

HOUSING AUTHORITY OF GLOUCESTER COUNTY

GRIEVANCE PROCEDURES POLICY

I. GENERAL POLICY

A. Introduction

The Housing Authority of Gloucester County (“The Authority”) adopts this Grievance Procedure Policy (“Policy”) to provide a procedure for program applicants, tenants and participants to seek just, effective and efficient settlement of grievances against the Authority. This Policy is adopted in accordance with Federal Regulations, *24 CFR part 966 and the U.S. Housing Act of 1937 (2 U.S.C. sec. 1437d(k), 24 CFR 982 subpart L, 24 CFR 982.310, 24 CFR 983.257, 24 CFR 880 subpart F, 24 CFR 891 subpart D, 24 CFR Part and HUD Handbook 4350.3.*

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

B. Applicability

HUD has issued a due process determination that the law of the State of New Jersey requires that tenants be given the opportunity for a hearing in court which provides the basic elements of due process before an eviction from a dwelling unit. Therefore, the Authority has elected to determine that this grievance procedure shall not be applicable to any termination of tenancy or eviction that involves a violation of the Authority’s One Strike You’re Out Policy including the following:

- (1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises of another resident or employee of the Authority, or
- (2) Any drug related criminal activity on or near such premises.

Individuals with a disability that require a reasonable accommodation of the Authority’s Policy shall submit a written request for a reasonable accommodation.

This policy shall be incorporated by reference in all dwelling leases between Tenant and the Authority, whether or not specifically provided in such leases.

C. Conduct for All Grievances

All Authority employees, applicants, tenants, participants, counsel and witness or spectators to conduct themselves in an orderly fashion during the course of all Grievances. Failure to comply

with the directions of the Hearing Officer or to maintain order may result in exclusion from the proceedings or termination of the Grievance review or Hearing

D. Definitions

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. **Voucher/Mod Rehab** shall mean the either the Section 8 Housing Choice Voucher Program, Project-Based Voucher Program, 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: Adequate notice to the resident of the grounds for terminating the tenancy and for eviction; Right of the resident to be represented by counsel; 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 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 Housing Choice Voucher, Section 8 Project-based 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 dwelling 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.

II. PROCEDURES OF SECTION 8 HOUSING CHOICE VOUCHER PROGRAM, SECTION 8 MODERATE REHABILITATION PROGRAM AND SECTION 8 PROJECT –BASED VOUCHER PROGRAM

A. Informal Review For Denials of Admissions to Program

24 CFR 982.54(d)(12), 24 CFR 982.554, 24 CFR 983.255

An informal review is a review of an applicant’s file and circumstances by an Authority staff person who has not had any previous involvement with the applicant to determine whether the Authority’s policies and procedures have been correctly applied in denying the application.

1. When Informal Reviews are Required

Unless otherwise noted as an exception as indicated below, an applicant whose application is denied shall be provided an opportunity for an informal review of the Authority’s decision. However, an applicant whose application is denied for reasons of citizenship or eligible immigrant status shall be provided an “Informal Hearing.”

2. When Informal Reviews are not Required

Informal Reviews are not required in the following circumstances:

- a. Discretionary administrative determinations such as what constitutes a complete application, how and when applications will be assigned for review, and what resources will be devoted to the review of a particular application or applications in general;
- b. General policy issues or class grievances such as local preferences and income eligibility;
- c. The determination of the family unit size under Authority’s subsidy standards;
- d. A refusal to extend or suspend a voucher;

- e. A determination not to approve tenancy for a specific unit;
- f. A determination that a unit selected by an applicant is not in compliance with HQS because of characteristics of the unit; or
- g. A determination that a unit is not in accordance with HQS due to family size or composition.

3. Notice of Denial/Procedure for Requesting Informal Review

When the Authority determines that an applicant is ineligible, the applicant must be notified of the decision in writing. The notice shall state:

- a. The reason(s) for ineligibility;
- b. A statement that the applicant may request an informal review if they disagree with the decision;
- c. The procedure for requesting a review; and
- d. The deadline for requesting a review.

If the Authority obtains criminal record information from a State or local agency showing that an applicant has been convicted of a crime relevant to applicant eligibility, the Authority will notify the applicant of the proposed action to be based on the information and will provide the subject of the record and the applicant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information.

