

**MIAMI-DADE COUNTY HOMELESS TRUST
CONTINUUM OF CARE
GRIEVANCE STANDARDS**

I. PURPOSE OF GRIEVANCE STANDARDS AND PROCEDURES

The Miami-Dade Continuum of Care (CoC) Grievance Standards establish minimum requirements for CoC providers' grievance policies and procedures, and also set forth the Miami-Dade County Homeless Trust's process for addressing applicant and participant grievances when unresolved at the CoC provider level (collectively, "Grievance Standards").

Nothing herein shall limit the rights of a program participant or CoC provider to avail itself of their rights and /or remedies under applicable law, including without limitation access to law enforcement and/or the judicial system.

The Grievance Standards apply to CoC providers, who are funded by U.S. HUD's Continuum of Care HEARTH funds, the Emergency Solutions Grant (ESG) Program, the local Food & Beverage Tax (F&B) and other funds which may be administered by the Homeless Trust, HOME and/or Surtax Programs administered by Miami-Dade County Public Housing and Community Development (PHCD) ("CoC-funded providers").

The Homeless Trust will monitor CoC providers to assure that CoC providers have established a written grievance process pursuant to which a program participant may raise concerns or complaints ("Grievance Procedures") meeting these Grievance Standards, and that the standards are posted or otherwise readily available to program participants. The Homeless Trust will also provide a process for a program participant, as described below, whereby a participant may request the Homeless Trust review the decision made by a CoC provider in regard to a program participant who has exhausted the CoC Grievance Procedures as it relates to the termination of such participant's participation in the CoC provider's program.

Any proposed changes to these Grievance Standards must provide for at least 30 days' notice to CoC providers, setting forth the proposed changes and providing an opportunity to present written comments. Comments submitted shall be considered by the Homeless Trust and Services Development Committee before any revisions are made.

II. NOTICE OF PROGRAM RULES

- A.** Every CoC provider shall establish basic program rights, rules, policies and procedures for programs (which may vary according to the particular program in the CoC provider's discretion), including grievance procedures and a standard participant agreement, and provide copies thereof to the Homeless Trust upon request. Program participants' rights, program rules, policies and grievance procedures must be in writing.
- B.** Program participants' agreements, rules, rights, and procedures, including the Grievance Procedures, must be provided to a program participant in their preferred language, signed by the program participant, kept in the program participant's file, with a copy provided to the participant. If a program participant is unable to read, all documents must be read to such program participant, in their preferred language.
- C.** Participants must be advised upon intake that violation of the participant's program agreement and/or program rules, policies and procedures may lead to termination from a CoC provider's program.

III. CONFLICT RESOLUTION AND INFORMAL GRIEVANCE

A. Conflict Resolution

CoC providers are encouraged to use trauma-informed and best practices in conflict resolution to address concerns and complaints of either the participant or provider. Such practices may include, but are not limited to restorative practices, crisis prevention intervention, counseling, and/or other evidenced based practices sensitive to participants' needs. Such practices may be employed in tandem with the provider's Grievance Procedures.

The Homeless Trust will offer training on such best practices for CoC providers to assist them in internal staff training and building capacity within their agencies, as funding permits.

B. Opportunity for Informal Grievance

In the event that a participant's concern or complaint, unrelated to a termination, remains unaddressed following conflict resolution efforts, the participant must be provided a process in which they ultimately can present their unresolved concern or complaint to a person or body designated to make a final response on behalf of the provider. Providers may establish their own policies and procedures to govern such informal grievance processes.

