



**SECTION 8 HOUSING ASSISTANCE PROGRAM
INFORMAL HEARINGS
~Participants Only~
CFR §982.555**

WHEN A HEARING IS REQUIRED TO BE OFFERED:

The Housing Authority (HA) must give a participant the opportunity for an Informal Hearing if the participant wishes to have any of the following HA decisions/determinations reviewed for compliance with the law, HUD regulations, and HA rules or policies:

- 1.* A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment.
2. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the HA utility allowance schedule.
3. A determination of the family unit size under the HA subsidy standards.
- 4.* A determination to terminate assistance for a participant family because of the family's action or failure to act (see §982.552).
- 5.* A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under the HA policy and HUD Rules.
6. Denial of a hardship exemption to the minimum rent requirements.

*In the cases described in paragraphs 1, 4 and 5 above, the HA must give the opportunity for an Informal Hearing before the HA terminates housing assistance payments for the family under an outstanding Housing Assistance Payments Contract.

WHEN A HEARING IS NOT REQUIRED TO BE OFFERED:

The HA is not required to provide a participant an opportunity for an Informal Hearing for any of the following:

1. Discretionary administrative determinations by the HA.
2. General policy issues or class grievances.
3. Establishment of the HA schedule of utility allowances for families in the program.
4. An HA determination not to approve an extension or suspension of a Voucher term.
5. An HA determination not to approve a unit or tenancy.
6. An HA determination that an assisted unit is not in compliance with Housing Quality Standards (HQS). Note: the HA must provide the opportunity for an Informal Hearing for a decision to terminate assistance for a breach of the HQS caused by the family as described in CFR §982.551).

7. An HA determination that the unit is not in accordance with HQS because of the family size or change in composition.
8. A determination by the HA to exercise or not to exercise any right or remedy against the owner.

HEARING NOTICE:

The HA will provide the participant family with prompt written notice of decision and/or determinations requiring an opportunity for an Informal Hearing. The notice shall:

1. Include a brief statement of the reason for the decision.
2. Advise the participant family of his/her right to request an Informal Hearing if the participant family does not agree with the decision.
3. Specify that the request for a hearing must be made, in writing, within ten business days from the date of the notice.

DISCOVERY:

The participant family must be given the opportunity to examine, before the hearing, any documents that are directly relevant to the hearing. The participant must be allowed to copy any such documentation at the participant's expense. If the HA does not make the documentation available for examination on the request of the participant, the HA may **not** rely on the document at the hearing.

The HA must be given the opportunity to examine, before the hearing and at the HA offices, any participant family documents that are directly relevant to the hearing. The HA must be allowed to copy any documents, at the HA's expense. If the tenant does not make the documents available for examination on request of the HA, the tenant may **not** rely on the document at the hearing.

PROCEDURES:

Informal hearings will be conducted in accordance with the following rules:

1. The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with disabilities. Good cause is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the HA may request documentation of the "good cause" prior to rescheduling the hearing.

2. If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the HA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The HA will reschedule the hearing only if the family can show good cause for the failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.
3. At its own expense, the family may be represented by a lawyer or other representative at the informal hearing.
4. The PHA's hearing officer will be a person designated and appointed by the City Attorney's Office or a person who has had no involvement in the decision of the proposed action.
4. The HA and the family must be given the opportunity to present evidence, and may question any witnesses. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
5. The person conducting the hearing must provide the participant, within ten (10) business days of the hearing, the notice of decision. The notice of decision must briefly state the reason(s) for the decision. Factual determinations shall be based on evidence provided at the hearing.

EFFECT OF DECISION:

The HA is not bound by a hearing decision [24 CFR 982.555(f)] of the hearing officer for matters in which the PHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the hearing officer, decisions that conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the PHA determines it is not bound by the hearing officer's decision in accordance with HUD regulations, the PHA must promptly notify the family of the determination and the reason for the determination.

VIOLENCE AGAINST WOMEN ACT (VAWA):

The Violence Against Women Act (VAWA) protects tenants and family members of tenants who are victims of domestic violence, dating violence, or stalking from being evicted or terminated from housing assistance based on acts of such violence against them. These provisions apply to our agency administering the Section 8 programs and to owners renting to families under Section 8 rental assistance programs.

The law provides in part that criminal activity directly relating to domestic violence, dating violence, or stalking, engaged in by a member of a tenants household or any guest or other person under the tenants control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenants family is the victim or threatened victim of that abuse. The law also provides that an incident or incidents of actual or

threatened domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease by the victim or threatened victim of that violence and will not be good cause for termination of the assistance, tenancy, or occupancy rights of a victim of such violence.

REASONABLE ACCOMODATIONS:

If you or a member of your family have a disability and believe that the disability has impacted our decision regarding denying your assistance or terminating your participation in this program, you may request a reasonable accommodation. Please contact Theresa James, Fair Housing Coordinator at 480-858-2360 for assistance.



PHA: 10/08
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