

The McKean County Housing Authority (MCHA) Grievance Policy

Grievance Procedure

The McKean County Housing Authority (“MCHA”) has put a grievance procedure in place through which residents of its Public Housing are provided an opportunity to grieve any MCHA action or failure to act involving the lease or MCHA policies which adversely affect their rights, duties, welfare, or status.

The grievance procedure will be posted for review in the lobby of the management office (11 Campus Drive, Bradford, PA 16701; & 415 W. Main Street, Suite 1, Smethport, PA 16749) and will be provided at the time of move-in and incorporated by reference in the tenant lease.

1. STATEMENT OF PURPOSE AND SCOPE

This Policy sets forth the requirements, standards and criteria for a grievance procedure to assure that an MCHA tenant is afforded an opportunity for a hearing if the tenant disputes within a reasonable time any MCHA action or failure to act involving the tenant’s lease with MCHA or regulations which adversely affect the individual tenant’s rights, duties, welfare or status.

APPLICABILITY

Potential grievances will address most aspects of MCHA’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 MCHA. It is not applicable to disputes between tenants not involving MCHA. 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.

MCHA may evict a tenant through the state/local judicial eviction procedures without providing the opportunity for a hearing under this grievance procedure in certain circumstances described below:

- Any criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of MCHA
- Any violent or drug-related criminal activity on or off such premises
- Any criminal activity that resulted in felony conviction of a household member

2. DEFINITIONS

There are several terms used in this grievance policy, which take on specific meanings:

- **Grievance** – any dispute which a tenant may have with respect to an MCHA action or failure to act in accordance with the individual tenant’s lease or regulations which adversely affect the individual tenant’s rights, duties, welfare or status.

- **Complainant** – any applicant or tenant whose grievance is presented to MCHA or at the project management office.
- **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;
 - Adequate notice to the tenant of the grounds for terminating the tenancy and for eviction;
 - Right to examine documents directly relevant to the case;
 - Right of the tenant to be represented by counsel;
 - Opportunity for the tenant to refute the evidence presented by MCHA 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/Panel** – a person/panel selected in accordance with HUD regulations to hear grievances and render a decision with respect thereto.
- **Tenant** – the adult person (or persons) (other than a live-in aide)
 - Who resides in the unit, and who executed the lease with MCHA 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.
- **Applicant** – the adult person (or persons) (other than a live-in aide)
 - Who applied for housing assistance.

3. SELECTION OF HEARING OFFICER

A grievance hearing shall be conducted by an impartial person or person appointed by MCHA, other than a person who made or approved the action under review or a subordinate of such person.

4. FAIR HOUSING OFFICER

The following has been appointed as the Fair Housing Officer: Alcherrie Williams, Executive Director, McKean County Housing Authority, 415. W. Main Street, Smethport, PA 16749, (814) 887-5563; aawilliams@mcrha.org

5. PROCEDURES

MCHA's grievance procedure, which is described in more detail below, will generally include (a) written notice of adverse decision, (b) informal settlement meeting with property manager, and (c) grievance hearing before hearing officer:

- a. An adverse decision will be conveyed in writing, advise the tenant of the right to request an informal settlement meeting, and include a form for requesting an informal settlement meeting.
 - i. A tenant will have 10 days to request an informal settlement meeting with the Property Manager.
- b. An initial informal settlement meeting with the Property Manager.
 - i. The informal settlement meeting should take place within 7 days of the date the tenant's request is received.
 - ii. The informal settlement meeting will typically take place in the office of the Property Manager.
 - iii. After the informal settlement meeting, a written summary of discussion will be prepared within 10 business days.
 - iv. A copy of the written summary will be given to the tenant and one retained in the tenant's file.
 - v. The written summary will specify the names of the participants, date(s) of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and specify the procedures by which a hearing may be obtained if the complainant is not satisfied.
 - vi. After receiving the written summary, the tenant may submit a written request for a hearing to MCHA within 10 business days after receipt of the summary of discussion.
 - i. A request for grievance hearing must be in writing and specify:
 1. The reason for the grievance; and
 2. The action or relief sought.
- c. If the complainant does not request a grievance hearing in writing, then MCHA's disposition of the grievance will become final.
- d. If a tenant does request a grievance hearing in writing, then the following procedure will be followed:
 - i. Before the hearing.
 1. MCHA will confirm that the informal settlement meeting took place, or determine whether there is good cause why it did not take place.

