

## Charleston County Housing Authority Grievance Procedure

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### 1.0 RIGHT TO A HEARING

Upon the filing of a written request as provided in these procedures, a resident shall be entitled to a hearing before a Hearing Officer.

### 2.0 DEFINITIONS

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

- A. 1. **"Grievance"** shall mean any dispute, which a resident may have with respect to the Charleston Housing Authority's action or failure to act in accordance with 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 premise. Nor shall this process apply to disputes between residents not involving the Charleston County Housing Authority or to class grievances.
2. **"Expedited Grievance"** shall mean a procedure established by the CCHRA for any grievance concerning a termination of tenancy or eviction that involves any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the CCHRA's public housing premises by other residents or employees of the CCHRA; or any drug-related or violent criminal activity on or off such premises. CCHRA must not only meet the minimal procedural due process requirements contained in this subpart but also satisfy any additional requirements required by local, state, or federal law.
- B. **"Complainant"** shall mean any resident whose grievance is presented to the Charleston County Housing Authority or at the development management office in accordance with sections 3.0 and 4.0 of this procedure.
- C. **"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.

- D. **"Hearing Officer"** shall mean a person selected in accordance with section 4.0 of these procedures to hear grievances and render a decision with respect thereto. A hearing officer shall be selected as follows: (a) the hearing officer shall be an impartial, disinterested person approved by the Housing Authority Board of Commissioners. The officer cannot be a party related to the grievance; (b) The Housing Authority may consult with resident organizations before appointment of hearing officers and documents related to discovery in the grievance process will be made available to residents. Such individual or individuals do not need legal training.
- E. **"Resident"** shall mean the adult person (or persons) other than a live-in aide:
1. Who resides in the unit and who executed the lease with the Charleston County Housing Authority as lessee of the premises, or, if no such person now resides in the premises,
  2. Who resides in the unit and who is the remaining head of household of the resident family residing in the unit,
  3. Residents for the purposes of these grievance procedures are applicants for admission to the public housing or Housing Choice Voucher programs and residents living in units administered under the public housing or Housing Choice Voucher programs.
- F. **"Resident Organization"** includes a resident management corporation.
- G. **"Promptly"** (as used in section 3.0, and 4.0 (D)), shall mean within the time period indicated in a notice from Charleston County Housing 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 agency.

### 3.0 PROCEDURES PRIOR TO A HEARING

Any grievance shall be promptly and personally presented, either orally or in writing, to the Charleston County Housing Authority office or to the office of the development in which the resident resides so that the grievance may be discussed informally and settled without a hearing. A summary of such discussion shall be prepared within ten (10) ~~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.

### 4.0 PROCEDURES TO OBTAIN A HEARING

#### 4.1 REQUEST FOR HEARING

The resident shall submit a written request for a hearing to the Authority or the development office within fourteen (14) calendar days from the date of the mailing of the summary of the discussion pursuant to section 3.0. The written request shall specify:

- A. The reasons for the grievance; and
- B. The action or relief sought.

**4.2 SELECTION OF A HEARING OFFICER**

~~A grievance hearing shall be conducted by an impartial person appointed by the Charleston County Housing Authority other than a person who made or approved the action under review or a subordinate of such person.~~

~~The Charleston County Housing Authority shall annually submit a list of prospective hearing officers. This list shall be provided to any existing resident organization(s) for such organization's comments or recommendations. The Charleston County Housing Authority shall consider any comments or recommendations by a resident organization.~~

~~From this list, a hearing officer shall be selected.~~

A hearing officer shall be selected as follows: (a) the hearing officer shall be an impartial, disinterested person approved by the Housing Authority Board of Commissioners. The officer cannot be a party related to the grievance; (b)The Housing Authority may consult with resident organizations before appointment of hearing officers and documents related to discovery in the grievance process will be made available to residents.