IV. Denial or Termination of Assistance and Formal Grievance

A. Denial at Time of Referral

Every CoC funded provider (except for F&B funded ES) participating in the Coordinated Entry (CE) process is required to follow Housing First practices offering low barriers to program entry as outlined in the *Coordinated Assessment System* (aka. Coordinated Entry) and *Orders of Priority for Referral to PSH* policies. When a CoC funded provider (except for F&B funded ES) refuses a CE referral, they shall document the rationale for not offering the service using *Attachment A*. Where reasonably practicable the provider shall provide a copy of *Attachment A* to the applicant. For PSH referrals, the provider shall provide a copy of *Attachment A* to the Homeless Trust Housing Coordinator. Participants referred through the CE process that are denied services are subject to the grievance processes establish herein under Article V *Homeless Trust Grievance Process*.

B. Termination of Assistance

1. A provider may terminate assistance to a program participant who violates program requirements or conditions of occupancy. Termination does not bar the provider from providing further assistance at a later date to the same individual or family.
2. The provider must exercise judgment and examine all extenuating circumstances in determining when violations warrant termination so that a program participant's assistance is terminated only in the most severe cases, recognizing exception for behavior which CoC provider believes compromises the safety and/or security of the program participant, other participants, staff or volunteers.

3. The following provisions also govern terminations of RRH or PSH assistance:
 - a. A participant must comply with housing stability services. Housing stability services may vary by program type. Housing Stability in PH may include home visitations or contacts which serve to verify eligibility or support clients in order to achieve housing retention and community integration. While Housing Stability in ES, SH or TH includes contacts which focus on finding permanent housing and provide supports to prepare clients for independent living.
 - b. A participant may not be terminated for refusing behavioral health services.
 - c. Use of alcohol or drugs in and of itself and other behavioral health issues (without other serious lease violations or a pattern of lease violations) are not considered a reason for eviction from housing provider-managed housing or termination from a program (unless sober living PSH program).
 - d. Underlying issues leading to difficulties with lease compliance must be taken into consideration as mitigating factors against termination.
 - e. Tenants in permanent supportive housing must be given reasonable flexibility in paying their tenant share of rent (after subsidy) on time and offered special payment arrangements (e.g. a payment plan) for rent arrears and/or assistance with financial management (including representative payee arrangements) whenever possible.

C. Transfer Prior to Termination

The CoC provider is entitled to terminate a program participant in accordance with the CoC provider's program rules, policies, procedures, and written agreements, whether or not a transfer is available. However, where reasonably practical in the good faith determination of the CoC provider, CoC providers may request the Homeless Trust (for PH) or Street Outreach team (for ES, SH and TH) provide an alternate program placement if a CoC provider plans to terminate a program participant. The Homeless Trust will make every effort to ensure program participants subject to pending termination receive a transfer to appropriate temporary or permanent housing intervention. The participant must be informed that if they reject the new program's slot at the time it is offered, the slot will be offered to another individual or family.

D. Grievance Process

1. Emergency Shelters

If a program participant violates program requirements, the provider may terminate the assistance in accordance with a formal process established by the provider that recognizes the rights of individuals affected.¹

2. All Other Programs

The following applies to all programs except emergency shelters. In terminating assistance to a program participant, the provider must provide a formal process that recognizes the rights of individuals receiving assistance under the due process of

¹ This language is adopted from ESG regulations governing shelter and other ESG activities except for RRH and housing stability services. 24 CFR §576.402

law (“formal grievance process”).² This process, at a minimum, must consist of:

- a. Providing the program participant with a written copy of the program rules and the termination process before the participant begins to receive assistance;
- b. Written notice to the program participant containing a clear statement of the reasons for denial of assistance or termination, and opportunity for review of the decision through formal grievance;
- c. A restorative circle if offered by the provider and the preferred option for the client, or review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and
- d. Prompt written notice of the final decision to the program participant.
- e. Stay of Action: If a participant’s request for formal grievance is timely filed in accordance with the program’s policies, terminations of PSH, RRH or TH or other rental assistance shall be delayed until the grievance process is completed except for automatic terminations for violent or criminal behavior or other behavior posing immediate risk to the safety of other residents and/or staff.

