

Gloucester City Housing Authority

Grievance Procedure

I. PURPOSE

This grievance procedure has been adopted to provide a forum and procedure for tenants to seek the just, effective and efficient settlement of grievances against the Gloucester City Housing Authority (GCHA).

II. GOVERNING LAW

The Law governing this grievance procedure is Section 6(k) of the U.S. Housing Act of 1937 (42 U.S.C. Sec. 1437d(k) and subpart B of 24 CFR part 966 CFR secs. 966.50 - 966.57).

III. APPLICABILITY

In accordance with applicable federal regulations, this grievance procedure shall be applicable to all individual grievances (as defined in Section IV below) between Tenant and the GCHA with the following two **exceptions**:

- A. This grievance procedure is **not applicable** to disputes between Tenants not involving GCHA, or to class grievances involving groups of Tenants. Also, this grievance procedure is not intended as a forum for initiating or negotiating policy changes between Tenants, or groups of tenants and GCHA's Board of Commissioners.
- B. HUD has issued a due process determination that the law of the State of New Jersey requires that the Tenant be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in Section IV below) before the Tenant can be evicted from a dwelling unit. Pursuant to the HUD due process determination, the GCHA has elected that this grievance procedure shall **not be applicable** to any termination of tenancy or eviction that involves:
 - i. Any criminal activity that threatens the health, safety or right of peaceful enjoyment of the premises of other residents or employees of GCHA, or

- ii. Any drug related criminal activity on or near such premises.

In cases involving these criminal activities, the GCHA may evict the occupants of the dwelling unit through a judicial eviction without following the grievance procedure outlines in this document. In these cases, the eviction proceeding will be brought in the Special Civil Part of the Superior Court, Law Division, pursuant to the New Jersey statutes annotated 2A: 1 8-61.1 et.seq.

IV. DEFINITIONS

The following definitions of terms shall be applicable to this grievance procedure:

- A. **Grievance:** Any dispute which a Tenant may have with respect to an action or a failure to act by the GCHA in accordance with the individual Tenant's lease or GCHA regulations which adversely affect the individual Tenant's rights, duties, welfare or status.
- B. **CFR:** The Code of Federal regulations, which contains the federal regulations governing this grievance procedure.
- C. **Complainant:** Any Tenant (as defined in this section below) whose grievance is presented to the central office of the GCHA located at 101 Market Street, Gloucester, NJ 08030, in accordance with the requirements set forth in this procedure.
- D. **Drug-related criminal activity:** The illegal manufacture, sale, distribution, use or possession with intent to manufacture, sale, distribute or use of a controlled substance, as defined in sec 102 of the Controlled Substances Act (21 U.S.C. sec. 802) as from time to time amended.
- E. **GCHA or "Authority":** The Gloucester City Housing Authority, at 101 Market Street, Gloucester, New Jersey 08030, a corporate body organized and existing under the laws of the State of New Jersey.
- F. **Elements of due process:** The following procedural safeguards are required to be followed in an eviction action or a termination of tenancy in a state or local court:

- i. Adequate notice to the Tenant of the grounds for terminating the tenancy and for eviction;
 - ii. Right of the Tenant to be represented by counsel;
 - iii. Opportunity for the Tenant to refute the evidence presented by GCHA, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Tenant may have;
 - iv. A decision on the merits.
- G. **Hearing Officer** An impartial person selected in accordance with 24 CFR Sec. 966.55 and this grievance procedure to hear grievances and render decisions with respect thereto.
- H. **Hearing panel:** A three-member panel composed of impartial persons selected in accordance with 24 CFR Sec. 966.55 and this grievance procedure to hear grievances and render decisions with respect thereto.
- I. **HUD:** The United States Department of Housing and Urban Development.
- J. **Notice:** As used herein, the term notice shall, unless otherwise specifically provided, means written notice.
- K. **The "Regulations":** The HUD regulations contained in subpart B of 24 CFR part 966.
- L. **Resident organization:** An organization of residents, which includes any resident management corporation.
- M. **Tenant:** The adult person (or persons) other than a live-in aide:
 - i. Who resides in the unit, and who executed the lease with GCHA as lessee of the dwelling unit, or, if no such person now resides in the unit,
 - ii. The person who resides in the unit, and who is the remaining head of the household of the Tenant family residing in the dwelling unit.
- N. **Business Days:** Monday through Friday of each week, except for legal holidays recognized by the Gloucester City_Housing Authority.

