

# HOUSING AUTHORITY OF GLOUCESTER COUNTY

## GRIEVANCE PROCEDURES POLICY

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### A. INTRODUCTION

The Housing Authority of Gloucester County (The Authority) will investigate and respond to complaints by participant families, owners, and the general public. The Authority may require that complaints, other than Housing Quality Standards (HQS) violations, be put in writing. Anonymous complaints are investigated whenever possible.

If there should be any conflict between this policy and Federal, State, or local laws and regulations, the laws and regulations shall prevail.

All informal reviews and informal hearings shall be conducted by the designated Hearing Officer of the Authority. As these hearings and reviews are “informal” and the rules of the Superior Court of New Jersey are not applicable.

This Grievance Procedures Policy shall be applicable to all grievances in accordance with this policy, **except** for those appeals that are related to violations of the “One Strike and You’re Out Policy.” Please refer to the “One Strike and You’re Out Policy” for the procedures governing such appeals and related hearings.

If you are an individual with a disability and require a reasonable accommodation such as an accessible feature or modification to a HAGC policy, please submit your request for an accommodation in writing to HAGC. Further, if you are a victim of domestic violence, dating violence, sexual assault or stalking, you may be entitled to certain protections under the Violence Against Women Reauthorization Act. Please refer to HAGC’s Notice of Occupancy Rights under VAWA available upon request, online at [www.hagc.org](http://www.hagc.org), or at HAGC’s Administrative Office.

## **B. RIGHT TO INFORMAL REVIEW/HEARING**

Upon the filing of a written request as provided in this policy, applicants shall be entitled to informal reviews and participants and residents shall be entitled to informal hearings.

## **C. DEFINITIONS**

For the purpose of this Grievance Procedures Policy, the following definitions are applicable:

1. **“Applicant”** shall be used to refer to those who have filed a pre-application with the Authority for any of the programs administered by the Authority.
2. **“Authority”** shall be used to refer to the Housing Authority of Gloucester County.
3. **“Cert/Voucher/Mod Rehab”** shall mean the either the Section 8 Certificate, Voucher, Housing Choice Voucher, or Moderate Rehabilitation Program, as applicable to the circumstances.
4. **“Complainant”** shall mean any resident whose grievance is presented to the Authority or at the project management office.
5. **“Elements of Due Process”** shall mean an eviction action or a termination of tenancy in a State or local court in which the following procedural safeguards are required:
  - 1) Adequate notice to the resident of the grounds for terminating the tenancy and for eviction;
  - 2) Right of the resident to be represented by counsel;
  - 3) Opportunity for the resident to refute the evidence presented by the Authority including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the resident may have; and
  - 4) A decision on the merits.
6. **“Grievance”** shall mean any dispute which a resident or participant may have with respect to the Authority's action or failure to act in accordance with the individual resident's lease or Authority regulations, policies, or procedures which adversely affect the individual resident's rights, duties, welfare or status.

Grievance does **not** include any dispute a resident may have with the Authority concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the Authority's Public Housing premises by other residents or employees of the Authority; or any violent or drug-related criminal activity on or near such premises. Nor shall this process apply to disputes between residents or participants not involving the Authority or to class grievances.

7. **“Hearing Officer”** shall mean an impartial person selected by the Authority in accordance with this policy and current regulations to administer the informal reviews, informal hearings, and hear grievances and render a decision with respect thereto.
8. **“Participant”** shall mean any individual or family receiving assistance in either the Section 8 Certificate, Voucher, Housing Choice Voucher, or Moderate Rehabilitation Programs.
9. **“Promptly”** shall mean within the time period indicated in a notice from the Authority of a proposed action which would provide the basis for a grievance if the resident has received a notice of a proposed action from the Authority.
10. **“Resident”** shall mean the adult person (or persons) other than a live-in aide:
  - 1) Who resides in a Public Housing unit and who executed the lease with the Authority as lessee of the premises, or, if no such person now resides in the premises,
  - 2) Who resides in a Public Housing unit and who is the remaining head of household of the resident family residing in the unit.

#### **D. CONDUCT FOR APPEARANCE AT INFORMAL REVIEW/HEARING**

The Hearing Officer shall require HAGC employees, the family, counsel and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the Hearing Officer to maintain order may result in exclusion from the proceedings or termination of the Hearing.

