

Nisqually Indian Tribal Housing Department Grievance Policy



Adopted on: September 28, 2023

NISQUALLY TRIBAL COUNCIL

A handwritten signature in black ink, appearing to read 'William Frank III', is positioned above the name of the Chairman.

William Frank III, Chairman

SECTION I. PURPOSE AND APPLICABILITY

- A. The purpose of this Grievance Policy (“Policy”) is to provide Participants in Nisqually Indian Tribal Housing Department (NITHD) programs an opportunity for a fair hearing on adverse NITHD actions or failures to act, and to provide Participants an opportunity to exercise their rights as guaranteed under the Indian Civil Rights Act.
- B. This Grievance Policy is intended to provide due process to everyone involved, in compliance with all applicable Tribal, federal, and state laws. Nothing contained in this Grievance Policy shall waive the sovereign immunity of NITHD or the Tribe.
- C. The Grievance procedure (“Grievance Procedure”) in this Policy shall only apply to individual disputes between a Participant and the NITHD arising from a NITHD decision, action, or failure to act that adversely affects the complaining Participant. It shall not apply to disputes between Participants that do not involve NITHD, or to class Grievances. The Grievance Policy will also not apply to evictions, which are handled through a separate court process.
 - 1. This Grievance Policy does not apply to:
 - a) NITHD employees, except as they may file a Grievance as a housing program Participant; or
 - b) Vendors or contractors.
- D. NITHD Participants have the right to the Grievance Procedure set out in this NITHD Grievance Policy (except where specifically waived herein).
- E. The provisions of this Grievance Policy shall not apply when any Grievance concerns a NITHD action or failure to act based on:
 - 1. Any criminal activity that threatens the health or safety of, or right to peaceful enjoyment of, other Participants, neighbors, or NITHD employees; or
 - 2. Any criminal activity, including drug-related criminal activity, by Participants, their household members, guests, visitors, or other persons under their control.
- F. This Grievance Policy shall be made part of all housing assistance agreements entered with NITHD, including rental agreements, by referencing this Grievance Policy in such agreements.

- G. Copies of this Grievance Policy shall be made available to any Participant and shall be permanently posted in the NITHD office reception area.

SECTION II. DEFINITIONS

As used in this Policy, the following words shall have the meanings given them in this section unless the context plainly requires otherwise.

- A. “*Aggrieved Party*” means any Participant or Applicant who wishes to challenge an action or failure to act by NITHD, where that action or failure to act has had a direct impact on that Participant or Applicant.
- B. “*Applicant*” means an individual or family that has applied to participate in any NITHD housing program.
- C. “*Grievance*” means any dispute which an Aggrieved Party may have with respect to the NITHD’s actions or failures to act.
- D. “*Grievance Hearing*” means a hearing before the Housing Board Hearing Panel during which an Aggrieved Party presents their Grievance, NITHD responds, and the Hearing Panel formally reviews the Grievance, pursuant to the Grievance Procedures of this Policy.
- E. “*Hearing Panel*” means the Hearing Panel appointed by the Housing Board of the NITHD to hear Grievances pursuant to this Policy.
- F. “*Housing Board*” means the NITHD Housing Board.
- G. “*NITHD*” means Nisqually Indian Tribal Housing, an arm/instrumentality of the Nisqually Indian Tribe.
- H. “*Participant*” means a tenant, renter, homebuyer, homeowner, or other individual or family participating in or receiving housing assistance under any NITHD Housing Program, or the remaining successor head of the household of any Participant family.
- I. “*Successor*” means a person who in the event of death or mental incapacity of the original
- J. homebuyer, succeeds the original homebuyer signor of the housing agreement, or as defined more specifically in the NITHD policies or agreements.
- K. A “*Tenant*” is an adult person who signed the lease with NITHD. A Tenant may also be a

person who lives in the unit and is the head of household of the family residing in the unit.

