

# DELAWARE COUNTY HOUSING AUTHORITY

## GRIEVANCE PROCEDURES

### I PURPOSE AND SCOPE:

These procedures are established by Delaware County Housing Authority (herein after referred to as DCHA) and shall be henceforth implemented for the purpose of assuring that Tenants are afforded an opportunity for a hearing if Tenant disputes, within a reasonable time, any DCHA action or failure to act involving Tenant's Lease or Management regulation which adversely affects the individual Tenant's rights, duties, welfare or status. These procedures are to be incorporated in all dwelling leases to which the provisions of 24 C.F.R. 966.1 and 966.2 (1990) are applicable.

### II APPLICABILITY:

1. These Grievance Procedures shall be applicable to all individual grievances, as defined in Section III A. below, between the tenant and DCHA, except those disputes concerning eviction or termination of tenancy based upon a Tenant's creation or maintenance of a threat to the health and safety of other Tenants or employees of DCHA or for drug related criminal activity on or off the premises.
2. The Grievance Procedures are not applicable to disputes between Tenants not involving DCHA nor to class grievances. These Grievance Procedures are not intended to be used as a forum for initiating or negotiating policy changes between a group or groups of Tenants and DCHA's Board of Commissioners.

### III. DEFINITIONS:

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

#### 1. Grievance:

Grievance shall mean any dispute which a Tenant may have with respect to the DCHA's action or failure to act in accordance with the individual Tenant's Lease or DCHA's regulations which adversely affect the individual Tenant's rights, duties, welfare, or status.

#### 2. Complainant:

Complainant shall mean any Tenant whose grievance is presented to DCHA in accordance with Section IV and V below.

3. Elements of Due Process:

Elements of due process shall mean, in an eviction action or termination of tenancy in a State or Local Court following the required procedural safeguards:

1. Adequate notice to the Tenant of the grounds for terminating the tenancy and for eviction.
2. Opportunity for the Tenant to examine all relevant documents, records, and regulations of DCHA prior to the trial for the purpose of preparing a defense;
3. Right of the Tenant to be represented by counsel;
4. Opportunity for the Tenant to refute the evidence presented by DCHA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the tenant may have;
5. A decision on the merits.

4. Tenant:

Tenant shall mean the adult person or persons (other than a live-in aide) who resides in the unit and who executed the lease with DCHA as lessee of the dwelling unit.

5. Hearing Officer:

Hearing Officer shall mean a person selected in accordance with Section V of these procedures to hear grievances and render a decision with respect thereto.

6. Hearing Panel:

Hearing Panel shall mean a panel selected in accordance with Section V of these procedures to hear grievances and render a decision with respect thereto.

IV INFORMAL SETTLEMENT OF GRIEVANCE:

Any grievance shall be personally presented, either orally or in writing, to DCHA's Central Management office within 15 (fifteen) days after the occurrence, giving rise to the grievance so that the grievance may be discussed informally and an attempt made to settle it without a hearing. DCHA, at the time of presentation or within 5 (five) business days after such presentation, shall informally discuss the grievance with the Complainant or his representative. Within a reasonable time, not in excess of 15 (fifteen) days after presentation of the grievance, a summary of the informal discussion shall be prepared by

DCHA, and a copy thereof shall be provided to the Complainant and a copy retained in DCHA's tenant file. 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 therefore, and shall specify the procedures by which the Complainant may obtain a hearing if her is not satisfied by the proposed disposition of the grievance.

5. PROCEDURE TO OBTAIN A HEARING:

1. Request for a Hearing:

If the Complainant is not satisfied with the results of the informal settlement of the grievance, the Complainant may submit a written request for a hearing to the Central Management Office no later than 10 (ten) days after receipt of the summary of discussion provided for in Section IV above. The written request shall specify the reasons for grievance, and the action or relief sought.

2. Selection of Hearing Officer or Hearing Panel:

Grievances shall be presented before a Hearing Officer or Hearing Panel. A Hearing Officer or Hearing Panel shall be promptly selected in the following manner:

1. The Hearing Officer shall be an impartial, disinterested person selected jointly by DCHA and the Complainant. If DCHA and the Complainant cannot agree on a Hearing Officer, they shall each appoint a member of a Hearing Panel and the members so appointed shall select a third member. If the members appointed by DCHA and the Complainant cannot agree on a third member, such member shall be appointed by an independent arbitration organization such as the Center for Disputes Settlement of the American Arbitration Association, or by any other third party agreed upon by DCHA and the Complainant.

2. In lieu of the procedure set forth in paragraph 1 herein, DCHA may provide for the appointment of a Hearing Officer or Hearing Panel by any method which is approved by the majority of Tenants (in any building, group of buildings, or communities to which the method is applicable) voting in an election or a meeting of Tenants held for that purpose.

3. Failure to Request a Hearing:

If the Complainant does not request a hearing in accordance with subsection V-A, then DCHA's disposition of the grievance under Section IV shall become final; provided, that failure to request a hearing shall not constitute a waiver by the Complainant of his/her right thereafter to contest DCHA's action in disposing of

the complaint in an appropriate judicial proceeding.

4. Hearing Prerequisite:

All grievances shall be personally presented either orally or in writing pursuant to the informal procedure prescribed in Section IV as a condition precedent to a hearing under this section; provided, that if the Complainant shall show good cause why he/she failed to proceed in accordance with Section IV to the Hearing Officer or Hearing Panel, the provisions of this subsection may be waived by the Hearing Officer or Hearing Panel.