V. INCORPORATION INTO LEASES and THE PROVISION OF A COPY TO TENANT

This grievance procedure shall be incorporated by reference into all leases between Tenants and GCHA for all public housing dwellings leased by GCHA to Tenants, whether or not so specifically provided in such leases.

The GCHA shall furnish a copy of the grievance procedure to each Tenant and to resident organizations.

VI. INFORMAL SETTLEMENT OF GRIEVANCES

- A. **Initial Presentation.** Any grievance must be personally presented, either orally or in writing, to GCHA's central office, within **five business days** after the occurrence of the event giving rise to the grievance.
- B. **Informal Settlement Conference.** If the grievance is not determined by GCHA to fall within one of the two exclusions mentioned in section III B.(1) and III B.(2) above, then GCHA will, within **five business days** after the initial presentation of the grievance, informally discuss the grievance with the Complainant or Complainant's representatives in an attempt to settle the grievance without the necessity of a formal hearing. The parties to the conference shall conduct themselves in an orderly manner. If the informal settlement conference cannot occur at the time the grievance is initially presented by the Complainant, then the Complainant will be promptly notified in writing of the time and place for the informal settlement conference.
- C. **Written Summary.** Within **five business days** after the informal settlement conference, a summary of the informal discussion shall be prepared by GCHA and a copy thereof shall be provided to the Complainant. The summary shall be in writing and shall specify the names of the participants in the discussion, the date of the discussion, the nature of the proposed disposition of the grievance, and the specific reasons for such disposition. This written summary will also specify the procedures by which the Complainant may obtain a formal hearing if not satisfied by the proposed disposition of the grievance. A copy of the written summary shall also be placed in Complainant's tenant file.

VII. FORMAL GRIEVANCE HEARING

All grievances must be personally presented either orally or in writing pursuant to the informal procedure prescribed in Section VI as a condition to a formal grievance hearing under this section: **provided**, that if the Complainant shall show good cause to the hearing panel or officer for failing to proceed in accordance with Section VI, the necessity of an informal procedure may be waived by the hearing panel or officer.

The following procedures apply to the request for a formal grievance hearing under this grievance procedure:

- A. **Request for hearing:** If the Complainant is not satisfied with the results of the informal settlement conference, the Complainant must submit a written request for a formal hearing to GCHA's central office, no later than **five business days** after the date Complainant receives the summary of discussion delivered as required under Section VI above.

Complainant's written request for a formal hearing must specify:

- i. The reasons for the grievance; and
- ii. The action or relief sought by the Complainant; and
- iii. If the Complainant so desires, a statement setting forth the times at which the Complainant will be available for a hearing during the next ten business days; and
- iv. Complainant's preference, if any, concerning whether the grievance should be heard by a single hearing officer or by a hearing panel of three members; and
- v. If the Complainant has failed to attend an informal discussion conference, a request that the hearing officer or panel waive this requirement.

- B. **Failure to Request A Hearing.** If the Complainant fails to request a hearing within **five business days** after receiving the written summary of the informal settlement conference, GCHA's decision rendered at the informal hearing becomes final and GCHA is not thereafter obligated to offer the Complainant a formal hearing; **provided** that failure to request a hearing shall not constitute a waiver by the Complainant of any right afterwards to contest in an appropriate judicial proceeding the GCHA's action in disposing of the complaint.

VIII. SELECTION OF HEARING OFFICER OR PANEL

All grievance hearings shall be conducted by an impartial person or persons appointed by GCHA after consultation with resident organizations, in the manner described below:

- A. The permanent appointments of persons who shall serve as hearing officers and hearing panel members shall be governed by the following procedures:

- i. GCHA shall nominate a slate of persons to sit as permanent hearing officers or hearing panel members. These persons may include, but will not be necessarily limited to, members of the GCHA Board of Commissioners, GCHA staff members, residents, or other responsible persons in the community. No person shall be listed on the slate of members unless such person has consented to serve as a hearing officer or on a hearing panel.
- ii. The slate of potential appointees shall be posted in the GCHA central office and submitted to all GCHA resident organizations for written comments. Written comments must be received by GCHA within 30 days of posting and provision to the resident organizations (non-business days and holidays will be counted within the 30-day period). Written comments from resident organizations shall be considered by GCHA before appointments are finally made. Objection to the appointment of a person as a hearing officer or panelist must be considered but is not dispositive as to the proposed appointment with respect to which objection is made.
- iii. On final appointment, the person(s) appointed and resident organizations shall be informed in writing of the appointments. A list of all qualified hearing officers and panelists will be kept at the central office of GCHA and be made available for public inspection at any time during office hours.

