A. Definitions applicable to the grievance procedure: (24 CFR 966.53)

1. **Grievance**: Any dispute a Tenant and/or applicant may have with respect to HAKC action or failure to act in accordance with the individual Tenant's lease or HAKC regulations that adversely affects the individual Tenant's rights, duties, welfare or status.

2. **Complainant**: Any Tenant and/or applicant (as defined below) whose grievance is presented to the HAKC (at the central office or the development office) in accordance with the requirements presented in this procedure.

3. **Elements of due process**: An eviction action or a 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 of the Tenant to be represented by counsel;
   - Opportunity for the Tenant to refute the evidence presented by the HAKC, 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 of the case.

4. **“Hearing Officer”** shall mean an impartial person or persons selected by the HAKC, other than the person who made or approved the decision under review, or subordinate of that person. Such individual or individuals do not need legal training. HAKC must describe their policies for selection of a hearing officer in their lease forms as required by these policies and regulations. Changes to the lease and grievance process are subject to a 30-day comment period.

5. **Tenant**: The adult person (or persons other than a Live-in aide): (1) Who resides in the unit, and who executed the lease with the HAKC as lessee of the dwelling unit, or, (2) Who resides in the unit, and who is the remaining head of the household of the Tenant family residing in the dwelling unit.

6. **Resident Organization**: An organization of residents, duly elected and recognized by the HAKC Board of Commissioners, which also may include a resident management corporation.

7. **“Violent Criminal Activity”** shall mean any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force substantial enough to
cause, or be reasonably likely to cause, serious bodily injury or property damage.

8. “VAWA Activities” shall mean any act in which the applicant claims they are a victim of domestic violence, dating violence, sexual assault, or stalking.

B. Applicability of this grievance procedure (24 CFR 966.51)

In accordance with the applicable Federal regulations (24 CFR 966.50 et seq.) this grievance procedure will be applicable to all individual grievances (as defined in Section I above) between Tenant and the HAKC with the following two exceptions:

1. Because HUD has issued a due process determination that the law of the State of Missouri requires that a Tenant be given the opportunity for a hearing in court which provides the basic elements of due process (as defined above) before eviction from the dwelling unit, the grievance procedure will not be required of any termination of tenancy or eviction that involves:

   • Any criminal activity that is an imminent threat to the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of the HAKC, or
   • Any violent or serious drug-related criminal activity on or off such premises; or
   • Any criminal activity that resulted in felony conviction of a household member. [24 CFR 966.51 (2)(i) (A) (B) and (C)]
   • There will, however, be a presumption that all tenants are entitled to a grievance hearing unless there is clear evidence that the eviction involves activity stated in (1) or (2) above and senior management personnel has approved the exclusion of a grievance hearing.
   • The expedited hearing process will be applied for violent or drug related criminal activity.

2. The HAKC grievance procedure shall not be applicable to disputes between Tenants not involving the HAKC or to class grievances. The grievance procedure is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the HAKC’s Board of Commissioners. [§ 966.51 (b)]

   This grievance procedure is incorporated by reference in all Tenant dwelling leases and will be furnished to each Tenant and all resident organizations. [§ 966.52 (b) and (d)]

   Prior to any changes to this grievance procedure, HAKC must provide at least thirty (30)
calendar days’ notice to Tenants and Resident Organizations, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by the HAKC before any revisions are made to the grievance procedure. [§ 966.52 (c)]

C. Informal settlement of a grievance [24 CFR 966.54]

Any grievance must be personally presented, either orally, in writing or email submission, to the HAKC’s legal department or the office of the development in which the complainant resides within three (3) business days after the grievable event or written notice of the event from HAKC.

Grievances related to complaints about operational matters that are received by the HAKC's central office will be referred to the person responsible for the management of the development in which the complainant resides. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the Executive Director (or his/her designee).

As soon as the grievance is received, it will be reviewed by the Director of Housing Operations (or his/her designee) to determine whether either or any of the exclusions in paragraphs B.1 or B.2 above applies to the grievance. Should one of the exclusions apply, the complainant will be notified in writing that the matter raised is not subject to the HAKC's grievance procedure, due to the exclusion.

If neither of the exclusions or exceptions cited above where applies, the complainant will be contacted to arrange a mutually convenient time to meet so the grievance may be discussed informally prior to a formal grievance hearing. At the informal meeting the complainant will present the grievance and the person in charge of the management office or the Director of Housing Operations will attempt to settle the grievance to the satisfaction of both parties.