4. Procedures for Informal Review

A request for an informal review must be submitted in writing to the Authority no later than 30 calendar days from the date of the Authority's denial notice. Late requests will not be processed unless the applicant demonstrates the delay was due to extraordinary circumstances beyond their control.

The review shall be conducted by either a supervisory level staff person who was not involved in the decision under review, and who is not a subordinate to the person who made the decision, or the Authority's designated Hearing Officer.

The applicant will be provided the opportunity to present oral and/or written objections to the denial. Both the Authority and the applicant may present evidence and witness. An applicant may, at their own expense, be represented by an attorney or other representative. An applicant may be present at the review to provide information, but the applicant's presence is not required,

Unless special circumstances apply, the decision of the review officer shall be provided to the applicant in writing within 14 calendar days after the review, and shall include an explanation of the reasons for the decision.

5. Consideration of Circumstances in Discretionary Denials

In circumstances when the denial of an applicant is within the discretion of the Authority, the Authority may consider all circumstances in each case including the seriousness of the case, the extent of participation or culpability of the individual family members and the effective 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.

6. Informal Reviews When Denial is Based on Eligible 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.

B. Informal Hearings for Participants

24 CFR 982.555(a-f), 982.54(d)(13)

1. When Informal Hearings are Required

The Authority must give a participant family an opportunity for an informal hearing to consider whether the following PHA decisions, relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and Authority policies:

- a. The determination of the participant's annual or adjusted income and the computation of the Housing Assistance Payment;
- b. The determination of the appropriate utility allowance (if any) for tenant-paid utilities, from the Authority utility allowance schedule;
- c. The determination of family unit size under Authority's subsidy standards;

- d. A decision to terminate a participant's Family Self-Sufficiency (FSS) contract, withhold supportive services, or propose forfeiture of the participant's escrow account;
- e. A decision to terminate assistance for a participant family because of the family's action or failure to act (see 24 CFR 982.552); and
- f. A decision to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under Authority policy and HUD rules.

An opportunity for an informal hearing must always be provided before terminating assistance.

2. When Informal Hearing is not Required

The Authority will not provide a participant family an opportunity for an informal hearing for any of the following reasons:

- a. Discretionary administrative determinations by the Authority;
- b. General policy issues or class grievances;
- c. Establishment of the Authority schedule of utility allowances for families in the program;
- d. An Authority determination not to approve an extension or suspension of a voucher term;
- e. An Authority determination not to approve a unit or lease;
- f. 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.);
- g. An Authority determination that the unit is not in accordance with HQS because of the family size;
- h. A determination by the Authority to exercise or not exercise any right or remedy against the owner under a HAP contract.

3. Notice to Participants of Authority Decisions

Participants shall be notified in writing of decisions regarding the amount of their assistance or their eligibility for continued participation in the program. Participants will be given prompt notice of such decisions, which shall include:

- a. The proposed action or decision;

- b. The date the proposed action or decision will take place;
- c. An explanation of the basis for the decision;
- d. The procedures for requesting a hearing if the participant disputes the action or decision;
- e. The deadline for requesting the hearing. All requests for Hearings must be submitted within 30 calendar days of the date of the Authority's decision. Late requests will not be processed unless the participant demonstrates the delay was due to extraordinary circumstances beyond their control.

When continued participation in the program is denied because of criminal activity described in a criminal record, the Authority will, on request, provide the participant and the person who is the subject of the record a copy of the criminal record upon which the denial decision is based.

4. Notification of Hearing

When a request for an informal hearing is received, a hearing shall be scheduled within 30 days from the date the request is received by the Authority. This deadline may be extended if necessary and appropriate under the circumstances the hearing notification shall state:

- a. The date and time of the hearing;
- b. The place where the hearing will be held;
- c. That the participant has the right to present evidence and witnesses, bring interpreters; and be represented by legal counsel or a representative at the participant's expense;
- d. That the participant has the right to review any available documents or evidence upon which the Authority based the proposed action and, at the family's expenses, obtain a copy of such documents prior to the hearing. Such requests must be received no later than three business days before the hearing date.
- e. The Authority shall have the opportunity to examine at its office, before the hearing any participant documents that are relevant to the hearing and must be allowed to copy any such documents. Any documents not provided to the Authority may not be used in the hearing.