NOTE: If the informal settlement meeting did not take place and there is no good cause why it did not take place, the tenant is not entitled to a grievance hearing.

2. MCHA will collect an appropriate escrow payment.

NOTE: MCHA may waive the escrow requirement for hardship.

3. If the requirements related to informal hearing, written request, and escrows are satisfied, then MCHA will promptly schedule a grievance hearing.

NOTE: A grievance hearing may be expedited under certain circumstances.

4. A scheduling letter will notify the Complainant of the date, time, and place for a hearing and advise the tenant that:
 - a. Relevant documents are available for examination.
 - b. Complainant has right to counsel.
 - c. Complainant has the right to a private hearing.
 - d. Complainant has the right to present evidence and argument, controvert evidence, and cross-examine all witnesses on whom MCHA or the property manager rely and present any affirmative legal or equitable defense that the tenant may have.
 - e. The grievance hearing shall be conducted informally.
 - f. Complainant must make a showing that he or she is entitled to relief.

ii. Hearing Procedures

1. If tenant fails to appear, the hearing officer may postpone the hearing or determine that tenant has waived his rights.
2. If both parties appear, the Hearing Officer will conduct the hearing in a manner that provides for the rights set forth in the preceding section.

iii. After the hearing.

1. The Hearing Officer will issue a decision based solely and exclusively on the evidence presented at the hearing.
2. A written decision will state the decision and the reasons for the decision.
3. The tenant does not waive his right to a trial *de novo* or judicial review by participating in the grievance process.

iv. The Hearing Officer's decision is binding on MCHA unless the MCHA Board of Directors determines, and notifies the complainant of its determination,

that: 1) the grievance does not concern an MCHA action or failure to act in accordance with or involving the Complainant's lease or MCHA regulations, which adversely affect the Complainant's rights, duties, welfare or status; or 2) the decision of the Hearing Officer or hearing panel is contrary to applicable Federal, State or local law, HUD regulations or requirements of the annual HAP contract.

APPENDIX OF FORMS

1. Notice of Adverse Action
2. Informal Settlement Meeting
3. Summary & Decision of Informal Settlement Meeting
4. Procedure and Grievance Hearing Request Form
5. Scheduling Letter (for grievance hearing)
6. Grievance Hearing Decision

I have read, had explained, understand, and received a copy of Grievance Policy.

Agent

Date

Head of Household

Date

Other Adult

Date

Other Adult

Date

NOTICE OF ADVERSE ACTION

(To be sent at least 10 calendar days before the proposed action)

I. This is to advise you that the following action will be taken against you : Termination of Tenancy; eviction from unit.

II. The reason for the action is as follows [*including who, what, when, where, and why, in terms of the action – and the relevant regulatory, statutory, lease or other reference*]:

Serious or repeated violation of the material terms of your lease which are as follows:

XI. TENANT'S OBLIGATIONS Tenant shall be obligated to the following, which are deemed material conditions of this Lease: **G. To ensure that the Tenant, members of his or her household, guests, or other persons who are on the Unit with Tenant's consent, conduct themselves in a manner which will: 2. Be conducive to maintaining all Authority properties in a decent, safe, and sanitary condition. M.**

To keep the Unit and such other areas as may be assigned to the Tenant for his/her exclusive use in a clean and safe condition. This includes keeping front and rear entrances and walkways for the exclusive use of Tenant directly in front of the Unit free from hazards, trash, snow, and ice, and keeping the yard free from debris and litter. Exemptions to this requirement may be made for Tenants who have no household members able to perform such tasks because of age or disability. N.

To dispose of all ashes, garbage, rubbish, and other waste from the Unit in a sanitary and safe manner only in containers approved or provided by the Authority. To refrain from, and cause members of the Tenant's household or guest to refrain from, littering or leaving trash and debris in common areas.

III. If you wish to challenge this action, you have **ten (10) calendar days** from December 28, 2022 [date], to see your property manager and ask for an informal meeting. If you are not satisfied with the results of your informal meeting, then you may ask for a Grievance Hearing.

IV. **You may obtain additional copies of MCHA's Grievance Procedure from the property manager**, which procedure details the process for dispute and when this process is appropriate.

V. **Your counsel may assist you in responding to this Notice.**

VI. **You have the right to examine MCHA documents directly relevant to the termination or eviction;**

VII. **You have the opportunity to refute the evidence presented by MCHA**, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which you may have.