V. HOMELESS TRUST GRIEVANCE PROCESS

A. Definition of Grievance Under Homeless Trust Process

A grievance submitted to the Homeless Trust means an unresolved concern or complaint by a program participant following the participant’s exhaustion of the CoC provider’s Grievance Procedures. Grievances can be the result of a decision by the CoC provider to refuse or terminate services to the program participant. Grievances also can relate to the operation of a facility but only as it pertains directly to the program participant and cannot be for the purposes of changing the CoC provider’s program basic rules, policies, procedures and/or written agreements, including Grievance Procedures. The Trust will not hear a grievance that is subject to a complaint pending judicial review by the courts, unless the complainant is grieving a program termination from a TBRA program. When a PHA denies a CoC program participant rental assistance, the Trust defers to the PHA’s grievance process.

For privacy and safety reasons, grievances pertaining to the acts or omissions of other program participants within a CoC provider’s program are not appropriate for this review process.

B. Opportunity for Homeless Trust Review Through Restorative Conference or By Grievance Review Panel

After exhausting the grievance procedures of a CoC provider, a program participant may request the Homeless Trust review their complaint and the decision of the CoC provider in regard to such complaint in accordance with this grievance process. The Homeless Trust offers review before a CoC Grievance Review Panel, however, the Homeless Trust

² Minimum due process requirements for program terminations for ESG-funded housing stability services and rental assistance programs such as RRH and all HEARTH-Act funded assistance are set forth in 24 CFR §576.402 and 24 CFR §578.91, respectively.

will first offer the participant the option of engaging in a conferencing review based on restorative practices. Such option is voluntary and the participant may always opt out of conference for a Panel Review.

The restorative conferencing process offered by the Homeless Trust is an informal one intended to provide a program participant with the opportunity to achieve a mutually satisfactory resolution of their complaint by the airing of information, concerns and considerations of all parties in furtherance of achieving a resolution satisfactory to both the program participant and the CoC provider, each in their sole discretion, in accordance with restorative justice practices. In this way, the Homeless Trust desires to serve as an informal, non-binding mediator in such circumstances, utilizing best practices, to obtain the consent and agreement of all parties as a means of conflict resolution. With restorative practices, the further review and resolution of grievances by the Homeless Trust and willing participants on all sides is intended to provide a trauma informed, sensitive and workable solution for all concerned. It is hoped that by utilization of these best practices for resolutions of conflicts and disputes, all parties will find greater learning, sensitivity and satisfactory solutions to grievances in a respectful environment of collaboration and mutual cooperation. As with all restorative practices, the willing participation of all parties and a commitment to non-violent, respectful communications are a prerequisite.

The Homeless Trust will select a facilitator for restorative conferencing circles who is trained in restorative practices. The facilitator will lead the restorative conferencing. As part of their duties, the facilitator will contact the circle participants ahead of the conference to discuss how Restorative Practices work and the norms of the group. The facilitator will reiterate the group norms at the onset of the conferencing circle.

1. Request for Trust Review

A program participant desiring to avail itself of a Homeless Trust review, whether by restorative conference or panel review, shall submit their request in writing to the Homeless Trust's Executive Director. In the case of termination of program, the request must be submitted within ten (10) days of the final decision to terminate. The written request must be on the form prescribed by the Homeless Trust for such purposes and include:

- a. The participant's name and date of birth.
- b. Copies of the written concern or complaint submitted to the provider and the provider's final written decision in response.
- c. Whether they are exercising the option of engaging in a restorative conference in lieu of a panel review.
- d. Relief sought by the participant.
- e. A full release of information (in compliance with HIPAA on the form prescribed by the COC provider and Homeless Trust) signed by the applicant or participant, authorizing the CoC provider to share the program participant's file with the Homeless Trust, in addition to any all other information the CoC provider may have in regard to the complaint and/or program participant that the CoC provider deems necessary, appropriate or desirable for the Homeless Trust review.

