APPENDIX J: GRIEVANCE PROCEDURES

The grievance procedure is an administrative remedy, prescribed by HUD to the Housing Authority of Dry Ridge (hereinafter referred to as PHA), to ensure adequate due process regarding adverse actions against public housing resident.

A. Purpose and Scope

1. The purpose of the grievance procedures is to assure that the residents are afforded an opportunity for a hearing, if the resident disputes within a reasonable time, any PHA action or failure to act, involving the resident's lease, or PHA regulations which adversely affect the individual resident's right's, duties, welfare, or status, including, but not limited to:
   a. Community Service and Self-Sufficiency Requirements.
   b. Minimum rent hardship exemptions.
   c. Income changes resulting from welfare program requirements.
   d. Improper disclosure or inappropriate use of information obtained by the PHA through criminal records, sex offender registration records, drug abuse treatment facility records and domestic violence records.
2. The grievance procedure shall be applicable to all individual grievances as defined herein.
3. The PHA will furnish a copy of the grievance procedure to each tenant and to resident organizations.

B. Governing Law

The law governing this grievance procedure is Section 6 (K) of the U.S. Housing Act of 1937 (42 U.S.C. sec. 1437d(k)) and subpart B of 24 CFR part 966 (24 CFR secs. 966.50-966.57).

C. Definitions

The following definitions of terms shall be applicable to this grievance procedure:

1. *Grievance*: Any dispute which a resident may have with respect to an action or a failure to act by the PHA in accordance with the individual resident's lease or PHA regulations, which adversely affects the individual resident's rights, duties, welfare or status.
2. *Complainant*: Any resident whose grievance is presented to the PHA or at the project management office in accordance with the requirements set forth in this procedure.
3. *Elements of Due Process*: An eviction action or termination of tenancy in a state or local court in which the following procedural safeguards are required:
   a. Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;
   b. Right of the resident to be represented by counsel;

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c. Opportunity for the resident 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 resident may have; and

d. A decision on the merits.

4. *Expedited Grievance: The procedure established by the PHA for any grievance concerning a termination of tenancy or eviction that involves:*

   a. Any criminal activity that threatens the health, safety and right to peaceful enjoyment of the PHA's public housing premises by other residents or employees of the PHA; or

   b. Any drug-related or violent criminal activity on or off PHA premises.

5. *Hearing Officer or Hearing Panel*: An impartial person or persons selected by the PHA, other than the person who made or approved the decision under review, or a subordinate of that person. Such individual or individuals do not need legal training.

6. *Resident organization*: An organization of residents, which includes any resident management corporation.

7. *Resident*: The adult person (or persons) other than a live-in aide:

   a. Who resides in the unit and who executed the lease with the PHA as lessee of the dwelling unit, or, if no such persons reside in the unit;

   b. The person who resides in the unit, and who is the remaining head of the household of the resident family residing in the dwelling unit.

D. Incorporation in Lease

This grievance procedure shall be included in, or incorporated by reference in, all leases between the residents and the PHA.

E. Exceptions

These procedures are applicable to all individual grievances, as defined in Section C of this Policy, between the resident and the PHA with the following exceptions:

1. The PHA's grievance procedures are not applicable to disputes between residents not involving the PHA, or to class grievances.

2. The grievance procedures are not intended as a forum for initiating or negotiating policy changes between a group or groups of residents and the PHA's Board of Commissioners; and

3. Due Process Determination

   a. A determination by HUD that law of the jurisdiction requires that the resident must be given the opportunity for a hearing in court which provides the basic elements of due process before eviction from the unit. If HUD has issued a due process determination,

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the PHA may exclude from the PHA's administrative grievance procedure any grievance concerning a termination of tenancy or eviction that involves:

1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents or employees of PHA; or

2) Any violent or drug-related criminal activity on or off such premises; or

3) Any criminal activity that resulted in felony conviction of a household member.

b. HUD will publish in the Federal Register a notice listing the judicial eviction procedures for which HUD has issued a due process determination.

c. HUD will make available for public inspection and copying a copy of the legal analysis on which the determinations are based.

d. If HUD has issued a due process determination, the PHA may evict the occupants of the unit through the judicial eviction procedures which are the subject of the determination.

e. In this case, the PHA is not required to provide the opportunity for a grievance hearing under the PHA's administrative grievance procedure.

f. Kentucky has been determined to be a due process state.

4. Improper use of or disclosure of information obtained by the PHA through criminal records, sex offender registration records, and drug abuse treatment facility records, may be the subject of a grievance by a complainant of the PHA.

F. Grievance Process

Grievances shall be personally presented, either orally or in writing, to the PHA's central office, or to the office of the development in which the complainant resides.

Except as stated above, the PHA's procedures shall afford each resident an opportunity for a hearing on a grievance, in accordance with the requirements, standards, and criteria contained in these procedures, with such modifications as are required by state law.

1. Informal Settlement of Grievance

The primary objective of this process is to informally discuss and settle the grievance at the lowest level and as quickly as possible without a hearing.

a. The PHA will review the grievance to:

1) Ensure that the grievance can be appropriately address during the grievance process.

