

NORWOOD HOUSING AUTHORITY GRIEVANCE PROCEDURE

STATE HOUSING PROGRAMS

Approved on 7/28/2022

I PURPOSE, SCOPE AND APPLICABILITY

- A. Purpose - The purpose of this procedure is to ensure that Norwood Housing Authority (NHA) state-aided tenants, have a recognized method for informally resolving disputes with the NHA, and to afford tenants the opportunity for a fair hearing within a reasonable time if the dispute cannot be settled informally.

The Department of Housing and Community and Development (DHCD) regulations (760 CMR 6.08) require each local housing authority (LHA) to have a grievance procedure of which the purpose shall be the prompt and reliable determination of grievances. This procedure must be available to state-aided public housing tenants, and to individuals who file appeals pursuant to 760 CMR 8.00 Privacy and Confidentiality.

- B. Grievant - Any tenant or program participant who files a written grievance with the NHA in accordance with the NHA's grievance procedure. A grievant shall also include any person about whom the NHA holds data (data subject) who pursues an appeal pursuant to 760 CMR 8.00: Privacy and Confidentiality.

- C. Scope and Applicability - This procedure applies to any dispute which a grievant may have with respect to NHA action or failure to act in accordance with the lease or any statute, regulation, policy, or procedure that affects the tenant's rights, duties, welfare or status or to any complaint regarding a NHA employee.

The meaning of a statute, regulation or rule shall not be the subject of a grievance. A dispute between a tenant and another tenant or household member, in which the NHA is not involved, shall not be the subject of a grievance. A grievance shall not be filed by a tenant on behalf of another tenant or any household member of another tenant.

No grievance hearing regarding whether good cause exists for terminating a lease shall be requested or held under any of the circumstances specified in MGL c.121 B, §32, including the following circumstances:

1. in the event of nonpayment of rent
2. in the event NHA has reason to believe that Tenant or a household member:
 - a. Has unlawfully caused serious physical harm to another tenant or an employee of NHA or any other person lawfully on NHA' s property.
 - b. Has unlawfully threatened to seriously physically harm another tenant or an employee of NHA or any person lawfully on NHA's property.

- c. Has unlawfully destroyed, vandalized or stolen property of a tenant or of NHA or of any person lawfully on NHA's property, if such conduct creates or maintains a serious threat to the health or safety of a tenant, an NHA employee, or any other person lawfully on NHA's property.
 - d. Has unlawfully possessed, carried, or kept a weapon on or adjacent to NHA's property in violation of M.G.L. c269, S10.
 - e. Has unlawfully possessed or used an explosive or incendiary device on or adjacent to NHA's property or otherwise violated M.G.L. c266, SS101, 102, 102A or 102B.
 - f. Has unlawfully possessed, sold, or possessed with intent to distribute a class A, B or C controlled substance, as defined in M.G.L. c94C, S31, on or adjacent to NHA's property.
 - g. Has engaged in other criminal conduct which seriously threatened or endangered the health or safety of any member of a tenant household, employee of NHA, or any person lawfully on NHA's property.
 - h. Has engaged in behavior which would be cause for voiding this lease pursuant to the provisions of M.G.L. c139, S19.
3. In the event the LHA has reason to believe that a guest of tenant or a guest of a household member has engaged in any of the behavior listed in the preceding paragraph (C. 2.) above and that tenant knew beforehand or should have known beforehand that there was a reasonable possibility that the guest would engage in misconduct.

II GRIEVANCE PROCEDURE PROVISIONS FOR A SINGLE HEARING OFFICER

- A. This grievance procedure adopted by the Norwood Housing Authority requires a hearing and determination of a matter subject to the procedure by a single hearing officer. The hearing officer shall be appointed to serve for a term not to exceed seven years and shall serve all residents of state-aided public housing in the town, except for those persons who are subject to a different grievance procedure.
- B. An alternate hearing officer may also be appointed for a seven (7) year term.
- C. Meeting Times - The hearing officer shall schedule hearings as often as necessary to ensure that all grievances are heard within thirty (30) days from the time the grievant files the request for a hearing, or as soon as reasonably practical after the date on which the NHA receives the grievance. Hearings may be held in person at the NHA main office, or remotely, either during normal operating hours or outside of those hours if practical for all parties.