#### **E. INFORMAL REVIEW PROCEDURES FOR ALL APPLICANTS**

##### **1. NOTICE TO APPLICANT**

The Authority will give an applicant for participation in the Public Housing, Section 8 Cert/Voucher/Mod Rehab Programs prompt notice of a decision denying assistance to the applicant. The notice will contain a brief statement of the reasons for the Authority decision. The notice will state that the applicant may request an informal review by requesting such in writing, within 30 calendar days of the denial of assistance. The Authority will not consider requests submitted beyond this time period, unless exceptional circumstances are shown.

## **2. WHEN THE AUTHORITY IS NOT REQUIRED TO PROVIDE AN INFORMAL REVIEW**

The Authority will not provide the applicant an opportunity for an informal review for any of the following reasons:

- 1) A determination of the family unit size under the Authority subsidy standards.
- 2) An Authority determination not to approve an extension or suspension of a certificate or voucher term.
- 3) An Authority determination not to grant approval to lease a unit under the program or to approve a proposed lease (grant approval of the tenancy).
- 4) An Authority determination that a unit selected an applicant is not in compliance with HQS.
- 5) An Authority determination that the unit is not in accordance with HQS because of family size or composition.
- 6) General policy issues or class grievances.
- 7) Discretionary administrative determinations by the Authority.

## **3. INFORMAL REVIEW PROCESS**

The Authority will give an applicant an opportunity for an informal review of the Authority decision denying assistance to the applicant. The procedure is as follows:

- 1) The review will be conducted by any person or persons designated by the Authority other than the person who made or approved the decision under review or a subordinate of this person.

- 2) The applicant will be mailed a notice stating the date, time, and location for the informal review at least 5 calendar days prior to the scheduled date of such review.
- 3) The applicant will be given an opportunity to present written or oral objections to the Authority decision.
- 4) The applicant has the right to be represented by any person, including an attorney of their choice, but the applicant must still appear at the informal review..
- 5) The Authority will notify the applicant, in writing, of the Authority decision after the informal review within 14 calendar days. The notification will include a brief statement of the reasons for the final decision.

#### **4. CONSIDERING CIRCUMSTANCES**

In deciding whether to deny assistance because of action or inaction by members of the family, the Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial of assistance on other family members who were not involved in the action or failure.

The Authority may impose, as a condition of assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit.

#### **5. INFORMAL REVIEW PROCEDURES FOR DENIAL OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS**

The applicant family may request that the Authority provide for an informal review after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For applicant families, the Informal Review Process above will be utilized with the exception that the applicant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision to request the review.

## **F. INFORMAL HEARINGS FOR PARTICIPANTS IN THE CERT/VOUCHER/MOD REHAB PROGRAMS**

1. The Authority will give a participant family an opportunity for an informal hearing to consider whether the following Authority decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations, and Authority policies:
  - 1) A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
  - 2) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the Authority utility allowance schedule.
  - 3) A determination of the family unit size under the Authority subsidy standards.
  - 4) A determination that a Certificate Program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the Authority subsidy standards, or the Authority determination to deny the family's request for an exception from the standards.
  - 5) A determination to terminate assistance for a participant family because of the family's action or failure to act.
  - 6) A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the Authority's Section 8 Administrative Plan and HUD rules.

In cases described in paragraphs **4)**, **5)**, and **6)**, of this Section, the Authority will give the opportunity for an informal hearing before the Authority terminates housing assistance payments for the family under an outstanding HAP contract.

2. The Authority will not provide a participant family an opportunity for an informal hearing for any of the following reasons:
  - 1) Discretionary administrative determinations by the Authority.
  - 2) General policy issues or class grievances.

- 3) Establishment of the Authority schedule of utility allowances for families in the program.
- 4) An Authority determination not to approve an extension or suspension of a certificate or voucher term.
- 5) An Authority determination not to approve a unit or lease for the Cert/Voucher/Mod Rehab Program.
- 6) An Authority determination that an assisted unit is not in compliance with HQS. (However, the Authority will provide the opportunity for an informal hearing for a decision to terminate assistance for a breach of the HQS caused by the family.)
- 7) An Authority determination that the unit is not in accordance with HQS because of the family size.
- 8) A determination by the Authority to exercise or not exercise any right or remedy against the owner under a HAP contract.

