

# COLLEGE PARK HOUSING AUTHORITY

## GRIEVANCE PROCEDURE

### I. Purpose

This Grievance Procedure has been adopted to provide a forum and procedure for residents to seek the just, effective and efficient settlement of grievances against the College Park Housing Authority (CPHA).

### 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 (24 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 resident and the CPHA with the following two (2) exceptions:

- A. This Grievance Procedure is not applicable to disputes between residents not involving the PHA, or to class grievances involving groups of residents. Also, this Grievance Procedure is not intended as a forum for initiating or negotiating policy changes between residents, or groups of residents, and CPHA's Board of Commissioners.
- B. HUD has issued a due process determination that the law of the State of Maryland requires that residents be given the opportunity for a hearing in court that provides the basic elements of due process (as defined in Section IV below) before eviction from a dwelling unit. Therefore, CPHA has elected to determine that this Grievance Procedure shall not be applicable to any termination of tenancy or eviction that involves:
  - 1. Any activity that threatens the health, safety, or right to peaceful enjoyment of the premises of other residents or employees of CPHA;
  - 2. Any violent or drug-related criminal activity on or off such premises; or
  - 3. Any criminal activity that resulted in felony conviction of a household member.

### IV. Definitions

The following definitions of terms shall be applicable to this Grievance Procedure:

- A. **Grievance:** Any dispute which a resident may have with respect to an action or a failure to act by CPHA in accordance with the individual resident's lease or CPHA regulations, which adversely affects the individual resident's rights, duties, welfare, or status.
- B. **CFR:** The code of federal regulations that contains the federal regulation governing this Grievance Procedure.

- C. **Complainant:** Any resident (as defined in this section below) whose grievance is presented to the Central Office of CPHA, 9014 Rhode Island Avenue, College Park, Maryland 20740, 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. **CPHA or “Authority”:** The College Park Housing Authority, a body corporate organized and existing under the laws of the State of Maryland.
- 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:
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 HA, including the right to confront and cross examine witnesses and to present any affirmative legal or equitable defense which the resident may have;
  4. 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. **HUD:** The United States Department of Housing and Urban Development.
- I. **Notice:** As used herein, the term notice shall, unless otherwise specifically provided, mean written notice.
- J. **The “Regulations”:** The HUD regulations contained in subpart B of 24 CFR part 966.
- K. **Resident Organization:** An organization of residents, which includes any resident management corporation and specifically includes the Resident Organization.
- L. **Resident:** The adult person (or persons) other than a live-in aid:
1. Who resides in the unit and who executed the lease with CPHA as lessee of the dwelling unit, or, if no such person resides in the unit
  2. 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.

- M. **Business Days:** Monday through Friday of each week, except for legal holidays recognized by the federal government.

V. **Incorporation in Leases**

This Grievance Procedure shall be incorporated by reference in all public housing dwelling leases between residents and CPHA, whether or not so specifically provided in such leases.

VI. **Informal Settlement of Grievances**

- A. **Initial Presentation.** Any grievance must be presented, in writing to the CPHA's main office, 9014 Rhode Island Avenue, College Park, Maryland 20740, within five (5) business days after the occurrence of the event giving rise to the grievance.
- B. **Informal Settlement Conference.** If the grievance is not determined by CPHA to fall within one of the two exclusions mentioned in Section III B (1 and 2) above, then CPHA shall, within five (5) business days after the initial presentation of the grievance, informally discuss the grievance with the complainant or his 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 shall be promptly notified in writing of the time and place for the informal settlement conference.
- C. **Written Summary.** Within five (5) business days after the informal settlement conference, a summary of the informal discussion shall be prepared by CPHA 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 shall 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 file.

VII. **Formal Grievance Hearing**

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 CPHA's Central Office no later than five (5) 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:

1. The reasons for the grievance;
2. The action or relief sought by the complainant; and

3. If the complainant so desires, a statement setting forth the times at which the complainant shall be available for a hearing during the next ten (10) business days;
  4. If the complainant has failed to attend an informal discussion conference, a request that the hearing officer waive this requirement.
- B. **Failure to Request Hearing:** If the complainant fails to request a hearing within five (5) business days after receiving the written summary of the informal settlement conference, CPHA's decision rendered at the informal hearing becomes final and CPHA is not thereafter obligated to offer the complainant a formal hearing.

### VIII. Selection of Hearing Officer

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

- A. The permanent appointments of persons who shall serve as hearing officers shall be governed by the following procedures:
1. CPHA shall nominate a slate of persons to sit as permanent hearing officers. These persons may include, but shall not be necessarily limited to, members of the CPHA Board of Commissioners, CPHA staff members, residents, or other responsible persons in the community. No persons shall be listed on the slate of members unless such person has consented to serve as a hearing officer.
  2. The slate of potential appointees shall be submitted to the Resident Organization for written comments. Written comments from the resident organization shall be considered by CPHA before appointments are finally made. Objection to the appointment of a person as a hearing officer must be considered but is not dispositive as to the proposed appointment with respect to which objection is made.
  3. On final appointment, the persons appointed and the Resident Organization shall be informed in writing of the appointments. A list of all qualified hearing officers shall be kept at the Central Office of CPHA and be made available for public inspection at any time.