C. The designation of hearing officers or panel members for particular grievance hearings shall be governed by the following provisions:

- i. All hearings will be held before a single hearing officer unless the Complainant (at the time of the initial request for the formal hearing) or GCHA requests that the grievance be heard by panel of three members.
- ii. Appointments to serve as a hearing officer or panelist with respect to a particular grievance shall be made by GCHA in random order, subject to availability of the hearing officer or panelist. The GCHA may employ any reasonable system for random order choice.
- iii. No member of the GCHA Board of Commissioners or staff may be appointed as hearing officer or panelist in connection with the grievance contesting an action which was either made or approved by the proposed appointee, or which was made or approved by a person under whom the proposed appointee works or serves as a subordinate.

- iv. No person shall accept an appointment, or retain an appointment, once selected as a hearing officer or hearing panelist, if it becomes apparent that such person is not fully capable of impartiality. Persons who are designated to serve as hearing officers or panelists must disqualify themselves from hearing grievances that involve personal friends, relatives, persons with whom they have a business relationship, or grievances in which they have some personal interest. Further, such persons are expected to disqualify themselves if the circumstances are such that a significant perception of partiality exists and this perception is reasonable under the circumstances. If a complainant falls to object to the designation of the hearing officer or panelists on the grounds of partiality, at the commencement or before the hearing, such objection is deemed to be waived, and may not thereafter be made.

In the event that a hearing officer or panel member fails to disqualify himself or herself as required in this grievance procedure, GCHA will remove the panel member or officer from the list of persons appointed for such purposes, invalidate the results of the grievance hearing in which such person should have, but did not, disqualify himself or herself, and schedule a new hearing with a new hearing panel or officer.

IX. SCHEDULING OF HEARINGS

A. Hearing prerequisites: A complainant does not have a right to a formal grievance hearing unless the Complainant has satisfied the following prerequisites to such a hearing:

- i. The Complainant has requested a hearing in writing.
- ii. The Complainant has completed the informal settlement conference procedure or has requested a waiver for good cause which has been granted.
- iii. If the matter involves the amount of rent which GCHA claims is due under the Complainant's lease, the Complainant shall have paid to GCHA in amount equal to the amount due and payable as of the first of the month preceding the month in which the complained of act or failure to act took place. In the case of situations in which hearings are, for any reason delayed, the Complainant shall 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 or hearing panel. These requirements may be waived in writing by the GCHA in extenuating circumstances. Unless so waived, the failure to make such payments shall result in

a termination of the grievance procedure; provided, that failure to make payment shall not constitute a waiver of any right the Complainant may have to contest the GCHA's disposition of the grievance in any appropriate judicial proceeding.

B. Time, Place, Notice.

- i. Upon Complainant's compliance with the prerequisites to a hearing set forth above, a hearing shall be scheduled by the hearing officer or hearing panel promptly for a time and place reasonably convenient to both the Complainant and GCHA, not later than the **tenth business day** after Complainant has completed such compliance. (in the case of a panel, if all three appointed members of the panel are not able to agree upon a date and time convenient to all panelists, on or before the last date before the hearing permitted under this procedure, they shall immediately so inform GCHA. If two panelists can agree upon a date and time, GCHA shall reappoint a third panelist who shall be available at the time agreed upon by the two who can agree. If none of the panelists can agree upon a time, a new panel shall be appointed.)
- ii. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the Complainant and the appropriate GCHA official, who, unless otherwise designated, shall be the executive director.

X. PROCEDURES GOVERNING HEARINGS

A. Fair Hearings.

The hearings shall be held before a hearing officer or hearing panel as described above in Section VIII. The Complainant shall be afforded a fair hearing, which shall include:

- i. The opportunity to examine before the hearing any GCHA documents, including records and regulations that are directly relevant to the hearing.

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

- ii. The right to be represented by counsel or other person

chosen as the Complainant's representative and to have such person make statements on the Complainant's behalf.