### 3. Notice to the Family

- 1) In the cases described in paragraphs **E. 1. 1), 2), and 3)**, of this Section, the Authority will notify the family that the family may ask for an explanation of the basis of the Authority's determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision within 30 calendar days of the notification. The Authority will not consider requests submitted beyond this time period, unless exceptional circumstances are shown.
- 2) In the cases described in paragraphs **E. 1. 4), 5), and 6)**, of this Section, the Authority will give the family prompt written notice that the family may request a hearing within 30 calendar days of the notification. The notice will:
  - a) Contain a brief statement of the reasons for the decision; and
  - b) State this if the family does not agree with the decision, the family may request an informal hearing on the decision within 30 calendar days of the notification.

### 4. Scheduling of informal hearings

The assisted family will be mailed a notice stating the date, time, and location of the informal hearing at least 5 calendar days prior to the scheduled date of such hearing.

**5. Expeditious hearing process**

Where a hearing for a participant family is required under this section, the Authority will proceed with the hearing in a reasonably expeditious manner upon the request of the participant family.

**6. Hearing Procedures**

The Authority and participants will adhere to the following procedures:

**1) Discovery**

- a)** The participant family will be given the opportunity to examine before the hearing any Authority documents that are directly relevant to the hearing. The participant family will be allowed to copy any such document at the participant's expense. If the Authority does not make the document(s) available for examination on request of the participant family, the Authority may not rely on the document at the hearing.
- b)** The Authority will be given the opportunity to examine, at the Authority's offices before the hearing, any participant family documents that are directly relevant to the hearing. The Authority will be allowed to copy any such document at the Authority's expense. If the participant family does not make the document(s) available for examination on request of the Authority, the participant family may not rely on the document at the hearing.

Note: The term **document** includes records and regulations.

**2) Representation of the Participant**

At its own expense, a lawyer or other representative may represent the participant family; however the participant must still be present at the informal hearing.

**3) Hearing Officer**

- a)** The hearing will be conducted by any person or persons designated by the Authority, other than a person who made or approved the decision under review or a subordinate of this person.



- b) The person who conducts the hearing will regulate the conduct of the hearing in accordance with the Authority hearing procedures.

4) Evidence

The Authority and the participant must have the opportunity to present evidence and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

5) Issuance of Decision

The person who conducts the hearing must issue a written decision within 14 calendar days from the date of the hearing, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the participant shall be based on a preponderance of the evidence presented at the hearing.

6) Effect of the Decision

The Authority is not bound by a hearing decision:

- a) Concerning a matter for which the Authority is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the Authority hearing procedures.
- b) Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law.
- c) If the Authority determines that it is not bound by a hearing decision, the Authority will notify the family within 14 calendar days of the determination, and of the reasons for the determination.

7\_ Appeals to the Executive Director

Please See Attachment "A" for Instructions on Appealing Fair Hearing Decisions to the Executive Director or his/her designee.

7. Failure to Appear at Hearing

- 8. Should a family fail to appear at the scheduled Informal Review or Fair Hearing ordered by the Hearing Officer, the family must contact HAGC within 72 hours (excluding holidays and

weekends) with evidence of “good cause.” If the family fails to provide documentation of “good cause,” the action of HAGC shall take effect and another hearing will not be granted.

#### **4. INFORMAL HEARING PROCEDURES FOR TERMINATION OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS**

The participant family may request that the Authority provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the applicant family within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

For participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or of the INS appeal decision to request the review.

#### **5. CONSIDERING CIRCUMSTANCES**

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not involved in the action or failure.

The Housing Authority may impose, as a condition of continued assistance for other family members, a requirement that family members who participated in or were culpable for the action or failure will not reside in the unit. The Housing Authority may permit the other members of a participant family to continue receiving assistance.

### **G. GRIEVANCE PROCEDURES FOR RESIDENTS OF PUBLIC HOUSING AND OWNED AND MANAGED PROPERTIES**

#### **1. INFORMAL SETTLEMENT PROCEDURES PRIOR TO A HEARING**

Any grievance shall be promptly and personally presented, either orally or in writing, to the Authority’s Property Manager so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within fourteen (14) calendar days and one copy shall be given to the resident and one retained in the Authority’s resident file. The summary shall specify the names of the participants, dates of the meeting, the nature of the proposed disposition of the complaint and the

specific reasons therefore, and shall specify the procedures by which a hearing under these procedures may be obtained if the resident is not satisfied.

