

SPOKANE INDIAN HOUSING AUTHORITY

GRIEVANCE PROCEDURE

Grievance Procedure
Amended: Mar. 28, 2002; Sept. 30, 2015;
June 5, 2019

GRIEVANCE PROCEDURE

A. PURPOSE

1. The purpose of this Grievance Procedure is to assure that Spokane Indian Housing Authority (SIHA) rental and homebuyer residents are afforded an opportunity for a hearing if the resident disputes within 20 days of a SIHA action or failure to act involving the rights, duties, welfare or status of an applicant or resident under a lease or homebuyer's agreement.
2. The Grievance Procedure by reference is made a part of all SIHA dwelling leases and homebuyer agreements. A copy will be made available to any interested party and will be prominently posted in the SIHA office.

B. APPLICABILITY

1. This Grievance Procedure shall be applicable to all individual grievances as defined in Section III below between the applicant or resident and SIHA.
2. This Grievance Procedure shall not be applicable to disputes between residents not involving SIHA or to class grievances. The Grievance Procedure is not intended as a forum for initiating or negotiating policy changes by a group or groups of residents before the SIHA Board of Commissioners.
3. This Grievance Procedure shall not be applicable to disputes between Contractors and SIHA. Grievance Hearings for Contractors use the "Hearings Procedures for Contractor Appeals" adopted separately by the Board of Commissioners.

C. DEFINITIONS

For the purpose of this Grievance Procedure, the following definitions are applicable:

1. Complainant – shall mean any resident or applicant whose grievance is presented to SIHA or at a SIHA management office in accordance with Section IV and Section V below.
2. Elements of due process – shall apply to an eviction action or a termination of tenancy in the tribal court in which the following procedural safeguards are required:
 - a. Adequate notice to the resident describing the grounds for terminating the tenancy and for eviction.
 - b. Opportunity for the resident to examine all relevant documents, records and regulations of SIHA prior to the trial for the purpose of preparing a defense.
 - c. Right of the resident to be represented by counsel.

- d. Opportunity for the resident to refute the evidence presented by SIHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the resident or applicant may have.
 - e. A decision on the merits.
3. Grievance – shall mean any dispute which a resident or applicant may have with respect to SIHA action or failure to act in accordance with the individual resident’s lease, homebuyer’s agreement or with SIHA policies which adversely affect the individual resident’s or applicant’s rights, duties, welfare or status.
 4. Hearing Panel – shall mean the SIHA Board of Commissioners to hear grievances and render a decision with respect and thereto.
 5. Resident – shall mean any lessee of low-rent housing, homebuyer under Mutual Help housing or homebuyer under any other SIHA homeownership programs, or the remaining head of the household of any resident family housed in SIHA Housing.
 6. Conflict of Interest – shall mean any decision involving immediate family, for purposes of this procedure includes, father, mother, wife, husband, significant other, brother, sister, or child, or any other person that the member(s) of the Hearing Panel feel could be seen as real or apparent conflict.

D. INFORMAL SETTLEMENT OF GRIEVANCE

Any grievance shall be personally presented, either orally or in writing, to the SIHA office so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within seven (7) days with one copy given to the complainant and one retained in the SIHA complainant’s file. The summary shall specify the names of the participants, date of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore and shall specify the procedures by which a hearing under Section V below may be obtained if the complainant is not satisfied.

E. PROCEDURE TO OBTAIN A HEARING

1. Request for Hearing – The complainant shall submit a written request for a hearing to the SIHA office within seven (7) days after receipt of the summary of discussion pursuant to Section IV above. The written request shall specify:
 - a. The reason for the grievance
 - b. The action or relief sought
2. Hearing Panel – Grievances shall be presented before the Hearing Panel. Any member of the Hearing Panel who may have a conflict of interest with the complainant or any part of the grievance hearing shall remove him or herself from participating in the discussion and decision of the Hearing Panel regarding

the grievance. If a majority of the Hearing Panel determines that one or more of the Hearing Panel members is in a conflict of interest position, the majority can require the member(s) to be removed from any discussion and decision of the Hearing Panel.