**4.3 FAILURE TO REQUEST A HEARING**

If the resident does not request a hearing in accordance with this section, then the Charleston County Housing Authority's disposition of the grievance under section 3.0 shall become final. However, failure to request a hearing does not constitute a waiver by the resident of the right thereafter to contest the Charleston County Housing Authority's action in disposing of the complaint in an appropriate judicial proceeding.

**4.4 HEARING PREREQUISITE**

All grievances shall be promptly presented in person, either orally or in writing, pursuant to the informal procedure prescribed in section 3.0 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 3.0 to the Hearing Officer, the provisions of this subsection may be waived by the Hearing Officer.

~~**4.5 ESCROW DEPOSIT**~~

~~Before a hearing is scheduled in any grievance involving the amount of rent as defined in the lease which the Charleston County Housing Authority claims is due, the resident shall pay to the Charleston County Housing 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 Charleston County Housing 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 Charleston County Housing Authority may waive these requirements. 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 Charleston County Housing Authority's disposition of his grievance in any appropriate judicial proceeding.~~

#### **4.6 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 Charleston County Housing Authority. A written notification specifying the time, place and the procedures governing the hearing shall be delivered to the resident and the appropriate agency official.

#### **4.7 Photocopies**

The family will be allowed to copy any documents related to the hearing at a cost of \$0.25 per page. The family must request discovery of CHA documents no later than 12:00 p.m. on the business day prior to the hearing. The CHA will not provide a transcript of an audio taped informal hearing.

#### **5.0 PROCEDURES GOVERNING THE HEARING**

The hearing must be scheduled promptly for a time and place reasonably convenient to both the complainant and the CCHA and held before a hearing officer. A written notification specifying the time, place, and the procedures governing the hearing must be delivered to the complainant and the appropriate official.

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

- A. The opportunity to examine before the grievance hearing 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 Charleston County Housing Authority does not make the document available for examination upon request by the resident, the Charleston County Housing Authority may not rely on such document at the grievance hearing.
- B. 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;
- C. The right to a private hearing unless the resident requests a public hearing;
- D. The right to present evidence and arguments in support of the resident's complaint, to controvert evidence relied on by the Authority or development management, and to confront and cross examine all witnesses upon whose testimony or information the Charleston County Housing Authority or development management relies; and

E. A decision based solely and exclusively upon the facts presented at the hearing.

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.

If either the resident or Authority fails to appear at a scheduled hearing, the Hearing Officer may postpone the hearing for up to five business days or determine that the missing party has waived their right to a hearing. Both the Charleston County Housing Authority and the resident shall be notified of the Hearing Officer's decision **in writing**. This decision shall not waive a resident's right to contest the disposition of the grievance in an appropriate judicial proceeding.

**Limited English Proficiency.** The CCHRA must comply with HUD's "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" issued on January 22, 2007.

**GENERAL POLICY on LEP:**

CCHRA is sensitive to the needs of Limited English Proficiency (LEP) persons, including applicants, participants and residents leasing CCHRA owned dwelling units.

In accordance with Federal, State, and Local law, specifically Executive Order 13166, HUD Guidance (Federal Register 4878-N-02 - January 22, 2007, CCHRA will take reasonable steps to ensure meaningful access to their programs by LEP persons.

Meaningful access is free language assistance in accordance with federal guidelines. CCHRA is required to provide LEP services based on a four- factor analysis.

The factors are: (1) The number or proportion of the population of Non-English speaking persons served or likely to be served; (2) The frequency of contact with the CCHRA; (3) The nature and importance of the service or benefit; and (4)The resources available and cost to the CCHRA.

Federal guidance leaves determination of the following matters to the discretion of the local public agency: What constitutes a substantial, sufficient, and necessary number of bilingual employees; When there is a sufficient population of LEP individuals of a single language group to require translation of documents; Which documents to translate; and When an LEP person may be served by interpretation services; and How LEP services are to be provided. CCHRA will work to ensure that the provision of program services is equal, whether a program applicant, participant or resident speaks English or requires LEP services. To accomplish this CCHRA will ensure that all staff are oriented to the LEP policy and annual training will occur for staff that interacts directly with applicants, participants, and residents.