E. Escrow Deposit:

Before a hearing is scheduled in any grievance involving the amount of rent as defined in the Lease, which DCHA claims is due, the Complainant shall pay to DCHA 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 Complainant shall thereafter deposit the same amount of the monthly rent in an escrow account monthly until the complaint is resolved by the decision of the Hearing Office or Hearing Panel. These requirements may be waived by DCHA in extenuating circumstances. Unless so waived, the failure to make such payments shall result in a termination of the grievance procedure; provided that failure to make payment shall not constitute a waiver of any right the Complainant may have to contest DCHA's disposition of his/her grievance in any appropriate judicial proceeding.

5. Scheduling of Hearings:

Upon Complainant's compliance with paragraphs A, D, and E of this section, a hearing shall be scheduled by the Hearing Officer or Hearing Panel promptly for

a time and place reasonably convenient to both the Complainant and DCHA. A written notification, specifying the time, place, and the procedures governing the hearing shall be delivered to the Complainant and the appropriate DCHA official.

VI. PROCEDURES GOVERNING THE HEARING:

1. The hearing shall be held before a Hearing Officer or Hearing Panel as appropriate.
2. The Complainant shall be afforded a fair hearing providing the basic safeguards of due process, which shall include:
  1. The opportunity to examine before the hearing, and, at the expense of the

complainant, to copy all documents, records, and regulations of DCHA that are relevant to the hearing. Any documents not so made available after request therefore by the complainant may not be relied on by DCHA at the hearing.

2. The right to be represented by counsel or other person chosen as his or her representative.
  3. The right to private hearing unless the Complainant requests a public hearing.
  4. The right to present evidence and arguments in support of his or her complaint, to controvert evidence relied on by DCHA and to confront and cross examine all witnesses on whose testimony or information DCHA relies.
  5. A decision based solely and exclusively upon the facts presented at the hearing.
3. The Hearing Officer of Hearing Panel may render a decision without proceeding with the hearing if the Hearing Officer or Hearing Panel determines that the issue has been previously decided in another proceeding.
  4. If the Complainant or DCHA fails to appear at a scheduled hearing, the Hearing Officer or Hearing Panel may make a determination to postpone the hearing for a period not to exceed 5 (five) business days, or may make a determination that the party has waived his/her right to a hearing. Both the Complainant and DCHA shall be notified of the determination by the Hearing Officer or Hearing Panel; provided, that a determination that the Complainant has waived his right to a hearing shall not constitute a waiver of any right the Complainant may have to contest DCHA's disposition of the grievance in an appropriate judicial proceeding.
  5. At the hearing, the Complainant must first make a showing of an entitlement to the relief sought and thereafter DCHA must sustain the burden of justifying DCHA's action or failure to act against which the complaint is directed.
  6. The hearing shall be conducted informally by the Hearing Officer or Hearing 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. The Hearing Officer or Hearing panel shall require DCHA, 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 Hearing 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.

7. The Complainant or DCHA 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.
8. Accommodation of persons with disabilities. DCHA must provide reasonable accommodation for persons with disabilities to participate in the hearing.

Reasonable accommodation may include qualified sign language interpreters, readers, accessible locations, or attendants.

If the tenant is visually impaired, any notice to the tenant which is required under this subpart must be in an accessible format.

#### VII. DECISION OF THE HEARING OFFICER OR HEARING PANEL:

1. The Hearing Officer or Hearing Panel shall prepare a written decision together with reasons therefore, within a reasonable time not to exceed ten (10) working days after the hearing. A copy of the decision shall be sent to the Complainant and DCHA. DCHA, shall retain a copy of the decision in the Tenant's folder. A copy of such decision, with all names and identifying references deleted, shall also be maintained on file by DCHA and made available for inspection by a prospective Complainant, his representative, or the Hearing Panel or Hearing Officer.
2. The decision of the Hearing Officer or Hearing Panel shall be binding on DCHA which shall take all actions or refrain from any actions, necessary to carry out the decision unless DCHA's Board of Commissioners determines within five (5) working days and promptly notifies the Complainant of its determination that:
  1. The grievance does not concern DCHA action or failure to act in accordance with or involving the Complaint's Lease or DCHA regulations, which adversely affect the Complainant's rights, duties, welfare, or status.
  2. The decision of the Hearing Officer or Hearing Panel is contrary to applicable Federal, State, or Local Law, the Department of Housing and Urban Development (herein after referred to as HUD) regulations or requirements of the Annual Contributions Contract between HUD and DCHA.
3. A decision by the Hearing Officer, Hearing Panel, or Board of Commissioners in favor of DCHA or which denies the relief requested by the Complainant in whole or part shall not constitute a waiver of, nor affect in any manner whatever, any

rights the Complainant may have to trial de novo or judicial review in any judicial proceeding, which may thereafter be brought in the matter.

VIII. AUTHORITY EVICTION ACTIONS:

If a Tenant has requested a hearing, in accordance with Section V, on a complaint involving a DCHA Notice of Termination of the tenancy, and the Hearing Officer or Hearing Panel upholds DCHA's action terminate the tenancy, DCHA shall not commence an eviction action in a State or Local Court until it has served a Notice to Vacate on the Complainant, and in no event shall the Notice to Vacate be issued prior to the decision of the Hearing Officer or the Hearing Panel having been mailed or delivered to the complainant. Such notice to Vacate must be in writing and specify that if the Tenant fails to quit the premises within the applicable statutory period, or on the termination date stated in the Notice of Termination, whichever is later, appropriate action will be brought against him or her and he or she may be required to pay court costs and attorney fees.

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