

# **North Andover Housing Authority**

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## **North Andover Housing Authority GRIEVANCE PROCEDURES**

**Board Adopted 6/22/17**

### **BOARD MEMBERS:**

Mary Beth Soucy-Larkin, Chairman  
Stephen Long  
Edward Capodilupo  
Madeleine Sutcliffe  
Francis McCarty

## **Grievance Procedures**

### **(760 CMR 6.08)**

**Requirements for Grievance Procedures.** The North Andover Housing Authority's (NAHA) grievance procedure shall provide for the following:

**Initiation of a Grievance.** A grievance regarding whether good cause exists for terminating a lease shall be initiated by a tenant in writing and shall be mailed or delivered to the NAHA at its main office within seven (7) days after a notice of lease termination has been given to tenant by the NAHA.

A grievance regarding whether participation in the MRVP or HCV should be terminated shall be initiated by a program participant in writing and shall be mailed or delivered to the NAHA at its main office within seven (7) days after a notice of program termination has been given to the program participant by the NAHA.

A grievance regarding some other matter shall be initiated by a grievant in writing and shall be mailed or delivered to the NAHA at its main office, no more than fourteen (14) days after the date on which the grievant first became aware or should have become aware of the subject matter of the grievance, provided that the NAHA shall have discretion to permit a grievance to be initiated late.

The NAHA shall permit additional time for initiation of a grievance if the NAHA shall find that there was a good reason for late initiation of the grievance and that the late initiation would not cause prejudice to the NAHA.

**When a Grievant Does Not Have a Right to a Hearing.** A grievance cannot be initiated by a tenant or program participant for the following reasons:

1. Non-payment of rent, unless the lease gives the tenant a right to a grievance hearing.
2. The following activities, if a tenant, household member or guest has:
  - a. Harassed or threatened a tenant, a NAHA employee or guest;
  - b. Destroyed, vandalized or stole property from a tenant, NAHA employee or guest;
  - c. Unlawfully possessed, carried or kept a weapon on or next to NAHA property;
  - d. Unlawfully possessed or used an explosive or incendiary device on or next to NAHA property;
  - e. Unlawfully possessed, sold or possessed with intent to distribute a class A, B or C controlled substance on or next to NAHA property (if the unlawful activity involves marijuana, which is a class D substance, a tenant should still get a grievance hearing);

- f. Engaged in other criminal conduct that has seriously threatened or endangered the health or safety of a tenant, NAHA employee or guest;
- g. Engaged in behavior that would be cause for terminating the lease because of an occupant's illegal use of the apartment under state nuisance laws, such as prostitution, illegal gaming or selling of alcoholic beverages.

**Note on behavior of guests.** In most cases, only if the housing authority believes the tenant knew or should have known beforehand that there was a reasonable possibility that a guest would engage in misconduct, can it deny a tenant to a right to a grievance hearing.

**Informal Settlement Conference.** Promptly after the initiation of a grievance, unless otherwise provided, the NAHA's executive director or his or her designee shall give the grievant the opportunity to discuss the grievance informally in an attempt to settle the grievance without the necessity of a grievance hearing. The NAHA shall give reasonable advance notice to the grievant and his or her representative (if any) of a time and place for an informal settlement conference, unless such a conference shall have taken place when the grievance was delivered to the NAHA. If a matter is not resolved at the informal settlement conference, a grievance hearing shall be held. Failure to attend an informal settlement conference shall not affect a grievant's right to a grievance hearing.

**Hearing Date and Notice of Hearing.** A grievance hearing regarding whether good cause exists for terminating a lease shall be scheduled within fourteen (14) days or as soon as reasonably practical after the date on which the NAHA receives the grievance. A hearing of a grievance regarding some other issue shall be scheduled as soon as reasonably convenient following receipt of the grievance.

The NAHA shall give reasonable advance written notice of the time and place of the hearing to the grievant and to his or her representative (if any). The NAHA or the hearing officer may reschedule a hearing by agreement or upon a showing by grievant or by the NAHA that rescheduling is reasonably necessary.

**Pre-Hearing Examination of Relevant Documents.** Prior to a grievance hearing the NAHA shall give the grievant or his or her representative a reasonable opportunity to examine NAHA documents which are directly relevant to the grievance. Following a timely request, the NAHA shall provide copies of such documents to grievant and, for good cause (including financial hardship), may waive the charge for the copies.