5. Procedures for the Informal Hearing

Participants shall the right to present written and oral objections to the Authority's determinations. Participants shall have the right to present any information or witnesses on a pertinent issue and be represented, at their own expense, by legal counsel or other designated advocate or representative.

The Authority shall have the right to present any evidence and information on any pertinent issues. The Authority shall have the right to be represented by counsel and have any staff person and witnesses familiar with the case present during the entirety of the hearing.

The informal hearing shall be conducted by a Hearing Officer appointed by the Authority who is neither the person who made or approved the decision, nor is a subordinate of that person. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence in a judicial proceeding.

The Hearing Office may ask the family for additional information and/or may adjourn the hearing as needed. If the family requests a reasonable accommodation during the hearing, the Hearing Officer will make a decision as to whether the hearing must be adjourned to consider the request.

If the family fails to appear at the hearing, or fails to meet a deadline imposed by the Hearing Officer, the decision of the Authority shall become final and take effect immediately. No new hearing will be granted unless the family is able to demonstrate to the Authority, by clear and compelling evidence, that their failure to appear or meet the deadline was caused by circumstances beyond their control.

6. Standard of Review

The Hearing Officer will determine whether the Authority's action or decision is consistent with HUD regulations and its administrative plans and policies, based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

7. Hearing Officer Decision

The Hearing officer will issue a written decision within 14 calendar days after the date the hearing. This deadline may be extended if necessary and appropriate under the circumstances. The decision shall include a summary of the factual allegations and the Authority's action or decision under review, a summary of the facts upon which the decision is based and a clear statement of the conclusions of law and any relief ordered. The decision shall also include a statement of the right to seek an Appeal of the decision to the Executive Director.

8. Consideration of Circumstances

In circumstances when the termination of a participant is within the discretion of the Authority, the Authority may consider all circumstances in each case including the seriousness of the case, the extent of participation or culpability of the individual family members and the effective of termination 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.

9. Decisions not Binding on the Authority

The Authority shall not be bound by any decision of the Hearing Officer that:

- a. Concerns matters for which no opportunity for a hearing is provided;
- b. Conflicts with or contradicts HUD regulations or requirements;
- c. Conflicts with or contradicts federal, state or local laws; or
- d. Exceeds the authority of the Hearing Officer;

If the Authority determines that it is not bound by the Hearing Officer's decision it shall, within 14 calendar days of the date of the decision, so advise the participant in writing, which shall include the reasons for the determination.

10. Records

All hearing requests, supporting documentation and a copy of the final decision shall be retained in the participant's electronic file. The Authority shall safety keep and maintain an electronic recording of all informal hearings involving participant termination for three years.

11. Hearing Officer Selection

A fair 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.

12. Appeals To the Executive Director

The Authority 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 all facts and evidence. See Appendix "A".

13. Informal Hearing 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.

III. PROCEDURES FOR AUTHORITY OWNED AND MANAGED PROPERTIES

A. Informal Hearing for Applicant Denials

24 CFR 960.208, 24 CFR 880.603, 24 CFR 891.430

If the Authority determines that an applicant is ineligible on the basis of income or family composition, or because of failure to meet the disclosure and verification requirements for Social Security Numbers (as provided by 24 CFR part 5), or because of failure by an applicant to sign and submit consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies (as provided by 24 CFR parts 5 and 813), or that the Authority is not selecting the applicant for other reasons, the Authority will promptly notify the applicant in writing of the determination and its reasons, and the applicant may request an informal hearing.

B. Procedures for Residents of Owned and Managed Properties

24 CFR part 966 , 24 CFR 880.607, 24 CFR 247.4,

1. Informal Settlement of a Grievance

Any grievance shall be promptly presented, either orally or in writing, to the Authority's Affordable Housing Operations Department so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within ten (10) 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. Formal Grievance Hearing

If the complainant is dissatisfied with the settlement arrived at in the informal 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 as indicated above under “Informal Settlement of a Grievance.” The written request shall specify:

- a. The reasons for the grievance; and
- b. The action or relief sought.

A. 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.

B. 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 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.

C. Escrow Deposit Required for Hearing Involving Rent

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.

D. 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.

E. When a Hearing is not Required

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.

F. Procedures Governing the Grievance Hearing

The complainant shall be afforded a Grievance 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 complainant 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.

G. 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 complainant 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 or PHA 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 or PHA 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

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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