



**ZUNI HOUSING AUTHORITY
PARTICIPANT GRIEVANCE POLICY AND PROCEDURES**

Adopted by Resolution No. ZHA-20-02 on January 9, 2020

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**ZUNI HOUSING AUTHORITY
PARTICIPANT GRIEVANCE POLICY AND PROCEDURES**

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I. STATEMENT OF PURPOSE

The policy and procedures enacted herein supercede and rescind all previous participant and occupant grievance policies, procedures, and practice statements and are the official Participant Grievance Policy and Procedures (Policy) of the Zuni Housing Authority (ZHA). They are intended to standardize participant and occupant grievance procedures against ZHA, but do not apply to grievances arising out of ZHA's termination procedures. An Occupant's sole rights and remedies in termination actions are described in ZHA's Collection and Termination Policy and Procedure.

II. DEFINITIONS

The following definitions shall apply throughout this Policy:

A. "Adverse Action" means any of the following actions by ZHA concerning any Participant:

- 1.** A decision requiring Participant to move to another housing unit;
- 2.** A determination of rent, the amount of utility reimbursement, or the amount of other charges, due and/or payable to ZHA by Participant;
- 3.** A determination of the amount of Participant's rent, accompanied by the failure of ZHA to reexamine family income for more than one (1) year after the last examination or after receiving information concerning a change in family income or composition;
- 4.** A decision taking other specific, concrete, and affirmative individualized action contrary to Participant's interests; or
- 5.** A determination of the amount of the Participant's required monthly payment, the amount of charges by ZHA against the reserves and accounts of the Participant, or the settlement amounts upon termination of the Occupancy Document or purchase of the home by the Participant.
- 6.** "Adverse Action" does not include termination of an Occupancy Document, which is addressed in a separate policy.

7. "Adverse Action" also does not include ZHA's action or non-action concerning general policy issues or class grievances, including determinations of ZHA's schedules of allowances for Participant-purchased utilities and including determinations by ZHA of the administration charge.

B. "Grievance" means a complaint concerning any proposed or actual Adverse Action that affects the rights, duties, welfare, or status of Participant. Except as otherwise provided herein, all disputes arising out of ZHA's termination of an Occupancy Document shall be dealt with exclusively in the manner provided for and according to the procedures described in ZHA's Collection and Termination Policy and Procedure. No Participant shall have any right or recourse under this Policy to augment, supplement, or contradict termination of occupancy under the Collection and Termination Policy and Procedure.

C. "Hearing Officer" means one or more persons selected by ZHA to hear the Grievance. A Hearing Officer may not be the person who made or approved the decision under review, or a subordinate of such person. The term "Hearing Officer" as used herein may include a "Hearing Panel."

D. "Occupant" means any authorized Occupant in a U.S. Department of Housing and Urban Development (HUD)-assisted housing project operated by ZHA.

E. "Participant" means any person who participates in or applies for any program operated by ZHA, whose rights, duties, welfare, or status are or may be affected adversely by an Adverse Action, and who files a written Grievance with respect to such Adverse Action. Participant includes an Occupant.

III. GRIEVANCE PROCEDURES

A. Prior to bringing a Grievance under this Policy, the Participant shall attempt to resolve the Adverse Action through discussions with the appropriate ZHA staff member.

B. Participant may file a written Grievance with ZHA and challenge any Adverse Action.

C. Upon the filing of a written Grievance and written request for hearing, Participant shall be entitled to a hearing before a Hearing Officer; however, ZHA is not required to commence or continue a hearing if Participant is delinquent in payment of any amounts owed to ZHA.

D. Participant's written request for a hearing must specify the reasons for the Grievance and the action or relief

sought.

E. The Hearing Officer shall hold a hearing within thirty (30) calendar days after ZHA receives a written request for a hearing.

F. ZHA shall afford Participant an opportunity for a fair hearing with basic elements of due process by assuring that:

1. Participant will have a reasonable opportunity to examine, before the hearing, and copy at his or her expense, all relevant documents, records, or regulations of ZHA that are directly related to the Adverse Action, provided that any document, record, or regulation not made available after request therefor by Participant may not be relied upon by ZHA at the hearing;

2. Participant will have a right to be represented by another person of his or her choice at the hearing;

3. Participant will have a reasonable opportunity to present evidence, arguments, and affirmative legal or equitable defenses in support of his or her Grievance; to dispute evidence relied on by ZHA; to ask questions of, confront, and cross-examine witnesses; and to have others make statements on his or her behalf; and

4. Participant will receive a written decision on the merits.

G. At the hearing, Participant first must show an entitlement to the relief sought, and, thereafter, ZHA must justify the action toward which the Grievance is directed.