2) Ensure the grievance is referred to the appropriate department or office responsible for the matter being grieved.

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3) Ensure the PHA is correctly handling disputes that differ from PHA operations, such as allegations of discrimination or harassment.

4) Inform the complainant may attend with a representative at their discretion and expense.

b. The PHA will prepare a summary of such discussion within five (5) calendar days.

c. A copy of the summary of such discussion will be given to the resident and one shall be retained in the PHA's resident file. The summary of discussion will specify:

1) The names of the participants,

2) Date(s) of the meeting(s),

3) The nature of the proposed disposition of the complainant and the specific reasons therefore,

4) The rights of the complainant to a grievance hearing, and

5) The procedures by which a grievance hearing may be obtained if the complainant is not satisfied with the outcome of the informal discussion.

d. The PHA shall specifically include notice to the complainant of the following:

1) The time limit to request a grievance hearing;

2) The grievance hearing will be heard by a hearing officer and the procedures for selecting the hearing officer;

3) What specifically must be included in the complainant's request for a grievance hearing;

4) If the complainant fails to request a hearing within the required time period five (5) calendar days after receiving the summary, the PHA's decision rendered at the Informal Settlement conference becomes final. However, the complainant does not waive the right to contest the PHA's action in an appropriate judicial proceeding;

5) The complainant's rights to be represented by counsel or other representative at the grievance hearing; and

6) The complainant requesting a hearing has a right to examine any PHA documents relevant to the hearing, including records and regulations. The complainant shall be allowed to obtain a copy from the PHA of any such documentation at the complainant's expense.

2. Procedures to Obtain a Grievance Hearing

A grievance hearing must be held before a hearing officer.

a. Request for a Grievance Hearing:

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1) The complainant shall submit a written or oral request for a hearing to the PHA, or to the development office, within five (5) calendar days after receipt of the written summary of the Informal Settlement conference.

2) The written request shall specify:

a) The reasons for the grievance;

b) The action or relief sought;

c) The complainant's statement setting forth the times at which the complainant will be available for a hearing during the next five (5) calendar days;

d) Complainant's preference, if any, concerning whether the grievance should be heard by the hearing officer.

b. If the complainant fails to request a hearing within five (5) calendar days after receiving the written summary of the Informal Settlement conference, the PHA's decision rendered at the Informal Settlement conference becomes final and the PHA is not thereafter obligated to offer the complainant a hearing.

c. Should the complainant fail to request a hearing, such failure shall not constitute a waiver by the complainant of his/her right thereafter to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

G. Expedited Grievance Procedures

In states without due process determinations, the PHA has established an expedited grievance procedure for any grievance concerning a termination of tenancy or eviction that involves:

1. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the PHA's premises by other residents or employees of the PHA; or
2. Any drug-related or violent criminal activity on or off such premises.
3. Any criminal activity that resulted in felony conviction of a household member.

   Note: In the case of a grievance under the expedited grievance procedure, Informal Settlement of Grievance is not applicable.

4. Request for a Grievance Hearing:

   a. The complainant shall submit a written request for a hearing to the PHA or to the development office within five (5) calendar days of the written notice of lease termination.

   b. The written request shall specify:

      1) The reasons for the grievance;

      2) The action or relief sought.

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c. The PHA will not consider grievances received after this timeframe.

1) The PHA's decision becomes final and the PHA is not thereafter obligated to offer the complainant another request for a grievance.

2) Should the complainant fail to request an expedited grievance or fail to request the expedited grievance timely, such failure shall not constitute a waiver by the complainant of his/her right thereafter to contest the PHA's action in disposing of the complaint in an appropriate judicial proceeding.

5. Scheduling, Conducting and the Decision of the Hearing for Expedited Grievance

a. The hearing officer will give scheduling priority to expedited grievances and will promptly schedule a hearing within 10 business days of receiving the request for a hearing.

b. The hearing officer shall conduct the expedited hearing in accordance with these Grievance Procedures.

c. The hearing officer shall prepare a written decision, together with the reasons therefore, within 10 business days after the hearing.

H. Selection of Hearing Officer

1. Grievances shall be presented before the hearing officer.

The hearing officer shall be an impartial, disinterested person selected by the PHA. The hearing officer shall not be:

a. The person who made or approved the decision,

b. A subordinate of the person who made or approved the decision, or

c. A member of the PHA Board of Commissioners.

I. Hearing Process

All grievances shall be personally presented, either orally or in writing, pursuant to the informal procedure prescribed in the paragraph on Informal Settlement of Grievance as a condition precedent to a hearing under this section.

1. Scheduling Hearings

a. The hearing officer shall promptly schedule the hearing, for a time and place reasonably convenient to both the complainant and the PHA, upon the complainant's compliance with the above requirements.

b. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant and the appropriate PHA official.

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c. The hearing may be conducted in person or through electronic communications such as teleconference or web meetings.