3. Failure to request a hearing. If the complainant does not request a hearing in accordance with Section V(A) above, then SIHA's disposition of the grievance under Section IV above shall become final, provided that failure to request a hearing shall not constitute a waiver by the Complainant for the right thereafter, if any, to contest SIHA's action in an appropriate judicial proceeding.
4. Hearing Prerequisite. All grievances shall be personally presented, either orally or in writing, pursuant to the informal procedure prescribed in Section IV above as a prerequisite to a hearing under this section, provided that if the complainant shall show good cause to the Hearing Panel why he or she failed to proceed in accordance with Section IV, the provisions of that section may be waived by the Hearing Panel.
5. Scheduling of Hearing. Upon complainant's compliance with Section V, a hearing may be scheduled to be heard by the Hearing Panel at the next regular Board of Commissioners monthly meeting. Where SIHA policies provide no discretion for the matter that is the subject of the grievance, such as ineligibility due to drug-related activity or sexually violent crimes, the SIHA Executive Director may deny the request for a hearing by written notification with explanation. If a hearing is to be granted, a written notification specifying the time, place and procedures governing the hearing shall be delivered to the complainant and the SIHA Executive Director or his designee at the SIHA office.

F. PROCEDURES GOVERNING THE HEARING

1. The complainant shall be afforded a fair hearing providing the basic safeguards of due process, which shall include:
 - a. The opportunity to examine before the hearing and, at the expense of the complainant, to copy all documents, records and policies of SIHA that are relevant to the hearing. Any document not available after request therefore by the complainant may not be relied on by SIHA at the hearing.
 - b. The right to be represented by counsel or another person chosen as his or her representative.
 - c. The right to a private hearing unless the complainant requests a public hearing.
 - d. The right to present evidence and arguments in support of his or her complaint, to contradict evidence relied on by SIHA, and to confront and cross-examine all witnesses on whose testimony or information SIHA relies.

- e. A decision based solely and exclusively upon the facts presented at the hearing.
2. The Hearing Panel may render a decision without proceeding with the hearing if the Hearing Panel determines that the issue has been resolved in a previous proceeding.
3. If the complainant or SIHA fails to appear at a scheduled hearing, the Hearing Panel may decide to postpone the hearing for a period not exceeding (5) five business days, or make a determination that the complainant has waived the right to a hearing. Both the complainant and SIHA shall be notified of the determination by the Hearing Panel, provided that a determination that the complainant has waived his/her right to a hearing shall constitute a waiver of any right the complainant may have, if any, to contest SIHA's disposition of the grievance in an appropriate judicial proceeding.
4. At the hearing, the complainant must first make a showing of an entitlement to the relief sought, and thereafter SIHA must sustain the burden of justifying the SIHA action or failure to act resulting in the filing of the grievance.
5. The hearing shall be conducted informally by the Hearing Panel and oral or documentary evidence pertinent to the facts and issues raised by the complaint may be received without regard to admissibility under the rules of evidence applicable to judicial proceedings. The Hearing Panel shall require SIHA, the complainant, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Panel 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.
6. The complainant or SIHA may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the hearing. Any interested party may purchase a copy of such a transcript.

G. DECISION OF THE HEARING OFFICER OR HEARING PANEL

1. The Hearing Panel shall prepare a written decision, together with the reasons therefore, within ten (10) business days after the hearing, if not made and reported at the meeting the grievance hearing was conducted. For written decisions, a copy of the decision shall be sent to the complainant and SIHA. SIHA shall retain a copy of the decision in the complainant's file. A copy of such decision with all names and identifying references deleted, shall also be maintained on file by SIHA and made available for inspection by a prospective complainant, his representative, or the Hearing Panel.
2. The decision of the Hearing Panel shall be binding on SIHA which shall take all actions, or refrain from any actions, necessary to carry out the decision.

3. A decision by the Hearing Panel in favor of SIHA, or which denies the relief requested by the complainant in whole or in part, shall not constitute a waiver of SIHA's sovereign immunity.

H. EVICITION ACTIONS

If a resident has requested a hearing in accordance with Section V above on a complaint involving a SIHA Notice of Termination of tenancy, and the Hearing Panel upholds the SIHA's action to terminate the tenancy, SIHA shall not commence an eviction action in the Tribal Court until it has served a Notice to Vacate on the resident; and in no event shall the Notice to Vacate be issued prior to the mailing or delivery of the decision of the Hearing Panel to the complainant. Such notice to vacate must be in writing and specify that if the resident fails to vacate the premises within the applicable statutory period, or on the termination date in the Notice of Termination, whichever is later, appropriate action will be brought against the resident, and the resident may be required to pay court costs and attorney fees.

Amended by the Board of Commissioners on June 5, 2019:



Timothy Horan, Executive Director