The Director of Planning or his/her designee, shall act as the LEP Coordinator for the agency. Any complaint regarding the administration of the LEP policy shall be directed to the LEP Coordinator.

Information regarding the LEP Policy shall be made available to the public through posting on the CCHRA Website and the posting of Notices in offices in the appropriate threshold languages each office serves. If the Notice does not exist in an applicant's or participant's primary language then site translations will be provided. Notices summarizing the policy shall also be included into application and review packets.

#### APPLICABILITY

This policy applies to all applicants, participants and residents of CCHRA-owned housing including, but not limited to, the Public Housing program, Section 8 Housing Choice Voucher Program, Project Based Voucher, Shelter Plus Care, and other CCHRA owned housing. The requirement to provide LEP services shall apply regardless of an individual's citizenship or immigration status.

#### DEFINITIONS

"Applicants," includes applicants for any program administered by CCHRA.

"Competent," means providing Language Services through a person who is proficient and has knowledge in both the English language and the non- English language being used. To be competent the person providing the translation or interpretation should be familiar with cultural terms, terms used by CCHRA, and adhere to their role as an interpreter or translator.

"Interpretation," is competently taking oral or spoken information provided in one language and accurately communicating that information orally in another language.

"Interpreter," means a person, not a minor, able to speak fluently and read with full understanding both in English language and the language of the LEP applicant, participant, or resident.

"Language Services" or "Language Assistance," means the provision of competent language translation [oral] or interpretation services [written].

"LEP" individual is a person who identifies as an LEP person, does not speak English as a primary language, and who has a limited ability to read, write, speak, or understand English.

"Participants," includes authorized participants under any program administered by CCHRA other than authorized lessees of CCHRA-owned dwelling units.

"Public Contact Position" is a position that emphasizes the ability to meet, contact and deal with the public in the performance of the CCHRA's functions.

"Residents," includes authorized lessees of CCHRA-owned dwelling units.

"Site Translation" means the oral translation of a document from English into a second language. Site translation involves the translation of every word, not summarization. However, in site translation, because of cultural and technical issues, further explanation may also be required and is encouraged.

"Threshold Language" is a language spoken by a sufficient number of community members that are potentially eligible for services from CCHRA to warrant the hiring of bilingual workers and translation of documents as set out in this policy.

"Translation," means converting written material from one language to another language in written form.

"Vital Documents" are those that are critical for ensuring meaningful access by beneficiaries or potential beneficiaries generally and LEP persons specifically.

The following accommodation will be made for persons with disabilities:

- A. The Charleston County Housing Authority shall provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign, readers, accessible locations, or attendants.
- B. If the resident is visually impaired, any notice to the resident that is required by these procedures must be in an accessible format.

#### **6.0 INFORMAL HEARING PROCEDURES FOR DENIAL OF ASSISTANCE ON THE BASIS OF INELIGIBLE IMMIGRATION STATUS**

The participant family may request that the Charleston County Housing 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 participant 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.

#### **7.0 DECISION OF THE HEARING OFFICER**

The Hearing Officer ~~shall~~ must prepare a written decision, together with the reasons therefore, within ~~ten (10) calendar days~~ ~~fourteen (14) calendar days~~ after the hearing a reasonable time after the hearing. A copy of the decision ~~shall~~ must be sent to the resident and the Charleston County Housing Authority. The Authority ~~shall~~ must retain a copy of the decision in the resident's folder. ~~A copy of such decision with all names and identifying references deleted shall also be maintained on file by the Charleston County Housing Authority and made available for inspection by a prospective complainant, his or her representative, or the Hearing Officer. The CCHA must maintain a log of all hearing officer decisions and make that log available upon request of the hearing officer, a prospective complainant, or a prospective complainant's representative.~~

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

- A. The grievance does not concern Charleston County Housing 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;
- B. 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 Board of Commissioners in favor of the Charleston County Housing Authority or which denies the relief requested by the resident in whole or in part ~~shall~~ will 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.