
YAKAMA NATION HOUSING AUTHORITY

**GRIEVANCE
POLICY & PROCEDURES**

Yakama Nation Housing Authority

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YAKAMA NATION HOUSING AUTHORITY GRIEVANCE POLICY & PROCEDURES

Chapter 1 PURPOSE AND SCOPE

- 100.1 Purpose.** This Grievance Policy and Procedures (this “Policy”) has been adopted by the Yakama Nation Housing Authority (“YNHA”) Board of Commissioners (the “Board”) to establish the general principles and procedures by which YNHA provides for and hears disputes brought against YNHA, in a fair and impartial manner.
- 100.2 Scope.** This Policy applies to a dispute brought by a person who applies for or participates in a YNHA program or service, including a tenant or a homebuyer (subject to the terms of any Mutual Help and Occupancy Agreement), or a person who is a vendor or contractor doing business with YNHA, with respect to an alleged violation by YNHA of a policy, contract, regulation, or law, that has resulted in loss or harm to the person with the dispute. This Policy does not apply to disputes concerning or relating to employment by YNHA.

Chapter 2 AUTHORITY, ADMINISTRATION AND APPLICABLE LAWS

- 200.1 Authority.** The Board has authority to adopt this Policy under Resolution T-94-77 (June 21, 1977), as amended, and is responsible to ensure that any policies that are adopted are appropriate for YNHA. This Policy and any amendments to this Policy shall be effective only upon adoption by Resolution of the Board.
- 200.2 Delegation of Authority.** The Board delegates the responsibility for the administration and monitoring of this Policy to the YNHA Executive Director. The Executive Director may delegate one or more of his/her duties to a YNHA staff member who is competent to perform those duties, provided the delegation is in writing.
- 200.3 Implementation.** The Executive Director will ensure that any procedures or forms that are developed to implement this Policy conform to this Policy. Work performed this Policy shall be at all times in the best interests of the YNHA and in accord with other YNHA policies and applicable laws. Personnel using this Policy are responsible for being familiar with its content.
- 2.004 Applicable Laws.** This Policy shall comply with all applicable laws including, without limitation, the Revised Code of the Confederated Tribes and Bands of the Yakama Nation (“RYC”), as amended, the Native American Housing and Self-Determination Act of 1996 (Pub. Law 104-330), as amended (“NAHASDA”) and regulations under NAHASDA.

The YNHA Executive Director will periodically review this policy and recommend amendments as necessary to comply with applicable laws, or for other purposes.

- 200.5 Sovereign Immunity.** YNHA hereby expressly affirms its tribal sovereign immunity to suit in any jurisdiction or tribunal and does not waive, alter, or otherwise diminish that sovereign immunity by adopting or implementing this Policy or any other standard, document, or law referenced herein. To the extent any provision of this Policy or other referenced standard, document, or law is inconsistent with the sovereign immunity of the YNHA or the Yakama Nation, such provision is not adopted by this Policy and is declared void, unenforceable, and severable from the remainder of this Policy.
- 200.6 Prior Policies.** This Policy supersedes all prior policies and communications on each covered subject. This Policy is a tool to assist YNHA personnel, and it does not create a contract or promise specific treatment in specific situations. The Board reserves the right to change, cancel or interpret any YNHA policies at its sole discretion and without prior notice.
- 200.7 Other Policies.** Other YNHA Policies may apply and should be consulted and implemented in concert with this Policy.

Chapter 3 DEFINITIONS

- 300.1 Participant** means an adult person (18 years of age or older) who has applied for, has been selected for, or currently participates in a program or service of YNHA.
- 300.2 Business Entity** means a vendor, contractor, or other adult person or entity who has submitted a bid or proposal to provide goods or services to YNHA, or who currently provides goods or services to YNHA.
- 300.3 Grievant** means a Participant or a Business Entity who has presented a Grievance to the YNHA in accordance with this Policy.
- 300.4 Grievance** means a dispute a Grievant has with respect to particular action (or failure to act) by YNHA, based on an alleged violation of a policy, contract, regulation, or law by YNHA, that has resulted in loss or harm to the Grievant.
- 300.5 Grievance Statement** means a written document that is addressed to the YNHA Executive Director and signed and dated by the Grievant, and which, at minimum, states the particular grounds upon which the Grievance is based and the action requested. The Grievance Statement must be filed within five (5) business days of the dispute.
- 300.6 Due Process** means procedures which include:

- (1) Adequate notice to the Participant or Business Entity of the grounds for a decision by YNHA that is subject to this Policy, such as rejecting an application or proposal, or terminating a Rental Agreement, a Homeownership Agreement, or other contract.
- (2) The opportunity to examine all files and documents that were used by YNHA in making its decision. This includes the names of witnesses or parties who have made complaints, if such parties' statements were used by YNHA in making its decision.
- (3) The right to be represented by an attorney or another person.
- (4) The opportunity to refute the evidence presented by YNHA, including the right to cross-examine witnesses and to present any defense which the tenant may have.
- (5) A decision on the merits.

300.7 Due Process Hearing means a hearing before the Hearing Board concerning the Grievance.

300.8 Hearing Board means three or more members of the YNHA Board of Commissioners. No Commissioner who is a relative or close friend of the Grievant may serve on the Hearing Board for that Grievance.

300.9 Hearing Request means a written document that is addressed to the YNHA Executive Director and signed and dated by the Grievant, and which, at minimum, requests a hearing and states the reasons for disagreement with the Executive Director's Decision. The Hearing Request must be submitted to YNHA within five (5) business days of the Executive Director's Decision. A Hearing Request may also be filed if at least fifteen (15) days have passed since YNHA received the Grievance, and the Executive Director has not issued a decision on the Grievance.

Chapter 4 SUBMITTING A GRIEVANCE

400.1 Informal Resolution. Prior to filing a Grievance Statement, the Participant or Business Entity shall attempt to resolve the dispute informally with YNHA staff. If a dispute is not resolved informally, then a Grievance Statement may be filed under this Policy.

400.2 Filing the Grievance Statement

- (1) A Grievance Statement **MUST** be filed with the YNHA within five (5) business days of the incident, action, or failure to act that is the basis for the Grievance, except that

a Grievance Statement concerning a 72-hour notice of termination to a tenant must be filed with YNHA within 72 hours of the tenant's receipt of the notice.

(2) A Grievance Statement may be filed with YNHA by mail addressed to the Executive Director, Yakama Nation Housing Authority, P.O. Box 156, 611 S. Camas Avenue, Wapato, WA 98951, or by delivering the Grievance Statement in person to the YNHA Receptionist between the hours of 8 a.m. and 5 p.m. Monday through Friday, except on holidays.

400.3 Form and Contents of the Grievance.

(1) A Grievance Statement should be submitted on the standard YNHA form (see Attachment #1), which may be obtained from the YNHA Receptionist. YNHA will also accept a Grievance Statement written on ordinary paper, provided it includes the information in (2) below. In such cases, the Receptionist will attach it to the standard YNHA form (to facilitate internal processing).

(2) To be processed, a Grievance Statement MUST

- state that it is a Grievance;
- be in writing, dated and signed by the Grievant;
- state the name, address and telephone number of the Grievant;
- state the particular grounds upon which the Grievance is based, including dates and times; and
- state the action or relief requested.

A Grievance Statement that does not include this information will not be processed.

(3) To aid in processing, a Grievance Statement should also include:

- the name(s) of any YNHA staff member(s) whose actions or failure(s) to act are the subject of the dispute;
- the specific policy, contract provision, or law that is alleged to have been violated by YNHA;
- documentation supporting the grievance, such as names and contact information of any witnesses; documents submitted to or received from YNHA; police incident reports or Court records; and any other relevant documents;
- attempts that have been made to resolve the dispute before filing the written

Grievance, including the names of any YNHA staff contacted by the Grievant; and

- if applicable, the name, address and telephone number of the Grievant's representative, and a signed, dated release authorizing YNHA to discuss the Grievance with that person and to provide information to that person. Absent a signed, dated release, YNHA may receive information from the Grievant's representative, but will not discuss any tenant or homebuyer information with a person other than the Grievant.

400.4 Final Order. In the case of a tenant or homebuyer, while a Grievance is pending, the decision to terminate a Rental Agreement or Homeowner's Agreement is not considered final for YNHA. If the Grievance is denied, and the tenant or homebuyer does not appeal, then the Executive Director's decision constitutes a final order. If the tenant or homebuyer appeals to the Board, then the Board's decision constitutes the final order. Pending the final order from YNHA, the status quo is maintained and the tenant or homebuyer may remain in the unit.