III GRIEVANCE PROCEDURES

- A. 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 NHA at its main office within seven (7) days after a notice of lease termination has been given to a tenant by the NHA.

A grievance regarding some other matter shall be initiated by a grievant in writing and shall be mailed or delivered to the NHA at its main office, or at a development office, if so specified, 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 NHA shall have discretion to permit a grievance to be initiated late.

In the event that a tenant files a grievance as to the amount of a redetermined rent within fourteen (14) days of the NHA's notice of the redetermined rent, the tenant shall continue to pay the rent then in effect (unless the redetermined rent is lower) until final disposition of the grievance. Upon final disposition of the grievance, the tenant shall pay any additional amounts determined to have been due but not paid since the effective date set out in the notice of redetermined rent or the NHA shall credit the tenant with any amounts paid but determined not to have been due.

The NHA shall permit additional time for initiation of a grievance if the NHA 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 NHA. The NHA has available forms on which a grievance may be initiated (See Exhibit A).

- B. Informal Settlement Conference. Promptly after the initiation of a grievance, unless otherwise provided, the NHA'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 NHA 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 NHA. At the informal settlement conference, the NHA and the grievant may be represented by a lawyer or by a non-lawyer. If the grievance is resolved at the informal settlement conference, the NHA and grievant shall acknowledge the terms of the resolution in writing. 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.
- C. 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 from receipt of the request for a hearing or as soon as reasonably practical after the

date on which the NHA 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 NHA shall schedule hearings on a date within 30 days from the date of a request for a grievance hearing and at least 15 days prior to the date of termination.

The NHA 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 NHA, the hearing panel, or the hearing officer may reschedule a hearing by agreement or upon a showing by grievant or by the NHA that rescheduling is reasonably necessary.

- D. Pre-Hearing Examination of Relevant Documents. Prior to a grievance hearing the NHA shall give the grievant or his or her representative a reasonable opportunity to examine NHA documents which are directly relevant to the grievance. Following a timely request, the NHA shall provide copies of such documents to grievant and, for good cause (including financial hardship), may waive the charge for the copies.
- E. 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 panel or the hearing officer otherwise orders. The NHA 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 panel or the hearing officer. At the hearing the NHA 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 panel or hearing officer may take other appropriate measures to deal with the misbehavior, including dismissing the grievance.
- F. Additional Reasons for Termination. At the grievance hearing any additional reason for termination of the lease, which arose subsequent to the date of the notice of termination of lease, shall be considered so long as NHA gives the tenant written notice of the additional reason, not less than three (3) days before the hearing or, if a reason for eviction shall have arisen within such three (3) day period, a subsequent session of the hearing may be scheduled on not less than three (3) days notice to consider such additional reason.
- G. Procedure at Grievance Hearings. The hearing panel or the hearing officer shall conduct the grievance hearing in a fair manner without undue delay. The hearing

panel or 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 NHA 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 digitally recorded. The hearing officer may question witnesses and may take notice of matters of common knowledge and applicable laws, regulations and NHA rules and policies. The hearing officer may request the NHA or the grievant to produce additional information which is relevant to the issues on which is necessary for a decision to be made, provided that the other party is provided an opportunity to respond to such additional information. The recording of the hearing shall be maintained by the NHA until any applicable appeals have been decided. During that time grievant and or his or her representative may listen to the digital recording at the NHA's offices.

- H. Written Decision; Effect of Decision. Within fourteen (14) days following the hearing or as soon thereafter as reasonably as possible, the hearing panel or the hearing officer shall provide the NHA 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 panel members or the hearing officer. The NHA shall forthwith mail or otherwise deliver a copy of the decision to the grievant and his/her representative. A copy of the decision (with names and personal identifiers deleted) shall thereafter be maintained at the NHA and shall be open to public inspection.

- I. Review by the NHA's Board. In cases where the decision concerns whether good cause exists for terminating a lease, there shall be no review by the NHA's Board. In other cases, in the event that the grievant or the NHA believes that (i) the decision of the hearing panel or 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 NHA may request review of the decision by the NHA's Board. The Board shall promptly decide whether to uphold, set aside or modify the decision after permitting the NHA and grievant to make oral presentations and submit documentation. The Board may also permit the hearing officer or hearing panel 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.

