



GRIEVANCE POLICY

- Termination of Tenancy and Assistance procedures for RAD properties require that the CHA provide adequate written notice of termination of the lease which shall not be less than:
 - A. A reasonable period of time not to exceed 30 days; unless
 - If health or safety of other Residents, owner employees, or Residents in the immediate vicinity of the premises is threatened; or
 - In the event of any drug-related or violent criminal activity or any felony conviction; or
 - B. 14 days in the case of nonpayment of rent.
- *Termination of Assistance* in all other cases, the requirements at 24 CFR 880.607, the Multifamily HUD Model Lease, and other HUD multifamily administrative guidance shall apply.

I. **PURPOSE**

This Grievance Policy has been adopted to provide a forum and procedure for Residents to seek the just, effective and efficient settlement of grievances against the Covington Housing Authority (CHA).

II. **GOVERNING LAW**

The law governing this procedure is section 6(k) of the U.S. Housing Act of 1937 (42 U.S.C. sec. 1437 d(k) as amended) and 24CFR secs. 966.50-966.57).

III. **APPLICABILITY**

- a. HUD has issued a due process determination that the applicable laws of the State of Georgia require that Residents be given the opportunity for a hearing in court which provides the basic elements of due process (as defined in Section IV below), before eviction from a dwelling unit. Therefore, CHA has elected to determine that this Grievance Procedure shall NOT be applicable to any termination of tenancy or eviction that involves:
 - (i) Any activity that threatens the health, safety or right to peaceful enjoyment of CHA's premises by other Residents or other employees of CHA, or,
 - (ii) Any drug-related criminal activity on or off such premises, or,
 - (iii) Alcohol abuse that the CHA determines interferes with the health, safety, or right to peaceful enjoyment of the premises by other Residents and CHA staff.

IV. **DEFINITIONS**

- a. **CFR** is the Code of Federal Regulations, which contains the federal regulation governing the Grievance Procedure.
- b. **Complainant** is defined as any Resident whose grievance is presented to the CHA Management Office in accordance with this procedure.

- c. **Grievance or Complaint** is defined as any dispute with respect to CHA's action or failure to act in accordance with Lease requirements, or any CHA action or failure to act involving interpretation or application of CHA's regulations, policies, or procedures which adversely affects the rights, duties, welfare or status of the complainant.
- d. **Drug-related activity** is defined as the illegal manufacture, sale, distribution, use of, 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. **Elements of due process:** The following procedural safeguards are required to followed in an eviction action or a termination of tenancy in a state or local court:
 - (i) Adequate notice to the Resident of the grounds for terminating the tenancy and for eviction;
 - (ii) Right of the Resident to be represented by counsel;
 - (iii) Opportunity for the Resident to refute the evidence presented by CHA, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the Resident may have;
 - (iv) A decision of the merits.
- f. **Hearing Officer** is defined as an impartial person selected in accordance with 24CFR sec. 966.55 and this Grievance Procedure to hear grievances and render decisions with respect thereto.
- g. **Hearing Panel** is defined as a three-member panel composed of impartial persons, selected in accordance with 24CFR sec. 966.55 and this procedure to hear grievances and render decisions with respect thereto.
- h. **HUD** is the United States Department of Housing and Urban Development.
- i. **CHA** is The Covington Housing Authority (CHA), a public body corporate and politic organized and existing under laws of the State of Georgia.
- j. **Notice** as used herein, the term notice shall unless otherwise specifically provided, mean written notice.
- k. **Resident organization** is defined as an organization of Residents, which includes any Resident Management corporation.
- l. **Resident** shall mean the adult person (or persons) other than a live-in aide:
 - (i) Who resides in the unit and who executed the lease with CHA, as lessee of the dwelling unit or, if no such person resides in the unit; or
 - (ii) The person who resides in the unit, and who is the remaining head of the household of the Resident family residing in the dwelling unit.

V. INCORPORATION IN LEASES

This Grievance Procedure shall be incorporated by reference in all leases between Residents and CHA, whether or not so specifically provided in such leases.

VI. INFORMAL SETTLEMENT OF GRIEVANCES

- a. Any grievance shall be personally presented in writing, to the Management office within five (5) business days after the occurrence of the event giving rise to the grievance. One copy of the grievance shall be given to the Resident and one retained in CHA's Resident file. Grievances shall be reviewed by the Executive Director to determine whether the exclusions in Section III above apply to the grievance. **Should one of the exclusions apply, the Complainant will be notified in writing that the matter raised is not subject to CHA's Grievance Procedure, with the reason therefore.**
- b. If the grievance is not determined by CHA to fall within one (1) of the three (3) exclusions mentioned in Section III above, the CHA will, within ten (10) business days after the initial presentation of the grievance, informally discuss the grievance with the Complainant or his/her representatives in an attempt to settle the grievance without the necessity of a formal hearing. 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. Within ten (10) business days after the informal settlement conference, a summary of the informal discussion shall be prepared by CHA and a copy thereof shall be provided to the Complainant. The summary shall be in writing and 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 reason 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 Resident file.

VII. FORMAL GRIEVANCE HEARING

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

- a. If the Complainant is not satisfied with the results of the informal settlement conference, and wishes to submit a formal grievance, the Complainant must submit a written request for a formal hearing to the CHA Management Office no later than ten (10) 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 reason 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 (10) business days; and
 - (iv) If the Complainant has failed to attend an informal discussion conference, a request that the hearing officer or hearing panel waive this requirement.
- b. If the Complainant fails to request a hearing within five (5) business days after receiving the written summary of the informal settlement conference, CHA's decision rendered at the informal hearing becomes final and CHA shall not thereafter be obligated to offer the

Complainant a formal hearing, unless the Complainant can show good cause, in CHA's sole discretion, why he/she failed to proceed in accordance with this procedure.