L. “Tribe” means the Nisqually Indian Tribe.

SECTION III. GRIEVANCE PROCEDURE GENERALLY

- A. The Grievance Procedure set out in this Policy is the exclusive means of filing a Grievance with the NITHD. Any Grievances submitted to the NITHD or to the Housing Board that are not in accordance with this Policy shall be dismissed. To the extent that an Aggrieved Party circumvents this Policy by immediately contacting the Tribal Administration or Tribal Council to intervene on his/her behalf in a matter that could be resolved through this Procedure, the Aggrieved Party will be deemed to be out of compliance with this Procedure and be required to restart any process/procedure.
- B. The Grievance Procedure is a two-step process, comprised of an informal meeting and, if the Aggrieved Party is not satisfied with the decision from the informal meeting, a Grievance Hearing before the Hearing Panel. The Housing Board (or a portion thereof) may serve as the Hearing Panel, at the election of the Housing Board, consistent with Section V.B. of this Policy. The Aggrieved Party must follow this two-step process. The Hearing Panel will not consider a Grievance unless the Aggrieved Party has first completed the informal resolution process.
- C. The Aggrieved Party must comply with the timelines set out in this Policy. Failure to file a Grievance within the timelines will result in dismissal of the Grievance.
- D. The Aggrieved Party must file his or her Grievance in writing on the forms provided by the NITHD. Providing only oral notice of a Grievance is not sufficient.
- E. Only an Aggrieved Party or a spokesperson specifically designated by the Aggrieved Party may file a Grievance. No third party may file a Grievance on behalf of any Aggrieved Party without the express designation and authorization of the Aggrieved Party.
- F. Filing a Grievance pursuant to this Policy will not halt any timelines in a termination and/or
- G. eviction action, unless the NITHD agrees in writing to suspend the operation of those timelines while the Grievance is pending.

SECTION IV. FIRST STEP: INFORMAL RESOLUTION

- A. The informal resolution is the first step of the Grievance Procedure, to be conducted through

an informal meeting on a Grievance.

- B. To request an informal meeting on a Grievance, an Aggrieved Party must complete and submit a written Grievance to the Director of the NITHD at the NITHD offices, on a form provided by NITHD.
- C. The Grievance must state the name, address, and telephone number of the Aggrieved Party, the action or failure to act of NITHD that the Aggrieved Party would like to challenge, the date of that action or failure to act, and the relief requested.
- D. To be considered, the Grievance must be filed within ten (10) days of the date the Aggrieved Party becomes aware of the action or failure to act being grieved. If it is not filed within that time, the Grievance will be dismissed (and the Aggrieved Party will not be permitted to move to the Second Step).
 - 1. An exception to that deadline will be made in cases where the nature of the Grievance makes it unrealistic to assign a single date of occurrence, in which case the Grievance must be filed within a reasonable time after the Aggrieved Party became aware of the condition or issue.
- E. Upon receiving a Grievance, the NITHD Executive Director (or his or her designee) shall arrange an informal meeting within thirty (30) days with the Aggrieved Party to discuss the Grievance, provided that the meeting may take place after thirty (30) calendar days by mutual agreement of the parties. The meeting shall be informal, and shall provide an opportunity for the parties to discuss the Grievance informally and seek a resolution that is satisfactory to the Aggrieved Party and NITHD.
- F. If agreement is reached resolving the Grievance, the NITHD Director (or his or her designee) shall put the agreement in writing and obtain approval of the agreement from the Aggrieved Party.
- G. If no agreement is reached, the NITHD Director (or his or her designee) will prepare a written summary of the informal discussion within ten (10) days following such informal meeting. One copy shall be given to the Aggrieved Party and one retained in the Aggrieved Party's file. The summary shall specify:
 - 1. The names of the individuals who participated in the NITHD informal meeting;
 - 2. The date of the meeting;

3. The nature of the proposed disposition of the Grievance and the specific reasons for it; and
4. The procedures by which a hearing before the Hearing Panel may be obtained if the Aggrieved Party is not satisfied.

SECTION V. SECOND STEP: GRIEVANCE HEARING

A. Requesting a Grievance Hearing.

1. If an Aggrieved Party has completed the informal meeting as the first step of the Grievance Procedure and is dissatisfied with the decision reached, or if no meeting is set up within the thirty (30) day period (unless the parties agreed to a longer time period), or if the NITHD Director (or his or her designee) fails to issue the written summary of the informal discussion within ten (10) day period, the Aggrieved Party may request a Grievance Hearing by the Hearing Panel.
2. When NITHD receives the Aggrieved Party's request, it will date the request and file it in the Aggrieved Party's file with a copy of the informal meeting summary and a copy of the original notice of the informal meeting to the Aggrieved Party.