Chapter 5 PROCESSING A GRIEVANCE

500.1 Intake. When a Grievance Statement is received at YNHA, the Receptionist will promptly stamp the date and time of receipt on the Grievance Statement. If the Grievance Statement is received on ordinary paper instead of the YNHA form, the Receptionist will attach the YNHA form. The Grievance Statement will then be given to the YNHA Housing Manager.

500.2 Acknowledgement. YNHA staff will prepare an Acknowledgement of Grievance (see Attachment #2), and mail it to the Grievant within five (5) business days of receipt by YNHA of the Grievance.

500.3 Executive Director's Review. The Grievance Statement will be forwarded to the Executive Director or designee, who will determine whether the dispute may be resolved without a Due Process Hearing.

(1) YNHA will endeavor to resolve the dispute as expeditiously as possible. The Executive Director may delegate appropriate YNHA staff to investigate the Grievance and make further recommendations within five (5) business days. The Executive Director or his/her designee may interview the Grievant or other witnesses, and will utilize the Grievance Review Form (see Attachment #3) to facilitate the review and disposition of the Grievance.

(2) Within ten (10) business days after YNHA receives the Grievance Statement, the Executive Director (or his or her designee) will prepare the Executive Director's

Decision, either denying the Grievance or recommending specific actions to be taken by the Grievant and/or YNHA to resolve the dispute. The Executive Director will notify the Grievant that if he/she disagrees with the Decision, the Grievant has the right to file a request for a Due Process Hearing within five (5) business days from the date he/she receives the Decision.

(3) The Executive Director's Decision shall be delivered in person or mailed by U.S. Certified Mail to the Grievant within ten (10) business days following YNHA's receipt of the Grievance. If the Executive Director has not issued a Decision within fifteen (15) days, the Grievant has the right to request a hearing without waiting for the Executive Director's Decision.

500.4 Final Decision. If the Grievant does not file a timely request for a Due Process hearing, then the right to a Due Process hearing is deemed waived and the Executive Director's Decision is FINAL and not subject to further appeal. The YNHA staff will take all actions necessary to enforce the Executive Director's Decision.

Chapter 6 DUE PROCESS HEARING

600.1 Hearing Request.

- (1) The Grievant may request a Due Process Hearing if
 - the Grievant is not satisfied with the Executive Director's Decision, and no more than five (5) business days have passed since the Grievant received the Executive Director's Decision, or
 - the Grievant has not received the Executive Director's Decision and fifteen (15) business days have passed since the Grievance was received at YNHA.
- (2) To be processed, a Hearing Request MUST:
 - state that it is a request for a hearing;
 - be in writing, dated and signed by the Grievant;
 - state the name, address and telephone number of the Grievant;
 - state the reasons why the Grievant is requesting a hearing, including the reasons why the Grievant is not satisfied with the Executive Director's Decision; and
 - state the action or relief requested.

(3) The Hearing Request should include a copy of the Executive Director's Decision and any other relevant correspondence and/or documents.

(4) The Hearing Request may be filed with YNHA by mail addressed to the Executive Director, Yakama Nation Housing Authority, P.O. Box 156, 611 S. Camas Avenue, Wapato, WA 98951, or by submitting the hearing request in person to the Receptionist at the same address, between the hours of 8 a.m. and 5 p.m., Monday through Friday, except on holidays.

(5) The Hearing Request MUST be submitted within five (5) business days of the date the Grievant receives the Executive Director's Decision or it will not be timely.

600.2 Scheduling. If the Hearing Request is received at YNHA at least seven (7) business days before the next regularly scheduled meeting of the Board of Commissioners, the Due Process Hearing will be scheduled as an agenda item at that meeting (subject to approval of the agenda by the Chairman of the Board). If received less than seven (7) business days before the next Board meeting, then the Due Process Hearing will be scheduled at the following regularly scheduled meeting of the Board or as the Board may otherwise determine.

600.3 Notice of Hearing. YNHA will deliver a written Notice of Hearing to the Grievant either in person or by Certified U.S. Mail, return receipt requested. If delivery is in person, an Affidavit of Service will be prepared. The Notice of Hearing will state:

- the date and time of the hearing;
- the place of the hearing; and
- a contact person for additional questions.

600.4 Documents.

(1) Prior to the hearing, either party may request to examine any policies, files and/or documents that the other party intends to present at the Grievance hearing.