VIII. SELECTION OF HEARING OFFICER OR PANEL

The Executive Director of CHA shall select a Hearing Officer or Hearing Panel. It shall be the Executive Director's decision, based on the facts and circumstances of the grievance, whether to select a single Hearing Officer or a Hearing Panel consisting of three persons. Careful consideration should be given in the selection of the Hearing Officer or Panel.

IX. SCHEDULING OF HEARING

- a. 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.
 - (iii) If the matter involves the amount of rent which CHA claims is due under the Complainant's lease, the Complainant shall have paid to CHA an 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. And, in case of situations in which hearings are, for any reason delayed, the Complainants 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 panel. Unless waived by CHA in writing, no waiver will be given by CHA except in cases of extreme an undue hardship to the Complainant, determined at the sole discretion of CHA.
- b. Upon Complainant's compliance with the prerequisites to a hearing set forth above, a formal grievance hearing shall be scheduled by the hearing officer or panel promptly for a time and place reasonably convenient to both the Complainant and CHA, no later than the tenth (10th) business day after Complainant has completed such compliance. If the officer or panelists cannot agree upon a time, a new officer or panel shall be appointed by the Executive Director. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the Complainant and the appropriate CHA official, who, unless otherwise designated, shall be the Executive Director of CHA.

X. PROCEDURES GOVERNING HEARINGS

- a. The formal grievance hearings shall be held before a hearing officer or panel as stated in Section VIII. The Complainant shall be afforded a fair hearing, which shall include:
 - (i) The opportunity to examine before the hearing any CHA documents in CHA's possession and in the hearing. The Complainant will be allowed to copy any such documents at the Complainant's expense. If CHA does not make the document available for examination upon request by the Complainant, CHA 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 representatives and to have such person make statements on the Complainant's behalf. The names must be given at least three (3) business days before the hearing to the CHA.
 - (iii) The Complainant has a right to a private hearing. The right to present evidence and arguments in support of the Complainant's complaint, to controvert evidence relied on by CHA and to confront and cross examine all witnesses upon whose testimony or information the CHA or its Management relies; and
 - (iv) A decision based solely and exclusively upon the facts presented at the hearing.
- b. The hearing officer or hearing panel may render a decision without proceeding with the hearing if they determine that the issue has been previously decided in another proceeding.
- c. If the Complainant or CHA fails to appear at a scheduled hearing, the hearing officer or panel may make a determination that the party failing to attend has waived the right to a hearing. In such event, the hearing officer or panel shall notify the Complainant and CHA of determination.
- d. At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and thereafter CHA must sustain the burden of justifying CHA's action or failure to act against which the complaint is directed.
- e. The hearing shall be conducted informally by the hearing officer or 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. The hearing officer or panel shall require CHA, 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 panel to obtain order may result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly party and granting or denial of the relief sought, as appropriate.
- g. The Complainant or the CHA 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. CHA must provide reasonable accommodations for persons with disabilities to participate in grievance hearings. Reasonable accommodations may include qualified sign language interpreters, reader, accessible locations, or attendants.

XI. DECISION OF THE HEARING OFFICER OR HEARING PANEL

At or subsequent to the completion of the formal 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. The hearing officer or panel shall prepare a written decision, together with the reasons for the decision within ten (10) business days after the completion of hearing.
 - (i) A copy of the decision shall be sent to the Complainant and CHA. CHA shall retain a copy of the decision in the Complainant's Resident file.
 - (ii) A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by CHA and made available for inspection by any prospective complainant, their representative, or the hearing officer or panel.

- b. The written decision of the hearing officer or panel shall be binding upon CHA, which shall take all action, or refrain from any actions, necessary to carry out the decision unless CHA's Board of Commissioners determines, with ten (10) business days, and properly notifies the Complainant of its determination, that
 - (i) the grievance does not concern CHA action or failure to act in accordance or involving the Complainant's Lease, or CHA's regulations, which adversely affect the Complainant's rights, duties, welfare or status, or
 - (ii) the decision of the hearing officer or panel is contrary to applicable Federal, State or local law, HUD regulations or requirements of the Annual Contributions Contact between HUD and CHA.
- c. A decision by the hearing officer or panel or Board of Commissioners in favor of CHA or which denies the relief requested by the Complainant, in whole or in part, shall not constitute a waiver of, not affect in any way the rights of the Complainant to a trial or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

XII. NOTICES

All notices under this Grievance Procedure shall be deemed delivered:

- a. upon personal service thereof upon the Complainant or any adult member of the Complainant's household.
- b. upon the date received for or refused by the addressee, in the case of certified or registered U.S. Mail; or
- c. on the second day after the deposit thereof for mailing, postage prepared, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail.

XIII. MODIFICATION

This Grievance Policy may not be amended or modified except by approval of the Board of Commissioners of CHA, 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 thirty (30) days advance notice to Residents and Resident organizations, setting forth the proposed changes and providing an opportunity to present written comments. The comments submitted shall be considered by CHA before final adoption of any amendments hereto.

XIV. MISCELLANEOUS

Captions or paragraph headings set forth in this Grievance Procedure are for convenience of references only and shall not be construed or interpreted to affect the substance of the paragraphs or section so captioned.

If a Resident has filed a request for grievance hearing hereunder in a case involving CHA's notice of termination of tenancy the Complainant should be aware that the notice to vacate required by the laws of the State of Georgia and the notice of termination of tenancy required under Federal law run concurrently. Therefore, if the hearing officer or panel upholds CHA's action to terminate the tenancy, CHA, may commence an eviction action in court upon the sooner of, the expiration of the date for termination of tenancy and vacation of the premises stated in the notice of termination delivered to Complainant, or the delivery of the report of decision of the officer or panel to the Complainant.