

INFORMAL HEARING PROCEDURES

Purpose of Hearing

The Housing Authority must provide the opportunity for an informal review for applicants and an informal hearing for participants for any decision to deny or terminate Section 8 assistance. A copy of the informal hearing procedures is made available to all participants at the enrollment interview, and to existing participants who have not previously received a copy, if so requested, at the annual recertification. Participants have the right to pre-hearing discovery (records and regulations), which may be copied at the participant's expense. The Housing Authority has a parallel right to pre-hearing discovery of relevant family documents.

The hearing process is designed to assure that the decisions made by the Housing Authority comply with local, state and federal laws, HUD regulations and Housing Authority approved rules and policies. Complainant may request a hearing only when claiming the law or rule has been incorrectly applied by the Housing Authority. A request for a hearing should be in written form and contain a description of the problem including names, addresses, phone numbers, etc. Other arrangements for submission of a request such as personal interview or tape recording will be made available for the visually impaired or those with motor impairments.

A Hearing may be held in these circumstances:

1. Determination of the amount of the Total Tenant Payment (or choice of Utility Allowance Schedule).
2. Determination of the number of bedrooms for which a participant Family may receive subsidy.
3. A HA determination to exercise or not exercise any right or remedy against the owner under a HAP contract.
4. Allegations of discrimination on the basis of handicap, if received within thirty (30) days of the alleged violation.

Reasons Not to Hold Hearing

The Housing Authority of Washington Co. is not required to hold a Hearing for:

1. Discretionary administrative determinations by the Housing Authority or to consider general policy issues or class grievances.
2. The Housing Authority's determination that a unit does not comply with Housing Quality Standards.
3. The owner's failure to maintain or operate a Contract unit providing decent, safe and sanitary housing in accordance with housing quality standards, including all services, maintenance and utilities required under the Lease.
4. Contract units no longer safe and sanitary because of an increase in Family size or change in Family composition.
5. Decisions by the Housing Authority to exercise any remedy against the Owner under an outstanding Contract, including the termination of housing assistance payments to the owner.
6. A Housing Authority's decision not to approve a Family's request for an extension of the term of the Certificate/Voucher issued to an assisted Family which wants to move to another dwelling unit with continued participation in the program.

If the Authority determines that it is not bound by a hearing decision, the Authority shall notify the participant within five (5) working days of the determination and reasons therefore.

Notification of Hearing

It is the HA's objective to resolve disputes at the lowest level possible, and to make every effort to avoid the most severe remedies. However, if this is not possible, the HA will ensure that applicants and participants will receive all of the protections and rights afforded by the law and the regulations.

When the HA receives a request for an informal hearing, a hearing shall be scheduled within **ten working** days. The notification of hearing will contain:

1. The date and time of the hearing
2. The location where the hearing will be held
3. The family's right to bring evidence, witnesses, legal or other representation at the family's expense
4. The right to view any documents or evidence in the possession of the HA upon which the HA based the proposed action and, at the family's expense, to obtain a copy of such documents prior to the hearing

The HA's Hearing Procedures

After a hearing date is agreed to, the family may request to reschedule only upon showing "good cause," which is defined as an unavoidable conflict which seriously affects the health, safety or welfare of the family.

Families have the right to:

Present written or oral objections to the HA's determination.

Examine the documents in the file which are the basis for the HA's action, and all documents submitted to the Hearing Officer;

Copy any relevant documents at their expense;

If the family requests copies of documents relevant to the hearing, the HA will make the copies for the family and assess a charge of 25¢ per copy. In no case will the family be allowed to remove the file from the HA's office.

Present any information or witnesses pertinent to the issue of the hearing;

Request that HA staff be available or present at the hearing to answer questions pertinent to the case; and

Be represented by legal counsel, advocate, or other designated representative at their own expense. (You may be eligible for free legal services from the Legal Aid Bureau, Inc. 1-800-679-8813.)

In addition to other rights contained in this Chapter, the HA has a right to:

Present evidence and any information pertinent to the issue of the hearing;

Be notified if the family intends to be represented by legal counsel, advocate, or another party;

Examine and copy any documents to be used by the family prior to the hearing;

Have its attorney present; and

Have staff persons and other witnesses familiar with the case present.

The Informal Hearing shall be conducted by the Hearing Officer appointed by the HA who is neither the person who made or approved the decision, nor a subordinate of that person. The HA appoints hearing officers who:

Are HA commissioners

Are managers from other departments in the government of the jurisdiction

Are managers from other HAs, or

Are professional mediators or arbitrators.

The hearing shall concern only the issues for which the family has received the opportunity for hearing. Evidence presented at the hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

No documents may be presented which have not been provided to the other party before the hearing if requested by the other party. "Documents" includes records and regulations.

The family must request an audio recording of the hearing, if desired, two days prior to the hearing date.

The Hearing Officer may ask the family for additional information and/or might adjourn the Hearing in order to reconvene at a later date, before reaching a decision.

If the family misses an appointment or deadline ordered by the Hearing Officer, the action of the HA shall take effect and another hearing will not be granted.

The Hearing Officer will determine whether the action, inaction or decision of the HA is legal in accordance with HUD regulations and this Administrative Plan based upon the evidence and testimony provided at the hearing. Factual determinations relating to the individual circumstances of the family will be based on a preponderance of the evidence presented at the hearing.

A notice of the Hearing Findings shall be provided in writing (or other method understood by the complainant) to the HA and the family within **five working** days and shall include:

A clear summary of the decision and reasons for the decision;

If the decision involves money owed, the amount owed; and

The date the decision goes into effect.

The HA is not bound by hearing decisions:

Which concern matters in which the HA is not required to provide an opportunity for a hearing

Which conflict with or contradict to HUD regulations or requirements;

Which conflict with or contradict Federal, State or local laws; or

Which exceed the authority of the person conducting the hearing.

The HA shall send a letter to the participant if it determines the HA is not bound by the Hearing Officer's determination within **five working** days. The letter shall include the HA's reasons for the decision.

All requests for a hearing, supporting documentation, and a copy of the final decision will be retained in the family's file.

I hereby certify that I have read and understand the above information.

Signature

Date