- iii. The right to a private hearing unless the Complainant requests a public hearing.
- iv. The right to present evidence and arguments in support of the Complainant's complaint, to controvert evidence relied on by GCHA and to confront and cross-examine all witnesses upon whose testimony or information the GCHA or its management relies.
- v. A decision based solely and exclusively upon the facts presented at the hearing.
- vi. In the event of a hearing by a panel, a decision made by a majority of two of the three panelists will decide the grievance.

B. Prior Decision In Same Matter.

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

C. Failure to Appear.

If the Complainant or GCHA fails to appear at a scheduled hearing, the hearing officer or hearing panel may make a determination to postpone the hearing for a period not to exceed **five business days** or may make a determination that the party failing to attend has waived the right to a hearing. In such event, the hearing officer or hearing panel shall notify the Complainant and GCHA of the determination.

The failure to attend a grievance hearing shall not constitute a waiver of any right, which the Complainant may have to contest GCHA's disposition of the grievance in an appropriate judicial proceeding.

D. Required Showing of Entitlement to Relief.

At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and afterwards the GCHA must sustain the burden of justifying GCHA's action or failure to act against which the complaint is directed.

E. Informality of Hearing.

The hearing shall be conducted informally by the hearing officer or 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.

F. Orderly Conduct Required.

The hearing officer or hearing panel shall require GCHA, 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 or 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.

G. Transcript of Hearing.

The Complainant or GCHA 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 transcript.

H. Accommodation to Handicapped Person.

GCHA must provide reasonable accommodation for persons with disabilities to participate in grievance hearings. Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

XI. DECISION OF THE HEARING OFFICER OR HEARING PANEL

At or subsequent to the completion of the grievance hearing, the hearing officer or panel shall make a determination as to the merits of the grievance and the following provisions shall govern:

A. Written Decision. The hearing panel or officer shall prepare a written decision, together with the reasons for the decision within **ten business days** after the completion of the hearing.

- i. A copy of the decision shall be sent to the Complainant and GCHA. GCHA shall retain a copy of the decision in the Complainant's tenant folder.
- ii. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by GCHA and made available for inspection by any prospective Complainant, his representative, or the hearing panel or hearing officer.

B. Binding Effect. The written decision of the hearing officer or hearing panel shall be binding upon GCHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless

GCHA's Board of Commissioners determines, within **ten business days**, and properly notifies the Complainant of its determination, that:

- i. the grievance does not concern GCHA action or failure to act in accordance with or involving the Complainant's lease or GCHA's regulations which adversely affect the Complainant's rights, duties, welfare or status, or
- ii. the decision of the hearing officer or hearing panel is contrary to applicable Federal, State, or local law, HUD regulations, or requirements of the annual contributions contract between HUD and GCHA.

C. Continuing Right of Complainant to Judicial Proceedings. A decision by the hearing panel or officer or Board of Commissioners in favor of GCHA or which denies the relief requested by the Complainant, in whole or in part, shall not constitute a waiver of, nor affect in any manner whatever, any rights of the Complainant to a trial or judicial review in any judicial proceedings, which may afterwards be brought in the matter.

XII. NOTICES

All notices under this grievance procedure shall be deemed delivered: (1) upon personal service upon the Complainant or an adult member of the Complainant's household, or (2) upon the date received for or refused by the addressee, in the case of certified or registered U.S. Mail, or (3) on the second day after the deposit of the notice for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail.

If a Tenant is visually impaired, any notice delivered to such Tenant shall be in an accessible format.

XIII. MODIFICATION

This grievance procedure may not be amended or modified except by approval of a majority of the Board of Commissioners of GCHA, present at a regular meeting or a special meeting called for such purposes. Further, in addition to the foregoing, any changes proposed to be made to this grievance procedure must provide for at least 30 days (counting non-business days and holidays) advance notice to tenants and resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by GCHA before final adoption of any amendments or changes to this grievance procedure.

XIV. MISCELLANEOUS

A. Captions: Captions or paragraph headings set forth in this grievance procedure are for convenience of reference only and shall not be construed or interpreted to affect the substance of the paragraphs or sections so captioned.

B. Concurrent Notice: The Complainant should be aware that a notice to vacate or a notice to quit which is required by New Jersey State law will run concurrently with a notice of lease termination required by Federal law.