H. If the Hearing Officer determines that the issue raised by Participant in his or her Grievance has been previously decided in another proceeding, the Hearing Officer may refuse to hold or continue with the hearing.

I. The Hearing Officer shall conduct the hearing informally and may receive pertinent oral or documentary evidence without regard to whether that evidence would be admissible under the rules of evidence employed in judicial proceedings.

J. If Participant or ZHA fails to appear at a scheduled hearing, the Hearing Officer may postpone the hearing for a period not to exceed five (5) working days or may make a determination that the non-appearing party has waived the right to a hearing. Both Participant and ZHA shall be notified of the determination.

K. ZHA may not require Participant to pay any hearing fees or hearing costs.

L. The Hearing Officer shall base his or her decision solely and exclusively on facts presented at the hearing and upon all relevant contracts, applicable laws, and regulations.

M. The Hearing Officer shall prepare a written decision together with the reasons therefor within ten (10) working days after the hearing. The Hearing Officer shall cause copies of the decision to be sent to Participant and to ZHA.

N. The decision of the Hearing Officer shall be final and binding, provided that a decision, in whole or in part, may be overturned or modified by a majority vote of the ZHA Board of Commissioners (Board), if the Board shall determine that the decision of the Hearing Officer is contrary to law, or to HUD or ZHA regulations, or ZHA policies.

IV. APPEAL

Either party may request that the Board review the decision of the Hearing Officer by filing a request within ten (10) working days of receipt of the Hearing Officer's decision. The Board shall consider the matter at a meeting within fifteen (15) working days of receipt of a request for review. At its discretion and with appropriate notice, the Board may schedule a hearing and receive arguments from Participant and ZHA. The Board shall decide the matter based exclusively on its record and the record before the Hearing Officer. A decision of the Board upon appeal is final and binding.

V. COMPLIANCE WITH THIS POLICY

Notwithstanding any other provision contained in this Policy to the contrary, failure to follow strictly the grievance and appeal procedure described in this Policy in a timely manner and as described herein will result in the dismissal of the grievance or appeal, and will bar any further consideration of the issue in any forum.

VI. AMENDMENTS

Amendments to or repeal of this Policy may be made by resolution of the Board at a duly called meeting of the Board at which a quorum is present and documented in the official minutes. A copy of the proposed amendments shall be provided to all Board members in advance of the meeting.

**ZUNI HOUSING AUTHORITY
GRIEVANCE CHECKLIST
(TO BE KEPT IN PARTICIPANT'S FILE)**

HEARING

1. Date of Request: _____
2. Reason for Grievance: _____

3. Relief Sought: _____

4. Hearing Officer (or
Panel members): _____

5. Date of Notice
of Hearing: _____
6. Date of Hearing: _____
7. Parties Present:: _____
8. Witnesses Present: _____

DECISION

1. Date of Decision _____
2. Decision and Reasons: _____
3. Date and Nature of Action Taken, if any: _____

DESCRIBE ANY ADDITIONAL FACTS OR OCCURRENCES THAT ARE RELEVANT TO THIS CASE BUT THAT ARE NOT SPECIFICALLY PROVIDED FOR ABOVE.

ZUNI HOUSING AUTHORITY

NOTICE OF RIGHTS

You have submitted a request for hearing to Zuni Housing Authority (ZHA), and a hearing has been scheduled for _____ .m. on _____, 20__, at the offices of ZHA. You are entitled to a fair hearing providing the basic safeguards of due process.

In particular, the rights you have include:

1. The opportunity to examine before the hearing, and to copy at your own expense, all documents, records, and regulations of ZHA that are relevant to the hearing.
2. The right to be represented by another person of your choosing.
3. The right to present evidence and arguments in support of your grievance/termination, to dispute evidence relied upon by ZHA, to confront and cross-examine witnesses upon whose testimony ZHA relies, and to have others make statements on your behalf.

A copy of the Zuni Housing Authority Participant Grievance Policy and Procedures is posted in ZHA's offices for your review, and you will be provided with your own copy of the policy if you request it and pay for the copying costs.

You may have rights in addition to those specified, and ZHA encourages you to seek legal advice in order best to present your grievance and preserve your rights.