After the hearing, NITHD will place a copy of these documents, along with the written decision of the Director, in a separate Grievance hearing file.

3. In order to obtain a Grievance Hearing by the Hearing Panel, the Aggrieved Party must submit a written request for a Grievance Hearing to the NITHD office within the following timelines (whichever is applicable):
 - a) Ten (10) calendar days after receipt of the summary of the informal meeting required in the first step of the Grievance Procedure; or
 - b) If no meeting has been scheduled within the ten (10) calendar day period, within five (5) calendar days of the expiration of that period; or
 - c) If the Director (or his or her designee) fails to issue the written summary of the informal meeting within ten (10) day period, within five (5) calendar days of the expiration of that period.
4. The written request must be on the form provided by the NITHD and must specify:

- a) The name, address, and telephone number of the Aggrieved Party.
 - b) The reason(s) for the Grievance.
 - c) The action or relief sought.
 - d) The reason(s) why the informal resolution was not satisfactory.
 - e) The date of receiving the written summary of the informal resolution, the date by which the informal meeting should have been scheduled, or the date by which the written summary should have been provided, whichever is applicable.
5. If the Aggrieved Party fails to file a written request within the required time, the decision of the NITHD Director at the informal resolution step shall be the final decision, and there shall be no further opportunity for a Grievance Hearing or appeal. If a written request is filed after the required time, the Grievance shall be dismissed without a Grievance Hearing and the decision or action being grieved shall be final. Failure to request such a Grievance Hearing shall constitute a waiver by the Aggrieved Party of the right to contest the NITHD's action in any future court action, since the Aggrieved Party would have failed to exhaust administrative remedies.

B. Grievance Hearing

1. The Hearing Panel appointed to hear the Grievance Hearing will be comprised of no less than three (3) members of the NITHD Housing Board, who will be appointed by the Housing Board. No member of the Housing Board shall be appointed to hear the Grievance Hearing of a Grievance if that member is an immediate family member of the Aggrieved Party (first degree relations) or has been directly involved in the action or failure to act that is the subject of the Grievance or who, in the Housing Board's sole determination, cannot be a fair and unbiased decisionmaker under the circumstances.
2. The Hearing Panel shall set a date, time, and location of the Grievance Hearing on the Grievance, and shall provide written notice of the same to NITHD and to the Aggrieved Party.
3. The Aggrieved Party is entitled to a fair Grievance Hearing, which must include the following basic safeguards of due process:
 - a) The Aggrieved Party has the right to adequate notice of the grounds for terminating a tenancy or other adverse action of NITHD.

- b) The Aggrieved Party has the right to review and, at the expense of the Aggrieved Party, to copy all files, documents, and policies that were used by the NITHD in making its decision for the informal resolution. This includes the content of any complaints against the Aggrieved Party if such complaints were used by the NITHD in its decision (provided that the names of persons making such complaints may be redacted if they have requested such complaints be confidential). Any documents not made available at the reasonable request of the Aggrieved Party may not be relied on by the NITHD at the Grievance Hearing.
 - c) The Aggrieved Party has the right to be represented by an attorney or other spokesperson chosen as his/her representative at his/her own expense.
 - d) The Aggrieved Party has the right to a private Grievance Hearing. Grievance matters including the Grievance Hearing shall be confidential and not open to the public, but may be used in any subsequent litigation involving the same or related matter, including but not limited to evictions or collection actions. Information filed in Court is not confidential.
 - e) The Aggrieved Party has the right to present evidence and arguments in support of his or her Grievance and to controvert evidence relied on by the NITHD.
 - f) The Aggrieved Party has the right to a decision based on the facts presented at the Grievance Hearing.
4. The Hearing Panel shall conduct the Grievance Hearing informally, and verbal, documentary, or other written evidence pertinent to the facts and issues raised by the Aggrieved Party or NITHD will be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.
 5. The Hearing Panel may be advised by and consult with NITHD staff or legal counsel on procedural matters during the Grievance Hearing.
 6. The Hearing Panel shall require all individuals in attendance to conduct themselves in an orderly fashion during the Grievance Hearing. Failure to comply with the directions of the Hearing Panel to obtain or restore order may result in exclusion from the proceedings. If an Aggrieved Party is excluded from the Grievance Hearing pursuant to this provision, the Hearing Panel may dismiss the Grievance.
 7. This Grievance Procedure is the opportunity for the Aggrieved Party to tell his or her

side of the story. The Aggrieved Party should present any witnesses or other evidence they have on issues relevant to the Grievance before the Grievance Hearing.