Following the informal discussion, the HAKC will prepare, hand deliver, or mail, first class postage prepaid in the United States mail to the Tenant, a written summary of the discussion. The summary will specify the names of the participants, the dates of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore. The summary will specify the procedures by which a formal hearing under this procedure may be obtained if the complainant is not satisfied. A copy of this summary will also be placed in the Tenant's file. A receipt signed and dated by the complainant or a written return of service signed and dated by the HAKC representative showing the date of personal delivery to the Tenant or to the Tenant’s household will be sufficient proof of time and date of delivery for the summary of the informal discussion.
D. Formal Grievance Hearing

If the complainant is dissatisfied with the HAKC’s decision or the result from the informal discussion, the complainant may request a formal grievance hearing. If a formal grievance hearing is desired by the Tenant then the complainant must submit a written request for a grievance hearing to the HAKC’s legal department at the address indicated within the written summary no later than seven (7) calendar days after the summary of the informal discussion is received by Tenant or Tenant’s household.

The written request for a formal grievance hearing will specify:

- The reasons for the grievance; and
- The action or relief sought from the HAKC.

If the complainant requests a hearing in a timely manner the HAKC will schedule a hearing on the grievance at the earliest date possible for the complainant, the HAKC, and the hearing officer.

If the complainant fails to request a grievance hearing within seven (7) calendar days the HAKC's decision rendered at the informal meeting becomes final and the HAKC is not obligated to offer the complainant any additional formal hearing opportunities unless the complainant can show good cause why he/she failed to proceed in accordance with this procedure. [24 CFR 966.55 (c) and (d)]

The HAKC hereby adopts an expedited grievance hearing procedure consistent with 24 CFR Section 966.55(g). Accordingly, notwithstanding any of the foregoing, the informal settlement of grievances set forth above does not apply to any grievances concerning a termination of tenancy involving: 1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the HAKC’s public housing premises by other residents or employees of the HAKC or 2) Any violent or drug related criminal activity on or near such premises.

Failure to request a grievance hearing does not affect the complainant's right to contest the HAKC's decision in a court hearing. [24 CFR 966-54 (c)]

E. Selecting the Grievance Hearing Officer [24 CFR 966.55 (b)(2)(ii)]

A grievance hearing will be conducted by an impartial person or persons appointed by the HAKC Executive Director to be the grievance hearing officer after consultation with and input from the Public Housing Resident Council (PHRC).

The HAKC has established two different hearing officer categories. For cases involving violent or drug related criminal activity, fraud, domestic violence, unauthorized guests,
alcohol abuse, neighbor disputes, or cases where HAKC Public Safety or KCPD are involved, the Hearing Officer must demonstrate that they have a legal background (such as lawyer, paralegal or someone otherwise trained in the law).

General lease violation cases, not involving violent or drug related criminal activity, including but not limited to non-payment of rent and other charges and program non-compliance issues shall be heard by an individual or panel. These individuals do not require a legal background and can be an HAKC employee who does not work in Housing Operations, Public Safety, Resident Services and is not a part of the decision-making process.

The Executive Director will make every effort to obtain the concurrence of the PHRC in selecting hearing officers for both categories. However, if concurrence cannot be obtained, the Executive Director will have the authority to make the final decision on the appointment of the hearing officer. In the event that the Executive Director appoints a hearing officer who is opposed by the PHRC, he or she will provide the PHRC with a written explanation for the decision. Once the person[s] agrees to serve as grievance hearing officer then those person’s names will be submitted to the Executive Director for initial approval.

The HAKC will consult the resident organization[s] before HAKC’s final appointment of each hearing officer. Any comments or recommendations submitted by the tenant organization[s] will be considered by the HAKC before the appointment.

When the comments from the resident organization[s] have been received and considered, the HAKC Executive Director will make the final appointment of the hearing officer and he/she will be informed that he/she is the HAKC's official grievance hearing officer[s].

F. Escrow deposit required for a hearing involving rent [24 CFR 966.55 (e)]

Before a hearing is scheduled in any grievance involving the amount of rent which the HAKC claims is due under this lease, the complainant will pay to the HAKC an amount equal to the rent due and payable as of the first of the month preceding the month in which the act or failure to act took place. The complainant will, thereafter, deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by decision of the hearing officer.

The HAKC must waive the requirement for an escrow deposit where required by section 5.630 of this title (financial hardship exemption from minimum rent requirements) or section 5.615 of this title (effect of welfare benefits reduction in calculation of family income). HAKC has the discretion to waive the requirement for an escrow deposit in any other circumstance for good cause show by the complainant. Unless the HAKC waives the requirement, the family’s failure to make the escrow deposit will terminate the grievance procedure.

G. Scheduling hearings [24 CFR 966.55 (f)]

When a complainant submits a timely request for a grievance hearing, the HAKC will contact the grievance hearing officer to schedule the hearing. If a Tenant fails to make a timely
request for a grievance hearing without good cause then the Tenant will be deemed to waive his/her request for a hearing. Once the hearing officer has agreed upon the hearing date and time the complainant, the property manager of the development in which the complainant resides, and the hearing officer will be notified in writing. Notice to the complainant will be in writing, either personally delivered to complainant or sent by first class United States mail.