## **2. PROCEDURES TO OBTAIN A HEARING**

### **1. REQUEST FOR A HEARING**

The complainant shall submit a written request for a hearing to the Authority within ten (10) calendar days from the date of the mailing of the summary of the discussion pursuant to Section F.1., "Informal Settlement Procedures Prior to a Hearing." The written request shall specify:

- 1) The reasons for the grievance; and
- 2) The action or relief sought.

### **2. SELECTION OF A HEARING OFFICER**

A grievance hearing shall be conducted by an impartial person appointed by the Executive Director of the Authority, other than a person who made or approved the action under review or a subordinate of such person.

### **3. FAILURE TO REQUEST A HEARING**

If the resident does not request a hearing in accordance with this Section, then the Authority's disposition of the grievance under Section F. 2. 1. shall become final. However, failure to request a hearing does not constitute a waiver by the resident of the right thereafter to contest the Authority's action in disposing of the complaint in an appropriate judicial proceeding.

### **4. HEARING PREREQUISITE**

All grievances shall be promptly presented in person, either orally or in writing, pursuant to the informal settlement procedures prescribed in Section F. 2. 1. as a condition precedent to a hearing under this Section. However, if the resident can show good cause why there was failure to proceed in accordance with Section F. 2. 1. to the Hearing Officer, the provisions of this subsection may be waived by the Hearing Officer.

## **5. ESCROW DEPOSIT**

Before a hearing is scheduled in any grievance involving the amount of rent, as defined in the lease which the Authority claims is due, the resident shall pay to the Authority an amount equal to the amount of 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 resident shall thereafter deposit monthly the same amount of the monthly rent in an escrow account held by the Authority until the complaint is resolved by decision of the Hearing Officer. Amounts deposited into the escrow account shall not be considered as acceptance of money for rent during the period in which the grievance is pending. In extenuating circumstances, the Authority may determine to waive these requirements, as evidenced by notifying the resident in writing. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure. However, failure to make payment shall not constitute a waiver of any right the resident may have to contest the Authority's disposition of his grievance in any appropriate judicial proceeding.

## **6. SCHEDULING OF HEARINGS**

Upon the resident's compliance with this Section, the Hearing Officer shall promptly schedule a hearing for a time and place reasonably convenient to both the resident and the Authority. A written notification specifying the time, place, and the procedures governing the hearing shall be mailed to the resident and given to the appropriate Authority staff.

## **3. WHEN THE AUTHORITY IS NOT REQUIRED TO OFFER THE TENANT AN INFORMAL HEARING**

The Authority may bypass, in accordance with the lease, the grievance procedures in for a termination of tenancy under the following circumstances:

1. For any activity, not just a criminal activity, that threatens the health, safety, or right to peaceful enjoyment of the premises by the other tenants or employees of the Authority;
2. For any drug related criminal activity on or off the premises, not just on or near the premises; or
3. For any other actions for eviction under the Special Civil Part of the Superior Court, Law Division, under New Jersey Statutes Annotated, Section 2A:18-61.1 et seq.

Pursuant to HUD's due process determination for the State of New Jersey as published in the Federal Register on March 12, 1996 .

The Authority's grievance procedures shall not be applicable to disputes between tenants not involving the Authority or to class grievances. This policy is not intended as a forum for initiating or negotiating policy changes between a group or groups of tenants and the Authority's Board of Commissioners.

#### **4. PROCEDURES GOVERNING THE HEARING**

The resident shall be afforded a fair hearing, which shall include:

1. Upon written request and reasonable notice to the Authority, prior to the hearing, the opportunity to examine any Authority documents, including records and regulations that are directly relevant to the hearing. The resident shall be provided a copy of any such document at the resident's expense. If the Authority does not make the document available for examination upon written request by the resident, the Authority may not rely on such document at the grievance hearing.
2. The right to be represented by counsel or other person chosen as the resident's representative and to have such person make statements on the resident's behalf;
3. The right to a private hearing unless the resident requests a public hearing;
4. The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by the Authority and to confront and cross examine all witnesses upon whose testimony or information on which the Authority relies; and
5. A decision based solely and exclusively upon the facts presented at the hearing.
6. The Hearing Officer may render a decision without holding a hearing if the Hearing Officer determines that the issue has been previously decided at another hearing.
7. If either the resident or Authority fails to appear at a scheduled hearing, the Hearing Officer may postpone the hearing for no more than 5 business days or determine that the missing party has waived their right to a hearing. Both the Authority and the resident shall be notified of the Hearing Officer's decision. This decision shall not waive a resident's right to contest the disposition of the grievance in an appropriate judicial proceeding.