2. Failure to Appear

a. 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 a period not to exceed 10 business days or may make a determination that the party has waived his or her right to a hearing.

b. The hearing officer will notify both the complainant and the PHA of the determination.

c. A determination that the complainant has waived his or her right to a hearing shall 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.

3. Conducting the Hearing

The hearing shall be conducted informally by the hearing officer.

a. At the hearing, the complainant must first make a showing of an entitlement to the relief sought.

b. The PHA must sustain the burden of justifying the PHA's action or failure to act against which the complaint is directed.

c. The complainant shall be afforded a fair hearing providing the basic safeguards of due process, which include the following:

1) The opportunity to examine documents before the grievance hearing, and to copy, at the complainant's expense, all documents, records, and regulations of the PHA that are relevant to the hearing at the expense of the complainant.

2) Any requested document not made available to the complainant may not be relied on by the PHA at the grievance hearing.

d. The right to be represented by counsel or another person chosen as the complainant's representative and to have such person make statements on the complainant's behalf.

e. The right to a private hearing, unless the complainant requests a public hearing.

f. The right to present evidence and arguments in support of the complainant's complaint, to controvert evidence relied on by the PHA or development management, and to confront and cross examine all witnesses on whose testimony or information the PHA or development management relies.

g. 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.

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h. The hearing officer shall require the PHA, the complainant, legal counsel, and other participants or spectators to conduct themselves in an orderly fashion. 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.

i. A decision based solely and exclusively upon the facts presented at the grievance hearing.

J. Transcript

1. 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.
2. Any interested party may purchase a copy of such a transcript.

K. Decision of the Hearing Officer

The hearing officer or hearing panel will prepare a written decision, with the reasons therefore, within a reasonable time after the hearing (usually within 10 business days).

1. A copy of the decision shall be sent to the complainant and the PHA.
2. The PHA will retain a copy of the decision in the complainant's folder.
3. The PHA will maintain a log of all hearing officer decisions and make it available upon request of the hearing officer, a prospective complainant, or a prospective complainant's representative. At a minimum, the log must include:
   a. The date of the hearing decision,
   b. The general reason for the grievance hearing (failure to pay rent, CSSR noncompliance, etc.), and
   c. Whether the decision was in the favor of the complainant or the PHA
4. The decision of the hearing officer will be binding on the PHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision, unless the Board of Commissioners determines, within 10 business days, and promptly notifies the complainant of its determination, that:
   a. The grievance does not concern PHA action or failure to act in accordance with or involving the complainant's lease or PHA regulations, which adversely affect the complainant's rights, duties, welfare, or status; and
   b. The decision of the hearing officer is contrary to applicable federal, state, or local law, HUD regulations, or requirements of the ACC between HUD and the PHA.
5. A decision by the hearing officer or Board of Commissioners in favor of the PHA's action or failure to act, or a decision that denies the relief requested in whole or in part, does not waive the complainant's rights to a subsequent trial or judicial review.

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L. Notification

Any notice to the complainant will be in writing.

1. PHA Notices

   Notices under this grievance procedure shall be deemed delivered:

   a. Upon delivery to the complainant or to an adult member (18 years of age or older) of the complainant's household; or

   b. Sent by prepaid first-class mail properly addressed to the complainant.

2. Concurrent Notice

   Notices to the PHA shall be in writing, delivered to the project office or the PHA central office or sent by prepaid first-class mail properly addressed.

   a. If a complainant has filed a request for grievance hearing in a case involving the PHA's notice of termination of tenancy, the complainant should be aware that the state law notice to vacate and the notice of termination of tenancy required under federal law can run concurrently.

   b. If the hearing officer upholds the PHA's action to terminate the tenancy, the PHA may commence an eviction action in court by the later of:

      1) The expiration of the date for termination of tenancy and vacation of premises stated in the delivered termination notice, or

      2) The delivery of the report of decision of the hearing officer to complainant.

M. Accommodation to Persons with Disabilities

1. The PHA will provide reasonable accommodation for persons with disabilities throughout the grievance process.

2. This includes, but is not limited to, accommodating individuals with disabilities by accepting grievances at alternate sites or by mail, having PHA staff reduce an oral request for a grievance to writing for a tenant with a disability who cannot write due to the disability, and providing accommodations in the grievance hearing itself by providing qualified sign language interpreters, readers, accessible locations, or attendants.

N. Effective Communications

The PHA will take appropriate steps to ensure effective communication during the grievance process for families that includes persons with disabilities or persons with Limited English Proficiency.

1. If the complainant is visually impaired, any notice to the complainant which is required must be in an accessible format.

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2. Limited English Proficiency

   The PHA will comply with HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" issued on January 22, 2007.

O. Modifications

This grievance procedure may not be amended or modified except by approval of a majority of the Board of Commissioners of the PHA, present at a regular meeting or a special meeting called for such purposes.

1. The PHA must provide at least 30 days' advance notice to residents and resident organizations of any changes proposed to be made to this grievance procedure, setting forth the proposed changes and providing an opportunity to present written comments.
2. The PHA shall consider any comments submitted before final adoption of any amendments.

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