8. The Aggrieved Party must first show NITHD that they are entitled to the action they are requesting. NITHD will then have the opportunity to respond and explain the basis of its action or failure to act.
9. If the Aggrieved Party or the NITHD representative fails to appear at the scheduled Grievance Hearing, the Hearing Panel may, at its sole discretion, decide to postpone the Grievance Hearing for not more than five (5) calendar days or may decide that the Aggrieved Party has waived his or her right to a Grievance Hearing. Both the Aggrieved Party and the NITHD will be notified of the decision to postpone by the Hearing Panel.
10. The Hearing Panel shall determine whether the Aggrieved Party has demonstrated that the NITHD's action, or failure to act, violated any provisions of applicable law, or any provisions of applicable NITHD regulations or policy.
11. If the Hearing Panel determines that they have addressed the issue at hand in another proceeding under the provisions of this Policy, the Hearing Panel may refer to that previous decision to address the Aggrieved Party's Grievance.
12. The Aggrieved Party or NITHD may arrange, in advance and at the expense of the party making the arrangement, for a transcript of the Grievance Hearing.

C. Escrow Deposits for Rent Disputes

1. For Grievances involving the amount of rent NITHD claims is due, NITHD will not schedule a hearing until the Tenant pays into an escrow account the amount NITHD claims is due. Tenant must also pay their monthly rent into an escrow account until the Grievance is resolved by the Hearing Panel. The Tenant may still contest the NITHD decision in tribal court if he or she fails to comply with this requirement.
2. This requirement does not apply to hearings involving tenancy terminations or evictions for alleged nonpayment of rent.
3. Payment and acceptance of deposits or subsequent payments will not constitute a waiver by NITHD of any lease violation.

D. **Hearing Panel Decision**

1. The Hearing Panel shall render a decision on the Grievance in writing and provide its

decision to the Aggrieved Party and to the NITHD Director no later than ten (10) calendar days after the close of the Grievance Hearing. The Hearing Panel's decision shall set forth the following information:

- a) The identity of the parties;
 - b) A summary of the Aggrieved Party's Grievance;
 - c) The relief requested by the Aggrieved Party;
 - d) The factual findings and legal conclusions by the Hearing Panel;
 - e) The decision by the Hearing Panel, and a summary of the reason(s) for that decision;
and
 - f) The relief the Aggrieved Party is entitled to, if any.
2. A copy of the Hearing Panel's decision shall be sent to the Aggrieved Party and to the NITHD Director, as well as retained in the Aggrieved Party's tenant or homebuyer file.
 3. The decision of the Hearing Panel shall be final and binding on all parties. The NITHD shall take any action, or refrain from any action, necessary to carry out the decision.
- E. In certain instances where the Housing Board has granted a waiver of ineligibility or forbearance under the Eligibility Admissions and Occupancy Policy or the Drug Policy, the hearing before the Housing Board to grant the waiver or forbearance shall be deemed the Grievance hearing. As a condition of being granted a waiver or forbearance, any subsequent violation of policy or failure to abide by the terms of the waiver or forbearance shall result in automatic termination of the rental agreement, homebuyer agreement, or other applicable housing assistance agreement, with no further right to another Grievance hearing.
- F. In the case of an NITHD action to evict a Participant, if that Participant does not request or participate in a Grievance hearing, or if the Hearing Panel rules against him or her, NITHD will have the right to file an action in Tribal Court to have the household forcibly evicted. The review by the Tribal Court generally does not involve a new hearing with witnesses and evidence, but is limited to reviewing the steps NITHD has taken to ensure that the Participant was given due process, that NITHD followed all regulatory processes, and that NITHD had sufficient grounds in the record before it to terminate the lease or homebuyer agreement.