

PROCEDURES FOR INFORMAL REVIEWS AND INFORMAL HEARINGS

The Housing Authority will provide for an informal review or hearing in accordance with federal requirements under 982.554 for informal reviews for applicants and 982.555 for informal hearings for participants. Each applicant who is denied assistance and each participant whose assistance is terminated, or tenant rent increased, or a damage claim decided will be advised of the right to a review or hearing.

Each applicant at the time of the briefing on the Section Eight Housing Assistance Program will be provided with this general outline.

Informal Review for Applicants

Any applicant who is denied assistance or a place on the Section Eight waiting list will receive written notice from the Housing Authority stating the reasons for the decision. If the applicant is entitled to a hearing according to the regulations in the federal register, s/he will be informed of the procedures which follow.

Notice to the applicant: The Housing Authority will give an applicant for participation prompt notice of a decision denying assistance to the applicant. The notice will include a brief statement of the reasons for the HA decision.

An applicant who is denied assistance may present written or oral objections to the Housing Authority and request an Informal Review of the decision. A written request for such review must be presented to the Housing Authority within ten (10) working days of the receipt of the notice.

The **Informal Review** may be conducted by any person or persons designated by the Housing Authority, other than the person who made or approved the decision under review or a subordinate of that person, and may be done in person or by correspondence at the applicant's choice.

The applicant will be given an opportunity to present written or oral objections to the HA decision. Within 14 days of the Review the applicant will be provided with written notice of the reviewer's final decision including a brief statement of the reasons for the final decision.

Informal Hearings for Participants

At a participant's written request, the Housing Authority will provide the opportunity for an Informal Hearing to consider if decisions are in accordance with the law, with Housing and Urban Development regulations, and with Housing Authority policies. This request must be presented to the Housing Authority within ten (10) working days of the receipt of the notice of action by the Housing Authority.

When hearings are required. The Housing Authority will give a participant family an opportunity for an informal hearing to consider whether the following HA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and HA policies:

- *(i) A determination of the family's annual or adjusted income and the use of such income to compute the housing assistance payment.
- *(ii) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HA utility allowance schedule.
- *(iii) A determination of the family unit size under the HA subsidy standards.
- ***(iv) A determination that a certificate program family is residing in a unit with a larger number of bedrooms than appropriate for the family unit size under the HA subsidy standards, or the HA determination to deny the family's request for an exception from the standards.
- ***(v) A determination to terminate assistance for a participant family because of the family's action or failure to act. (see 982.552)
- ***(vi) A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under HA policy and HUD rules.

In the cases in (a)(iv)(v)(vi) of this section, the HA must give an opportunity for a hearing before the HA terminates housing assistance payments under an outstanding contract.

Notice to the Family

In the * cases, the HA will notify the family that the family may ask for an explanation of the basis of the HA determination and that if the family does not agree with the determination, the family may request an informal hearing on the decision. In the ** cases, the HA must give the family prompt written notice that the family may request an informal hearing on the decision. The notice will:

- (1) Contain a brief statement of the reasons for the decision;
- (2) State that if the family does not agree with the decision the family may request an informal hearing on the decision,

(3) State the deadline for the family to request an informal hearing.

Conduct of Informal Hearings

The procedures used by the Housing Authority for conducting an Informal Hearing for participants will comply with the following:

a. The hearing will be conducted by person(s) designated by the Housing Authority other than the person who made or approved the decision under review or a subordinate of such person. To the extent possible the hearing officer will be a person not otherwise connected to the Housing Authority.

b. Discovery by the family:

- (1) The Family will be advised of the opportunity to examine before the HA hearing any documents directly relevant (including regulations);
- (2) The Family will be advised of the opportunity to copy any such document at the family's expense;
- (3) If the HA fails to notify the family of the opportunity to examine and copy documents, the HA will not use the documents.

c. Discovery by the HA:

- (1) The HA must be given the opportunity to examine at HA offices before the HA hearing any family documents that are directly relevant;
- (2) The HA must be allowed to copy any such document at the HA's expense;
- (3) If the family does not make the document available, the family may not use it.

In order to accommodate the above process for discovery, the Housing Authority staff will request the participant to appear prior to the scheduled hearing to allow for the opportunity to examine documents.

d. A record of the testimony will be kept by taping by the Housing Authority. The tapes will be kept on file for a period of one year.

e. At their own expense, participants may be represented by a lawyer or other representative.

f. The Housing Authority representative and the participant shall be given the opportunity to present evidence and question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

g. The person who conducts the hearing will issue a written decision within 14 working days to the extent feasible, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the participant will be based on the evidence presented at the hearing. A copy of the hearing decision will be furnished promptly to the participant.

h. The Housing Authority is not bound by a hearing decision concerning a matter for which the HA is not required to provide an opportunity for an informal hearing, which is contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law; by a decision on subjects outside the scope of the required hearing process or beyond the authority of the person conducting the hearing under the HA hearing procedures.

If the HA determines that it is not bound by the decision, the HA must promptly notify the family of the reasons for the determination.