

# GRIEVANCE POLICY



**Approved by the Delaware Tribe Council**

**On May 7, 2012**

# **Delaware Tribe Housing Program**

## **Grievance Policy**

### **Policy Statement**

The Delaware Tribal Council recognizes the need to establish procedures to resolve disputes between participants or applicants and the Delaware Tribe Housing Program (hereinafter “DTHP”) in a fair and impartial manner. The purpose of these grievance procedures is to establish the general principles by which the DTHP provides for and hears grievances and formal complaints by its program participants and applicants.

These policies and procedures are intended to provide due process to everyone involved along with being in compliance with all state, federal and tribal laws, which have precedence. Nothing contained in these grievance procedures shall waive any sovereign immunity that the Delaware Tribe may have.

This grievance process does not apply to DTHP employees except as they may file a grievance as a participant, nor does it apply to vendors or contractors.

These policies and procedures shall be provided to all participants who become residents or homebuyers of the DTHP’s owned or managed properties. It shall be made available to the public and shall be prominently posted in the DTHP office.

### **I. Definitions:**

- A. “DTHP”** shall mean the Delaware Tribe Housing Program.
- B. “Participant”** shall mean any individual who has applied for, has been awarded, or is currently participating in a DTHP housing program.
- C. “Grievance”** shall mean any dispute which a participant may have with respect to DTHP action or failure to act with respect to any DTHP housing program and which is presented to the DTHP in accordance with these grievance procedures.
- D. “Grievance Panel”** shall be three (3) impartial persons appointed by the Housing director.
- E. “Complaint”** shall mean any participant who has presented a grievance to the DTHP in accordance with these grievance procedures.
- F. “Grievance Hearing”** shall mean the presentation to the Grievance Panel of the grievance and DTHP’s response to the grievance.

## **II. Procedures**

### **A. Prior to a hearing.**

1. These grievance procedures allow decisions, actions or inactions of Housing Program staff or Tribal Council to be appealed or reviewed by participants who are directly impacted or affected so long as certain required procedures are followed.
2. The grievance may be simply stated, but shall specify at least the following:
  - The particular grounds upon which the grievance is based.
  - The action requested.
3. Any grievance must be in writing and signed by a participant and personally delivered to the Housing Director or designated DTHP employee or sent by certified mail no later than ten (10) days after the DTHP decision, action or no action.
4. The Housing Director or designated DTHP employee and the complainant shall make every effort to attempt to resolve a grievance prior to the complainant requesting a grievance hearing.
5. The Housing Director or designated DTHP employee shall respond in writing within ten (10) days after receiving a grievance. The response shall be personally delivered or delivered by certified mail to the complainant. A copy shall be attached to the complainant's grievance.
6. The DTHP's response shall specify:
  - The proposed action to be taken to resolve the grievance;
  - The right of the complainant to a hearing before the grievance panel; and
  - The procedure for requesting such a hearing.
7. If the complainant is dissatisfied with the proposed action to resolve the grievance, the complainant may request a hearing before the Grievance Panel. The request for a hearing must be made within ten (10) days of the date of the DTHP's written response. The request for a hearing must be made in writing and personally delivered to the DTHP office or sent by certified mail.
8. If the complainant does not request a hearing within ten (10) days after receiving the DTHP's response to the grievance, the complainant waives his or her right to a hearing and the DTHP's proposed disposition of the grievance shall become final.

### **III. Hearing**

- 1.** If the complainant requests a hearing within ten (10) days of the date of the DTHP's written response, the Housing Director shall notify the Grievance Panel in writing of the request and shall schedule the hearing to be held within thirty (30) days of the complainant's request for a hearing.
- 2.** Written acknowledgement of the request and notice of the scheduled Grievance Hearing date, time and place shall be provided by the Housing Director to the complainant at least ten (10) days prior to the hearing date. The written acknowledgement may be personally delivered or sent by certified mail.
- 3.** The appointed Grievance Panel shall preside over the Grievance Hearing and shall make the final determination as to questions of rules and procedure. The Grievance Panel may be advised by and consult with DTHP staff or legal counsel on procedural matters during this process.
- 4.** The Grievance Panel, DTHP staff, and complainants shall treat each other respectfully and fairly when handling, hearing or presenting a grievance.
- 5.** The Grievance Panel shall require all in attendance to conduct themselves in an orderly fashion during the Grievance Hearing. Failure to comply with the directions of the Grievance Panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly party and automatic granting or denying the action sought.
- 6.** Grievance matters including the Grievance Hearing may be confidential and not open to the public depending upon the subject matter, as determined by the Grievance Panel.
- 7.** The complainant has the right to review all files and documents that were used by the DTHP in its original decision. This includes the name of witnesses or parties who have made complaints if such parties' statements were used by the DTHP in its original decision.
- 8.** Both the complainant and a representative of the Housing Program, who may be the same person who is providing advice to the Grievance Panel, shall make verbal arguments at the Grievance Hearing. The complainant may have a representative speak on his or her behalf.
- 9.** The Grievance Hearing shall be conducted informally by the Grievance Panel and verbal or written evidence pertinent to the facts and issues raised by the complainant will be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

**10.** After due consideration is given to a Grievance, a final decision will be made by the Grievance Panel whether to sustain, reverse or modify the decision, action or inaction challenged. A written decision shall be promptly given to the complainant no later than five (5) days after the hearing.

**11.** Failure to follow any requirement of these grievance procedures shall allow the Grievance Panel to dismiss the grievance with no further consideration.

**12.** Filing a grievance shall not suspend, negate, delay or disrupt the implementation of a Housing Program decision or action.

**13.** The provisions of these procedures shall not apply when any grievance concerns:

- any criminal activity that threatens the health or safety of, or right to peaceful enjoyment of by other participants, neighbors or Housing Program employees, or
- any criminal activity, including drug-related activity, by participants, their household members, guests, or invitees affecting premises, or rights or well-being of any participant's neighbors.

**Note:** This does not alter any right of review or examination of documents under certain such proceedings as provided by the Native American Housing and Self-Determination Act of 1996.

**14.** Should the complainant fail to appear at the Grievance Hearing, the Grievance Panel may;

- Dismiss the Grievance.
- Proceed without the complainant, or
- Reschedule the hearing one time.

**15.** This Grievance process does not apply to Housing Program employees except as they may file a grievance as a participant, nor does it apply to vendors or contractors.

**16.** These policies and procedures shall be provided to all participants who become residents or homebuyers of Housing Program owned or managed properties. It shall also be prominently posted in the Housing Program office.