The persons who have agreed to serve as hearing officers for grievances brought under this procedure are listed on Exhibit I attached hereto and hereby incorporated herein by reference. Additional appointments shall be made in the manner set forth in this section.

- B. The designation of hearing officers for particular grievance hearing shall be governed by the following provisions:
1. Appointments to serve as a hearing officer with respect to a particular grievance shall be made by CPHA in random order, subject to availability of the hearing officer to serve in each such case. CPHA may employ any reasonable system for random order choice.

2. No member of the CPHA Board of Commissioners or staff may be appointed as hearing officer in connection with the grievance contesting an action which was either made or approved by proposed appointee, or which was made or approved by a person under whom the proposed appointee works or serves as a subordinate.
3. No person shall accept an appointment, or retain an appointment, once selected as a hearing officer, if it becomes apparent that such person is not fully capable of impartiality. Persons who are designated to serve as hearing officers must disqualify themselves from hearing grievances that involve personal friends, relatives, persons with whom they have any 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 is reasonable under the circumstances. If a complainant fails to object to the designation of the hearing officer 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 fails to disqualify himself or herself as required in this Grievance Procedure, CPHA shall remove the 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 officer.

## IX. Scheduling of Hearings

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

1. The complainant has requested a hearing in writing.
2. The complainant has completed the informal settlement conference procedure or has requested a waiver for good cause.
3. If the matter involves the amount of rent which CPHA claims is due under the complainant's lease, the complainant shall have paid to CPHA 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 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. Unless waived by CPHA in writing, no waiver shall be given by CPHA except in cases of extreme and undue hardship to the complainant, determined in the sole and absolute discretion of CPHA.

B. **Time, Place, Notice**

1. Upon complainant's compliance with the prerequisites to hearing set forth above, a hearing shall be scheduled by the hearing officer promptly for a time and place

reasonably convenient to both the complainant and CPHA, no later than the tenth (10th) business day after complainant has completed such compliance.

2. A written notification specifying the time, place, and the procedures governing the hearing shall be delivered to the complainant and the appropriate CPHA 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 as directed above in Section VIII. The complainant shall be afforded a fair hearing, which shall include:

1. The opportunity to examine before the hearing any CPHA documents, including records and regulations that are directly relevant to the hearing.

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

2. 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.
3. The right to a private hearing unless the complainant requests a public hearing. The right to present evidence and arguments in support of the complainant's complaint, to controvert evidence relied on by CPHA and to confront and cross examine all witnesses upon whose testimony or information the CPHA or its management relies.
4. A decision solely and exclusively upon the facts presented at the hearing.

**B. Prior Decision in Same Matter**

The hearing 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 CPHA fails to appear at a scheduled hearing, the hearing officer may make a determination to postpone the hearing for a period not to exceed five (5) 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 shall notify the complainant and CPHA of the determination.

The failure to attend a grievance hearing shall not constitute a waiver of any right for which the complainant may have to contest CPHA'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 thereafter CPHA must sustain the burden of justifying CPHA's action or failure to act against which the complainant is directed.

**E. Informality of Hearing**

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 proceeding.

**F. Orderly Conduct Required**

The hearing officer shall require CPHA, 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 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 the CPHA 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 Persons**

CPHA 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**

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

**A. Written Decision**

The hearing officer shall prepare a written decision, together with the reasons for the decision within ten (10) business days after the completion of hearing.

1. A copy of the decision shall be sent to the complainant and CPHA. CPHA shall retain a copy of the decision in the complainant's file.
2. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by CPHA and made available for inspection by any prospective complainant, his representative, or the hearing officer.

**B. Binding Effect**

The written decision of the hearing officer shall be binding upon CPHA, which shall take all actions, or refrain from any actions, necessary to carry out the decision unless CPHA's Board of Commissioners determines, within ten (10) business days, and properly notifies the complainant of its determination, that:

1. the grievance does not concern CPHA action or failure to act in accordance or involving the complainant's lease, or CPHA's regulations, which adversely affect the complainant's rights, duties, welfare or status, or
2. the decision of the hearing officer is contrary to applicable Federal, State, or local law, HUD regulations or requirements of the Annual Contributions Contract between HUD and CPHA.

**C. Continuing Right of Complainant to Judicial Proceedings**

A decision by the hearing officer or Board of Commissioners in favor of CPHA or which denies the relief requested by the complainant, in whole or in part, shall not constitute a waiver of, nor 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.

**XI. Notices**

All notices under this Grievance Procedure shall be deemed delivered:

1. upon personal service thereof upon the complainant or an adult member of the complainant's household;
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 thereof for mailing, postage prepaid, with the U.S. Postal Service, if mailed by first class mail other than certified or registered mail.

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

**XII. Modification**

This Grievance Procedure may not be amended or modified except by approval of a majority of the Board of Commissioners of CPHA, 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 CPHA, before final adoption of any amendments hereto.

**XIII. 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:** If a resident has filed a request for grievance hearing hereunder in a case involving CPHA's notice of termination of tenancy, the complainant should be aware that the state law notice to vacate and the notice of termination of tenancy required under Federal law run concurrently. Therefore, if the hearing officer upholds CPHA's action to terminate the tenancy, CPHA may commence an eviction action in court upon the sooner of, the expiration of the date for termination of tenancy and vacation of premises stated in the notice of termination delivered to complainant, or the delivery of the report of decision of the hearing officer to the complainant.