in the unit and, who is the remaining head of household of the resident family residing in the dwelling unit.

B. "Grievance" shall mean any dispute which a resident may have with respect to FCCHA action or failure to act in accordance with the individual resident's lease or

FCCHA regulations which adversely affect the individual resident's rights, duties, welfare or status except an eviction or termination of tenancy based upon:

- 1) any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of FCCHA, or
- 2) any drug-related or violent criminal activity on or off FCCHA premises, or
- 3) any activity that resulted in a felony conviction of a household member.

C. "Complainant" shall mean any resident whose grievance is presented to FCCHA in accordance with the paragraphs headed "Informal Settlement of Grievance" and "Procedures to Obtain a Formal Hearing: Public Housing Only" herein.

D. "Hearing Officer" shall be the Executive Director or an appointed designee.

E. "Public Housing" is Housing which is governed by an Annual Contributions Contract.

F. "Section 8 Housing" is Housing with project-based Section 8 New Construction Assistance.

4. INFORMAL SETTLEMENT OF GRIEVANCE

Any grievance shall be personally presented, whether orally or in writing (*no telephone calls accepted*), to the FCCHA office so that the grievance may be discussed informally and settled without a hearing within ten (10) calendar days from either the hand delivered notification to the resident or the day after the date the notice is mailed. A summary of such discussion shall be prepared within five (5) calendar days of the date of discussion and one copy shall be given to the resident and one copy retained in the resident's file. The summary shall specify:

- A. The names of the participants;
- B. Date and time of meetings;
- C. Nature of the complaint and proposed disposition of the complainant and specific reasons therefore;
- D. Public Housing Only: The procedure by which a formal hearing may be obtained if the complainant is not satisfied.

5. PROCEDURE TO OBTAIN A FORMAL HEARING: PUBLIC HOUSING ONLY

A. Request for Formal Hearing – The complainant shall submit a written request for a hearing to the FCCHA office within seven (7) calendar days of the postmark on the envelope in which the informal summary discussion was mailed pursuant to paragraph 4 above. The written response shall specify:

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

B. Failure to Request a Hearing – If the complainant does not request a hearing in accordance with paragraph 5A, then FCCHA's disposition of the grievance under "The Informal Settlement of Grievance" shall become final. Failure to request a hearing shall not constitute a waiver by the complainant of their rights thereafter to contest FCCHA's action in disposing of the complaint in an appropriate judicial proceeding.

C. Hearing Prerequisite – All grievances shall be personally presented either orally or in writing pursuant to the informal procedure prescribed in paragraph 4 before a formal hearing. If the complainant shall show good cause why they failed to proceed in accordance with paragraph 5A to the Hearing Officer, the provision of this subsection may be waived.

D. Escrow Deposit – Before a hearing is scheduled in any grievance involving the amount of rent which FCCHA claims is due, the complainant must pay an escrow deposit to the FCCHA office. The amount is equal to the amount due and payable as of the first of the month preceding the month in which the act or failure to act took place. The complainant must thereafter deposit the same amount of the rent in an escrow account monthly until the complaint is resolved by the decision of the Hearing Officer or the designated representative. These requirements may be waived by FCCHA in extenuating circumstances. Unless so waived, the failure to make such payments will result in a termination of the grievance procedure provided. Failure to make payment shall not constitute a waiver of the right the complainant may have to contest the FCCHA's disposition of their grievance in an appropriate judicial proceeding.

E. Scheduling of Hearings – Upon complainant's compliance with paragraphs 5A, C, and D above, a hearing will be scheduled promptly by the Hearing Officer or the designated representative for a time and place reasonably convenient to both the complainant and FCCHA. A written notification specifying the time, place and the procedures governing the hearing will be delivered to the complainant.