2. Threshold Review for Compliance with Grievance Standards and Process

- a. Upon receipt of the program participant's request for review of a CoC provider's decision or actions, the Homeless Trust Executive Director will first determine that

the program participant exhausted the CoC provider's grievance process and that the CoC provider complied with its own process and that such process complied with these standards. The Homeless Trust Executive Director may request documentation from the parties as may be necessary to conduct this threshold review.

- b. In the event that the Homeless Trust finds that one or more threshold requirements above have not been met, or grievance is subject to a complaint pending a judicial review, the Homeless Trust will provide a written explanation of the non-compliance to both parties and action required in order to allow a restorative conference or review by panel to proceed with the Homeless Trust.
- c. The CoC-funded program participant's right to a stay as described above in Art. IV. D.2. is preserved in the event that the provider failed to comply with its own grievance processes or due process requirements under these Standards. This excludes F&B funded ES.

C. Restorative Conferencing Grievance Process

The Homeless Trust shall designate a professional trained in behavioral health (LMHC, LCSW, LMFT, or PsyD) and certified in restorative justice practices to lead and serve as an impartial mediator for implementation of the review and restorative justice process. The Homeless Trust Executive Director, or their designee shall also participate in the restorative justice process. Participation is entirely voluntary and by agreement and in the sole discretion of all parties.

Provided the threshold requirements for conference scheduling are satisfied, the mediator shall schedule a restorative justice conference within ten (10) business days of receipt of the program participant's request for review and agreement to participate in the restorative justice process. All participants in the conference will sign confidentiality agreements. All parties will know the outcome of the restorative process as a result of their participation in the process. An agreement setting forth the mutually agreed-upon resolution of the complaint will be signed by all parties present at the conference.

D. Review by CoC Grievance Panel

In the event that the participant desires a formal panel review, the following will govern such review.

1. The CoC Grievance Review Panel shall be comprised of the Chairperson of the Homeless Trust, the Chair of the Homeless Trust Services Development Committee and the Homeless Trust Executive Director or their designees ("CoC Grievance Review Panel"). No panel member or their designee shall be an employee, board member, officer or agent of the provider or one of its affiliates, a party with whom the provider has a financial relationship, or have a familial relationship with the participant.
2. All members of the CoC Grievance Review Panel must be present at the hearing;
3. The hearing will be scheduled within 10 business days (excluding weekends and federal holidays) of receipt of the grievance with the parties provided written notice of the date, time and meeting location for the hearing;

4. Except for a grievance made directly to the Homeless Trust due to alleged criminal conduct or fear of retaliation, the participant shall base such objections solely on the record presented during the provider's grievance process and may not introduce any new evidence or arguments. Similarly, the provider may defend its decision based solely on the record it utilized during the grievance process. Nothing herein shall require the provider to disclose the identity of witnesses who wish to remain anonymous; however the record should demonstrate an independent investigation was conducted by staff;
5. The CoC Grievance Panel shall make every effort to ensure program participants filing grievances do not return to homelessness. This may include:
 - a. Requiring the CoC-funded (except for F&B funded ES) provider to rescind the termination of assistance without or with conditions; or
 - b. Transfer the participant into a program that can meet the needs of the participant.
6. The right to a written decision within five (5) business days (excluding weekends and federal holidays).
7. The decision of the Review Panel will be binding on the program, which must take all actions, or refrain from any actions, necessary to carry out the decision.
8. Additional rights:
 - a. The right to a private hearing unless the participant requests a public hearing.
 - b. The right to reasonable accommodations for persons with disabilities to participate in the hearing.

E. Failure to Appear

If either the participant or provider fails to appear at a scheduled restorative conference or panel hearing, the Homeless Trust Executive Director will make a determination that such party has waived their right to Homeless Trust review (regardless of method) unless the party can demonstrate serious extenuating circumstances justifying their absence and a re-scheduling. All parties involved in a restorative conference or panel hearing, as the case may be, shall be notified of schedule changes in writing.