The written notice will specify the time, place, and procedures governing the hearing.

H. **Procedures governing the hearing [24 CFR 966.56]**

The hearing will be held before a hearing officer as described above in Section VII. The complainant will be afforded a fair hearing, which will include:

1. The opportunity to examine before the hearing any HAKC documents, including records and regulations, that are directly relevant to the hearing.

   The Tenant will be allowed to copy any such document at the Tenant's expense. If the HAKC does not make the document available for examination upon request by the complainant, the HAKC may not rely on such document at the grievance hearing.

2. The right to be represented by counsel or other person chosen as the Tenant's representative and to have such person make statements on the Tenant's behalf.

3. The right to a private hearing unless the complainant requests a public hearing. The right to present evidence and arguments in support of the Tenant's complaint to controvert evidence relied on by the HAKC or project management, and to confront and cross examine all witnesses upon whose testimony or information the HAKC or project management relies; and

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

   [24 CFR 966.56(b)(1) - (5)]

The hearing officer may render a decision without proceeding with the hearing if the officer determines that the issue has been previously decided in another proceeding.

   [24 CFR 966.56 (c)]

At the hearing, the complainant must first make a showing of an entitlement to the relief sought and, thereafter, the HAKC must sustain the burden of justifying the HAKC action or failure to act against which the complaint is directed. [24 CFR 966.56 (e)]

The hearing will be conducted informally by the hearing officer. 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.

   [24 CFR 966.56 (f)]

The hearing officer will require the HAKC, the complainant, 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. [24 CFR 966.56 (f)]

The complainant may arrange in advance and at his/her expense, to make the arrangements for a transcript of the hearing. The HAKC may purchase a copy of such transcript. [24 CFR 966.56 (g)] Notwithstanding anything to the contrary HAKC may, at its discretion, make an audio recording of the hearing and will retain the recording for at least six (6) months from the date of the hearing. Upon written request by the complainant and the complainant’s payment of the actual cost of the duplication of the recording, HAKC will provide a copy of the recording to the complainant. Also, complainants will be allowed to make their own audio recordings.

The HAKC must provide reasonable accommodation for persons with disabilities to participate in the hearing. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants. If the Tenant is visually impaired, any notice to the Tenant which is required under this procedure must be in an accessible format. [24 CFR 966.56 (h)]

Evidence

The HAKC will use the concept of the preponderance of the evidence as the standard for making all admission, termination, and grievance decisions.

*Preponderance of the evidence is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.*

I. Failure to appear at the hearing

If the complainant or the HAKC fails to appear at the scheduled hearing, the hearing officer may make a determination to postpone the hearing and reschedule the hearing for a future date or may make a determination that the party has waived has right to a hearing. [24 CFR 966.56 (d)]

Both the complainant and the HAKC will be notified of the determination by the hearing officer; provided, that a determination that the complainant has waived his right to a hearing will not constitute a waiver of any right the complainant may have to contest the HAKC's disposition of the grievance in court. [24 CFR 966.56 (d)]

J. Decision of the hearing officer [24 CFR 966.57]

The hearing officer will prepare a written decision, together with the reasons for the decision after the
hearing. A copy of the decision will be delivered to the complainant and the HAKC.

The HAKC will retain a copy of the decision in the Tenant's folder. A copy of the decision with all
names and identifying references deleted will also be maintained on file by the HAKC and made
available for inspection by a prospective complainant, his representative, or the hearing officer.

The decision of the hearing officer will be binding on the HAKC, which will take all actions, or refrain
from any actions, necessary to carry out the decision unless the HAKC’s Board of Commissioners or
the Executive Director as the Board of Commissioner’s designee determines within a reasonable time,
and promptly notifies the complainant of its determination, that:

1. The grievance does not concern HAKC action or failure to act in accordance with or
   involving the complainant's lease or HAKC regulations, which adversely affect the
   complainant's rights, duties, welfare or status.

2. The decision of the hearing officer is contrary to applicable Federal, State or local law,
   HUD regulations, or requirements of the annual contributions contract between HUD and
   the HAKC.

A decision by the hearing officer or Board of Commissioners in favor of the HAKC or which
denies the relief requested by the complainant in whole or in part will not constitute a waiver
of, nor affect in any way, the rights of the complainant to a trial or judicial review in any court
proceedings which may be brought in the matter later. [24 CFR 966.57]

K. Lease Requirements
The lease must provide that all disputes concerning the obligations of the tenant or
the HAKC must, except as provided in the regulations, be resolved in accordance
with the HAKC grievance procedures. The grievance procedures must comply with
the regulations. The lease must include a description of the HAKC’s policies for
selecting a hearing officer.