6. PROCEDURES GOVERNING THE HEARING: PUBLIC HOUSING ONLY

A. The hearing shall be held before the Hearing Officer or the designated representative as scheduled.

B. The complainant will be afforded a fair hearing providing the basic safeguards of due process which shall include:

1) The opportunity to examine before the hearing any documents including records and regulations that are directly relevant to the hearing. The Complainant may copy all documents, records and regulations of FCCHA that are relevant to the hearing at the expense of the complainant. Any document not made available, after requested by the complainant, may not be relied on by FCCHA at the hearing;

2) The right to be represented by counsel or other persons chosen as their 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 or her complaint, to controvert evidence relied on by FCCHA, and to confront and cross-examine all witnesses on whose testimony or information that FCCHA relies; and,

5) A decision based solely and exclusively upon the facts presented at the hearing.

C. The Hearing Officer or the designated representative may render a decision without proceeding with the hearing if the Hearing Officer or the designated representative determines that the issue has been previously decided in another proceeding.

D. If the complainant or FCCHA fails to appear at a scheduled hearing, the Hearing Officer or the designated representative may make a determination to postpone the hearing, not to exceed five business days, or may make a determination that the party has waived their right to a hearing. Both the complainant and FCCHA shall be notified of the determination by the Hearing Officer or the designated representative. A determination that the complainant has waived their right to a hearing shall not constitute a waiver of any right the complainant may have to contest FCCHA's disposition of the grievance in an appropriate judicial proceeding.

E. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter FCCHA must sustain the burden of justifying FCCHA's actions or failure to act against which the complaint is directed.

F. The hearing shall be conducted informally by the Hearing Officer or the designated representative and oral or documentary evidence pertinent to the facts and issues raised by the complainant may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Officer or the designated representative shall require FCCHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer or the designated representative 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.

G. The complainant or FCCHA may arrange, in advance and at the expense of the party making the arrangements, for a transcript of the hearing. Any interested party may purchase a copy of such transcript.

H. FCCHA will provide reasonable accommodations for persons with disabilities to participate in the hearing.

I. FCCHA will comply with regulations dealing with Limited English Proficiency.

7. DECISION OF THE HEARING OFFICER OR THE DESIGNATED REPRESENTATIVE

A. The Hearing Officer or the designated representative shall prepare a written decision, together with the reasons therefore, within five (5) calendar days after the hearing. A copy of the decision shall be sent to the complainant and a copy will be filed in the complainant's file. FCCHA will maintain a log of all hearing officer decisions and make it available for inspection by a prospective complainant, their representative, or the Hearing Officer or designated representative.

B. The decision of the Hearing Officer or the designated representative shall be binding on FCCHA which shall take all actions necessary to carry out the decision unless the FCCHA Board of Commissioners determines and notifies the complainant within five (5) calendar days thereafter, that:

1) The grievance does not concern FCCHA action or failure to act in accordance with or involving the complainant's lease or FCCHA regulations which adversely affect the complainant's rights, duties, welfare or status; or

2) The decision of the Hearing Officer or the designated representative is contrary to applicable Federal, State or Local Law, HUD regulations or

requirements of the annual contributions contract between HUD and the FCCHA.

C. A decision by the Hearing Officer or the designated representative, or Board of Commissioners in favor of FCCHA which denies the relief requested by the complainant in whole or in part shall not constitute a waiver of, nor affect in any manner whatever, 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.

8. NOTICES

All notices under this grievance procedure shall be deemed delivered:

- 1) upon personal service thereof upon the complainant or an adult member of the complainant's household; or
- 2) upon the date accepted or refused by the addressee, in the case of certified or registered U.S. Mail; or
- 3) on the second day after the deposit thereof for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail.

9. ADMINISTRATIVE PROCEDURES

A. FCCHA will provide notice to residents, at a minimum of thirty (30) calendar days, setting forth proposed changes in the FCCHA grievance procedure policy and provide an opportunity to present written comments. Comments submitted to FCCHA will be considered before adoption of any grievance procedure changes.

B. FCCHA will furnish a copy of the grievance procedure policy to each resident.