**Persons Entitled to be Present.** The grievance hearing shall be private unless the grievant requests that it be open to the public. If the grievant requests an open hearing, the hearing shall be open to the public unless the hearing officer otherwise orders. The NAHA and the grievant shall be entitled to specify a reasonable number of persons who may be present at a private hearing. A challenge to the presence of any such person shall be decided by the hearing officer. At the hearing the NAHA and the grievant may be represented by a lawyer or by a non-lawyer. Each person present at the hearing shall conduct himself or herself in an orderly

manner or he or she shall be excluded. If the grievant misbehaves at the hearing, the hearing officer may take other appropriate measures to deal with the misbehavior, including dismissing the grievance.

**Procedure at Grievance Hearings.** The hearing officer shall conduct the grievance hearing in a fair manner without undue delay. The hearing officer shall initially take appropriate steps to define the issues. Thereafter, relevant information, including testimony of witnesses and written material, shall be received regarding such issues. Both the grievant and the NAHA shall be entitled to question each other's witnesses. Procedure at the hearing shall be informal, and formal rules of evidence shall not apply. The hearing shall be tape-recorded. The hearing officer may question witnesses and may take notice of matters of common knowledge and applicable laws, regulations and NAHA rules and policies. The hearing officer may request the NAHA or the grievant to produce additional information which is relevant to the issues or which is necessary for a decision to be made provided that the other party is provided an opportunity to respond to such additional information.

**Written Decision; Effect of Decision.** Within fourteen (14) days following the hearing or as soon thereafter as reasonably possible the hearing officer shall provide the NAHA with a written decision on the grievance, describing the factual situation and ordering whatever relief, if any, that shall be appropriate under the circumstances and under applicable laws, regulations, rules and/or policies. The decision shall be based on the evidence at the grievance hearing and such additional information as may have been requested by the hearing officer. The NAHA shall forthwith mail or otherwise deliver a copy of the decision to the grievant and his or her representative. A copy of the decision (with names and personal identifiers deleted) shall thereafter be maintained at the NAHA and shall be open to public inspection.

**Review by the North Andover Board of Commissioners.** In cases where the decision concerns whether good cause exists for terminating a lease, there shall be no review by the North Andover Housing Authority's Board of Commissioners (NAHA Board). In other cases, in the event that the grievant or the NAHA believes that

- (i) the decision of the hearing officer is not supported by the facts;
- (ii) the decision does not correctly apply applicable laws, regulations, rules and/or policies; or
- (iii) the subject matter is not grievable, within fourteen (14) days of mailing or other delivery of the decision, the grievant or the NAHA may request review of the decision by the NAHA's Board.

The Board shall promptly decide whether to uphold, set aside or modify the decision after permitting the NAHA and grievant to make oral presentations and submit documentation. The Board may also permit the hearing officer to make a presentation. The decision of the Board shall be in writing and shall explain its reasoning. If a written decision is not rendered within

forty-five (45) days from the date a review is requested, the decision of the Board, when rendered, shall specify a reason showing that there has been no undue delay.

**Review by the Department of Housing and Community Development (DHCD).** In the event that the NAHA's Board shall make a material change in a decision of the hearing officer, upon written request of the grievant made within fourteen (14) days of mailing or other delivery of the decision, DHCD shall review the decision of the NAHA Board and shall render a written decision upholding, setting aside or modifying the decision of the Board.

**Effect of a Decision on a Grievance.** The decision on a grievance shall be binding between the NAHA and the grievant with respect to the particular circumstances involved in the grievance, provided that if a court has jurisdiction to determine a matter which has been subject to decision on a grievance, the court's determination on the matter shall supersede the decision on the grievance. The fact that a person may have failed to grieve a matter shall not affect any such jurisdiction by a court. As between the NAHA and any person who was not a grievant, the decision on a grievance shall have no binding effect.

**Special Needs.** The NAHA will make reasonable accommodations for a grievant with special needs. If the grievant needs reasonable accommodations, he or she shall let the NAHA know this well in advance of the hearing so they can take appropriate steps.

**Notices.** All notices, answers or decisions required under these procedures to be sent to the grievant must be delivered in person to an adult member of the grievant's household or mailed by regular us mail and certified mail.