- J. Review by the Department. In the event that the NHA's Board shall make a material change in a decision of the hearing panel or hearing officer, involving a state-aided program, upon written request of the grievant made within fourteen (14) days of mailing or other delivery of the decision, the State Department of Housing and Community Development shall review the decision of the Board and shall render a written decision upholding, setting aside or modifying the decision of the Board.
- K. Effect of a Decision on a Grievance. The decision on a grievance shall be binding between the NHA 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 NHA and any person who was not a grievant, the decision on a grievance shall have no binding effect.

IV. APPOINTMENT OF SINGLE HEARING OFFICER

- A. Single Hearing Officer. All grievance hearings and determinations of grievances shall be handled by a single Hearing Officer. The Hearing Officer shall be appointed to serve for a term not to exceed seven years and shall serve all residents of state-aided public housing.

The NHA shall from time to time nominate one or more persons to serve as Hearing Officer(s) to preside at and conduct hearings and to render prompt and reliable written determinations of matters at issue. The NHA shall notify tenants of its nominees for Hearing Officer(s) by posting all such nominations on all bulletin boards intended for notices of general interest to tenants. Each nomination shall include a resume of the nominee and the length of the term for which he or she is nominated. Within thirty (30) days after the posting of a nomination ten or more tenants may disapprove the nominee by giving signed written notice to the NHA. A notice of disapproval shall include the specific reason(s) why such tenants disapproved the nominee. In the absence of a disapproval, the nominee shall become a Hearing Officer upon written acceptance mailed or delivered to the NHA which shall then post notice thereof.

Each Hearing Officer shall annually certify to the NHA in writing that he or she is ready, willing and able to serve; failure to so certify within ten (10) days of receipt of a written request by the NHA shall render the Hearing Officer's position vacant.

- B. Impartiality of the Hearing Officer. No Hearing Officer or a member of his or her family shall have or shall appear to have any direct personal or financial interest in

the outcome of any matter before him or her. No Hearing Officer shall be related by blood or marriage to any party or to any person who gives evidence as to facts which are disputed by the parties. No Hearing Officer may determine matters which directly concern his or her own housing or the housing of a family member or his or her own status or the status of a family member in that housing. Each Hearing Officer shall determine any matter at issue impartially and objectively on the basis of the evidence and applicable law. Any Hearing Officer, who shall be or shall appear to be unable to determine any matter impartially and objectively shall remove himself or herself as Hearing Officer, whether or not he has been requested to do so.

C. Removal of the Hearing Officer. A Hearing Officer may be permanently removed from office at any time for inefficiency, neglect of duty, willful and material delay of proceedings, bias or partiality. The NHA may remove a Hearing Officer after notice to the Hearing Officer and the opportunity for him or her to be heard.

D. Appointment of Interim Hearing Officer. If there shall not be a Hearing Officer able and willing to serve for one or more pending matters and if use of the appointment process in Part IV, section A of this grievance procedure would likely cause significant delay with potential adverse consequences to either the NHA or the grievant, the NHA may request that an interim Hearing Officer be named by DHCD. Such a request shall be in writing and shall specify the reason for the request. Notice of the request shall be posted, and tenants shall be given a reasonable opportunity to comment to DHCD about the request. If DHCD finds there to be a reasonable need for an interim Hearing Officer, DHCD shall name an interim Hearing Officer. DHCD may name a previously disapproved nominee to serve as interim Hearing Officer if it finds that the stated reasons for disapproval did not constitute good and sufficient cause for disapproving the nominee.

An interim Hearing Officer shall have all the powers and duties of a Hearing Officer and shall serve in the pending matters for which he or she was appointed. An interim Hearing Officer may be nominated by the NHA to be Hearing Officer in the manner set out herein.

E. Scheduling. The NHA shall be responsible for scheduling and other administrative matters, including all necessary notices. The NHA shall consult with the Hearing Officer and shall schedule hearings at times convenient for him or her.