To be filled out by MCHA:

I _____ [your name] hereby attest that I either hand-delivered _____ [check if appropriate] or sent by first class mail _____ [check if appropriate], to _____ [name of person receiving the Notice] at the following address:

[address to which sent], a copy of this Notice on _____ [date].

Signature: _____

INFORMAL HEARING REQUEST FORM

This information must be submitted to the Property Manager or Office *within ten (10) calendar days of the date that the Notice of Adverse Action* was either mailed or hand-delivered (the date is on the Notice). This information is available upon request.

Your counsel may assist you in preparing this form.

Date: _____ Name: _____

Client ID: _____ Tel Number: _____

Unit Address: _____

Site Name: _____ Unit ID: _____

➡ **Please explain the reasons for your dispute and what you want MCHA to do (or not do):**

LEASE TERMINATION ISSUE: _____

If you have a disability that could affect your ability to participate at the grievance hearing, you have the right to request a reasonable accommodation. Please specify the type of assistance needed:

The hearing coordinator will notify you that: 1) the requested accommodation is granted and will be provided, 2) more information is required, or 3) the request is denied.

➡ **Client Signature:** _____ **Date:** _____

FOR MCHA USE ONLY: Date request received: _____;

Date request appv'd/denied: _____; Reason denied (applicable CFR or TSP section) _____; By: _____;

Signature: _____ Date: _____

INFORMAL SETTLEMENT HEARING NOTES

PROPERTY MANAGER'S NAME: _____ **Tel. No.** _____

I. Maintenance/Repair Issue(s):

Please summarize when you were first notified of the issue and what steps have been taken to address it, including the dates of any contact with maintenance, Work Order #s and follow-up actions:

II. Transfer Issues

Please summarize when you were first notified of this issue, whether you consider this to be a valid/verifiable request, whether you submitted the transfer request and any comments.

III. Rent Issues

When was the last recalculation performed? _____

Who conducted the recalculation? _____

What verifiable information was used for the recalculations? _____

If there is a change in the rent amount, what is the old amount? _____ New? _____

Other comments? _____

IV. Other Issues

V. Outcome of Meeting

Property Manager's Signature: _____ Date: _____

NOTE: If a Notice of Lease Termination has been issued against a tenant for this grievance request, please attach a copy of the Notice and all supporting documentation.

SUMMARY & DECISION OF INFORMAL SETTLEMENT MEETING

(To be sent by MCHA no later than 10 business days after the settlement meeting)

Date: _____

This is a Summary & Decision of the informal settlement meeting that was held on _____ (date), regarding the grievance/dispute that you presented on _____ (date that grievance was received). It also has MCHA's decision based on that meeting, the reasons for that decision and how to request a hearing, if you do not agree with MCHA's decision. **If you do not agree with this decision and wish for a grievance hearing – you must sign and return this form within 10 calendar days (as explained on page 2 of this form). Otherwise, this will be MCHA's final disposition and you will not be entitled to a grievance hearing.**

I. NAME AND ADDRESS OF TENANT:

II. SHORT DESCRIPTION OF GRIEVANCE/COMPLAINT:

III. PARTICIPANTS IN THE INFORMAL SETTLEMENT MEETING (with titles and whether present for MCHA or for the tenant).

IV. NAME AND TITLE OF PERSON WHO CONDUCTED THE MEETING:

V. MCHA's DECISION AND SUPPORTING REASONS:

To be filled out by MCHA:

If hand delivered:

Date that Summary was hand-delivered to the tenant: _____

Name of person who hand-delivered the Summary _____ and

Signature of Person who Hand-delivered the Summary _____

OR

If mailed:

Date that Summary was mailed by first-class mail to the tenant: _____

Name of person who mailed the Summary: _____

Signature of person who mailed the Summary: _____

PROCEDURE TO REQUEST A HEARING IF NOT SATISFIED WITH THIS DETERMINATION:

Within ten (10) calendar days of the date of mailing or hand-delivery of this Summary, you must sign and return this document to your property manager, or the decision of MCHA will be MCHA's final decision and you will not be allowed to have a grievance hearing (although you may proceed in court). A copy of this form, with your signature, shall be provided to you, upon request.