(2) The names of persons who will not be parties or witnesses at the Due Process Hearing may be redacted by YNHA (*i.e.*, blacked out) from the documents, provided their statements were not used by YNHA in making its decision.

(3) If the Grievant requests copies of any documents, YNHA may charge a reasonable fee not to exceed fifteen (15) cents per page.

(4) Any documents NOT made available to the Grievant or to YNHA upon request by the other party will NOT be accepted as evidence at the Due Process Hearing.

600.5 Hearing Procedures. The Due Process Hearing will provide Due Process as that term is defined in paragraph 300.7 of this Policy.

(1) The Chairman of the Board (or other officer serving as Chairman) will preside over the Due Process Hearing, and will require that all in attendance conduct themselves in an orderly manner. Disorderly behavior and failure to comply with the directions of the Chairman may result in removal from the proceedings, termination of the hearing, or a decision adverse to the interests of the disorderly party, at the discretion of the Board.

(2) The Chairman may consult with YNHA staff and legal counsel on procedural matters, but shall make the final determination as to questions of rules and procedure. The Due Process Hearing may be private (executive session) or open to the public, as determined by the Chairman of the Board.

(3) Both the Grievant and YNHA may be represented by an attorney or other person of their choice at the Due Process Hearing.

(4) At the hearing, the Grievant will present evidence to show that the action or inaction of YNHA was in error and that the Grievant is entitled to the relief sought. YNHA will have the opportunity to cross-examine the Grievant and any witnesses for the Grievant. YNHA will then present evidence in support of its action or inaction and the Grievant will have the opportunity to cross-examine witnesses for YNHA.

(5) The Due Process Hearing will be conducted informally, and oral and written evidence will be accepted without regard to whether that evidence would be admissible under formal rules of evidence in judicial proceedings. The Chairman or any member of the Hearing Board may ask questions of the Grievant or of a witness of either party, and may interview any other YNHA staff at the discretion of the Board.

(6) Participants may be required to submit to a test for the presence of alcohol or a controlled substance on the day of the Due Process hearing. The test will be administered consistent with paragraph 800.2 “Drug Tests” of the YNHA Eligibility, Admissions and Occupancy Policies. If the Participant tests positive, YNHA will reschedule the Board hearing once, but a positive test result on the day of the rescheduled hearing will forfeit the hearing. If the Participant refuses the test, YNHA will treat the refusal as a positive test result.

600.6 Board Decision. Following the Due Process Hearing, the Board will review the facts and evidence presented at the hearing, as well as applicable regulations, laws, and YNHA policies and other published documents and guidance, and will render a decision on the merits. Within forty-eight (48) hours of the conclusion of the Due Process Hearing, the Hearing Board will provide the Grievant and the Executive Director with a written decision on the Grievance, including the reason(s) for its decision. The Decision of the Board shall be delivered in person or mailed (Registered or Certified) to the Grievant.

600.7 Failure to Appear. If the Grievant fails to appear at the scheduled Due Process Hearing, the Board may make a determination to postpone the hearing for a period of time not to exceed five (5) business days, or may make a determination that the Grievant has waived his/her right to a hearing. The Grievant and the YNHA will be notified, in writing, of the determination of the Board.

600.8 Final Decision. A decision of the Hearing Board following a Due Process Hearing is FINAL and not subject to further appeal. The YNHA staff will take all actions necessary to enforce the Hearing Board's Decision.

Chapter 7 MISCELLANEOUS

700.1 YNHA staff and management are prohibited from giving any type of legal advice to a Participant, a Business Entity or any other person regarding a Grievance.

700.2 YNHA staff will respect the privacy of its Participants and will treat the subject matter of a Grievance as Confidential Information, not to be discussed except with YNHA legal counsel or other YNHA staff on a need to know basis.

700.3 YNHA will not tolerate retaliation against anyone for filing a Grievance, investigating a Grievance, or participating at a Due Process Hearing. Such actions will be viewed as retribution and will not be tolerated. The YNHA takes the investigation of Grievances seriously and does so to protect property, safety and lives.

700.4 "The powers of the Yakama Tribal Courts shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations." *See* Article VIII, Cooperation in Connection with Projects, Resolution T-94-77 (June 21, 1977), as amended.

FORMS

Grievance Form

Hearing Request Form