8. At the hearing, the complainant must first make a showing of an entitlement to the relief sought and thereafter the Authority must sustain the burden of justifying the Authority action or failure to act against which the complaint is directed.
9. The hearing shall be conducted informally by the Hearing Officer 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. The Hearing Officer will require the Authority, the complainant, counsel, and any other participants to conduct themselves in an orderly fashion. Failure to comply with 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.
10. The complainant or the Authority 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.
11. The following accommodations will be made for persons with disabilities:
  - 1) The Authority shall provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations, or attendants.
  - 2) If the resident is visually impaired, any notice to the resident that is required by these procedures must be in an accessible format.
12. The Authority will comply with HUD's Guidance on Limited English Proficiency

## **5. INFORMAL HEARING PROCEDURES FOR TERMINATION OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS**

The tenant family may request that the Authority provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. The tenant family must make this request within 30 days of receipt of the *Notice of Denial or Termination of Assistance*, or within 30 days of receipt of the INS appeal decision.

## **6. DECISION OF THE HEARING OFFICER**

The Hearing Officer shall prepare a written decision, together with the reasons, within fourteen (14) calendar days after the hearing. Copies of the decision shall be mailed to the resident and given to the Authority. The Authority shall retain a copy of the decision in the resident's file. The Authority shall maintain a log of hearing officer decisions and make that log available upon request of the hearing officer, or a prospective complainant's representative.

The decision of the Hearing Officer shall be binding on the Authority who shall take all actions, or refrain from any actions, necessary to carry out the decision unless the Authority's Executive Director and/or Board of Commissioners determines within reasonable time, and promptly notifies the complainant of its determination, that:

1. The grievance does not concern Authority action or failure to act in accordance with or involving the resident's lease or Authority regulations, which adversely affect the resident's rights, duties, welfare or status;
2. The decision of the Hearing Officer is contrary to applicable Federal, State, or local law, Authority regulations, or requirements of the Annual Contributions Contract between the Authority and the U.S. Department of Housing and Urban Development.

A decision by the Hearing Officer, Executive Director, or Board of Commissioners in favor of the Authority or which denies the relief requested by the resident in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the resident may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

## Exhibit “A”

### Instruction for Submitting an Appeal

HAGC permits applicants and participants to submit written appeals to the Executive Director to challenge the Fair Hearing decisions issued by the Hearing Officer. Appeals are based on the existing record obtained before the Hearing Officer, with further testimony or documents requested when necessary. The Executive Director or his/her designee will issue a written determination in response to the request for Appeal. Appeals will be reviewed to ensure that the Hearing Officer’s determination is in accordance with applicable Federal, State or local law and the requirements of the or requirements of the Annual Contributions Contract between the Authority and the U.S. Department of Housing and Urban Development.

If an applicant or participants wishes to submit an Appeal of the Fair Hearing decision, the following instructions should be followed:

- Review the Hearing Officer’s decision carefully and note any requirements or conditions set forth in the decision letter.
- Submit a written Appeal to the Executive Director.
- The Appeal must be submitted to the Executive Director within 14 calendar days. Unless proof of extraordinary circumstances is provided, late Appeals will not be considered.
- Failure to submit a timely Appeal is a waiver of the right to Appeal to the Executive Director.
- The Appeal should include the following.
  - The applicant/participant full name, mailing address, daytime telephone number, and email address.
  - A clear and concise statement of the reason(s) for disagreeing with the Hearing Officers’ decision.
    - The legal rule or HAGC policy which has been misapplied, misapplied, or not properly considered by the Hearing Officer;
    - All facts which have been misunderstood, misapplied or not properly considered by the Hearing Officer or new information which would change the decision;
    - All documents and evidence which support the Appeal.
      - This may include letters from doctors, landlords, employers, rehabilitation centers, counselors, photographs, and notarized statements.
  - If the Appeal is based on your failure to appear at the scheduled Fair Hearing, detail the reasons leading to the failure to appear and provide proof to support the failure to appear.



- Please note Applicants and Participants requesting an Appeal will not be scheduled for a Second Fair Hearing, unless it is determined necessary by the Executive Director.

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