I, the tenant (check below, as applicable):

_____ do not agree with MCHA's decision and wish to have a grievance hearing;

_____ understand that I may, at my own expense, have legal counsel represent me at the hearing or appear with me and/or assist me with preparing for the hearing;

_____ understand that I have the right to examine MCHA documents directly relevant to the termination or eviction;

_____ understand that I have the opportunity to refute the evidence presented by MCHA, including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which I may have.

Signature: _____ Date: _____ Phone #: _____

Failure to request a hearing does not preclude you from exercising your right to contest MCHA's action in an appropriate judicial proceeding.

WITHDRAWAL OF GRIEVANCE as a result of the Informal Settlement Meeting:

I hereby agree to withdraw my grievance.

Signature: _____ Date: _____

GRIEVANCE HEARING REQUEST FORM

This information must be submitted to the Property Manager or Office *within ten (10) calendar days of the date that the Summary & Decision of Informal Settlement Meeting* was either mailed or hand-delivered (the date is on the Notice). This information is available upon request.

Your counsel may assist you in preparing this Form.

Date: _____ Name: _____

Client ID: _____ Tel Number: _____

Unit Address: _____

Site Name: _____ Unit ID: _____

➡ **Please explain the reasons for your dispute and what you want MCHA to do (or not do):**

LEASE TERMINATION ISSUE:

If you have a disability that could affect your ability to participate at the grievance hearing, you have the right to request a reasonable accommodation. Please specify the type of assistance needed:

The hearing coordinator will notify you that: 1) the requested accommodation is granted and will be provided, 2) more information is required, or 3) the request is denied.

➡ **Client Signature:** _____ **Date:** _____

FOR MCHA USE ONLY: Date request received: _____;

Date request appv'd/denied: _____; Reason denied (applicable CFR or TSP section) _____; By: _____;

Signature: _____ Date: _____

GRIEVANCE HEARING SCHEDULING LETTER

Date:

Complainant Name
Complainant Address
Complainant City, State, Zip

Dear Applicant/Tenant:

We are writing to let you know that we have received your request for a grievance hearing.

We have scheduled your grievance hearing with **Name of Hearing Officer**, on **Date of Hearing and Time**. The hearing will be held at **Location of Hearing**. At such time you must make a showing that you are entitled to relief.

You may have anyone accompany you at the hearing including counsel. Relevant documents are available for examination at your request. You have the right to present evidence and argument, controvert evidence, and cross-examine all witnesses on whom MCHA or the property manager rely and present any affirmative legal or equitable defense that you may have. In addition, you have the right to a private hearing which will be conducted informally.

If you have any questions regarding this letter, please contact our office at (814) 887-5563.

Sincerely,

Name of Hearing Officer
Title

GRIEVANCE HEARING DECISION

Hearing Date:

PARTIES:

[Name and address of Complainant] REPRESENTATIVES:

[Indicate whether pro se or represented and, if so, by whom, with name and address]

I. PROCEDURAL HISTORY

On _____, MCHA notified the tenant of its intended action to _____, effective _____ . The tenant filed a grievance in a timely manner and participated in an informal settlement conference on _____. The decision from that settlement meeting was _____. The tenant timely filed a confirmation of the request for a hearing, following receipt of the settlement meeting decision. MCHA then scheduled a hearing for _____, and gave notice of the hearing to the tenant on _____. The parties were provided with an opportunity to review documents identified in advance to be presented at the hearing.

II. ISSUES

[Brief neutral statement of the issues and laws, regulations and/or policies at issue]

III. HEARING SUMMARY

[Names of witnesses and summary of testimony – include a list of any exhibits admitted into evidence and made part of the hearing record].

IV. FINDINGS OF FACT and APPLICABLE AUTHORITIES

[Specify the facts found to be true by a preponderance of the evidence presented, any facts of which official notice was taken and the applicable HUD regulations, MCHA policies, portions of the lease or TSP and/or other relevant legal bases for the decision].

V. DECISION

[State the basis for the decision, what is to occur and what the decision is].

DATE: _____

Name of Grievance Hearing Officer: _____

Signature of Grievance Hearing Officer: _____

Name of Assistant Hearing Officer: _____

On _____, a copy of this hearing decision was sent by first class mail, postage prepaid, to the following:

[name and address of complainant; officer's name and address]

****NOTICE TO THE PARTIES: If the tenant is not satisfied with the decision, an appeal may be filed in the McKean County Courts within thirty (30) calendar days of the date of this decision. Failure to file an appeal within the prescribed time may be deemed a waiver of rights.**