

Exhibit 9-2

Participant Informal Hearing Process

HUD Regulation 24 CFR 982.555(e)(1)

Administrative plan. The administrative plan must state the PHA procedures for conducting informal hearings for participants.

AHFC Policy

1. Grievances related to complaints about operational matters will be referred to the respective owner where the complainant resides.
2. Grievances involving complaints related to discrimination, harassment, or disability rights will be referred to the AHFC Section 504/ADA Compliance Officer.
3. See the Informal Hearing for Citizenship Determination for family appeals of ineligibility due to citizenship status.
4. For the Ineligible Noncitizen process, see the Meet Citizenship Requirements exhibit for the citizenship determination

1. Participant Notification

HUD Regulation 24 CFR 982.553(d)

Use of criminal record. Termination of assistance.

(2) Termination of assistance. If a PHA proposes to terminate assistance for criminal activity as shown by a criminal record, the PHA must notify the household of the proposed action to be based on the information and must provide the subject of the record and the tenant with a copy of the criminal record. The PHA must give the family an opportunity to dispute the accuracy and relevance of that record in accordance with §982.555.

HUD Regulation 24 CFR 982.555(c)

Notice to family.

(1) In the cases described in paragraphs (a)(1) (i), (ii) and (iii) of this section, the PHA must notify the family that the family may ask for an explanation of the basis of the PHA determination, and that if the family does not agree with the determination, the family may request an informal hearing on the decision.

(2) In the cases described in paragraphs (a)(1) (iv), (v) and (vi) of this section, the PHA must give the family prompt written notice that the family may request a hearing. The notice must:

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

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

AHFC Policy

AHFC will provide prompt notice of any decision to deny assistance, re-determine the family's portion of rent, or terminate assistance. The notice will conform to the requirements of each action as prescribed in HUD regulations.

See:

1. Admission and Eligibility chapter for waiting list and eligibility denials.
2. Examinations and Interviews chapter for determining the family's rent portion.
3. Termination of Assistance, HAP Contract, or Tenancy chapter for termination notices.

2. Informal Hearing Not Required

HUD Regulation 24 CFR 982.555(b)

When hearing is not required. The PHA is not required to provide a participant family an opportunity for an informal hearing for any of the following:

- (1) Discretionary administrative determinations by the PHA.
- (2) General policy issues or class grievances.
- (3) Establishment of the PHA schedule of utility allowances for families in the program.
- (4) A PHA determination not to approve an extension of the voucher term.
- (5) A PHA determination not to approve a unit or tenancy.
- (6) A PHA determination that an assisted unit is not in compliance with HQS. (However, the PHA 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 §982.551(c).)
- (7) A PHA determination that the unit is not in accordance with HQS because of the family size.
- (8) A determination by the PHA to exercise or not to exercise any right or remedy against the owner under a HAP contract.

AHFC Policy

AHFC **will not** provide a tenant with an opportunity for an Informal Hearing for failure of a participant to request timely an Informal Hearing.

3. Process

HUD Regulation 24 CFR 982.555(a)

When hearing is required.

(1) A PHA must give a participant family an opportunity for an informal hearing to consider whether the following PHA decisions relating to the individual circumstances of a participant family are in accordance with the law, HUD regulations and PHA 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 PHA utility allowance schedule.

(iii) A determination of the family unit size under the PHA subsidy standards.

(iv) A determination to terminate assistance for a participant family because of the family's action or failure to act (see §982.552).

(v) A determination to terminate assistance because the participant family has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules.

(2) In the cases described in paragraphs (a)(1) (iv), (v) and (vi) of this section, the PHA must give the opportunity for an informal hearing before the PHA terminates housing assistance payments for the family under an outstanding HAP contract.

AHFC Policy

In addition to the above, AHFC will provide a participant an opportunity for an Informal Hearing to review the following decisions.

1. A decision to terminate assistance due to a family's violation of Housing Quality Standards (HQS);
2. A decision not to grant a reasonable accommodation request for a family member with a disability;
3. Denial of a hardship exemption to the minimum rent requirement.

3.A Expedited Informal Hearing

HUD Regulation 24 CFR 982.555(d)

Expeditious hearing process.

Where a hearing for a participant family is required under this section, the PHA must proceed with the hearing in a reasonably expeditious manner upon the request of the family.

AHFC Policy

AHFC will provide the opportunity for an expedited informal hearing process when a family's contribution to rent is re-determined. See section Conducting the Expedited Informal Hearing.

3.B Continued Assistance During the Process

AHFC Policy

1. AHFC will give the participant family the opportunity for an Informal Hearing before AHFC terminates housing assistance payments for the family.
2. If the family is still in residence in the assisted unit, subsidy will continue until the conclusion of the grievance process.
3. If the Informal Hearing process overlaps a required HQS inspection and the landlord and family wish to continue the lease, AHFC will conduct the HQS inspection and continue paying HAP until a decision is made. If the Hearing Officer upholds AHFC's decision to terminate assistance, AHFC will provide the landlord with a thirty (30) day notice before terminating assistance.
4. AHFC may make changes in total tenant payment, deny a new voucher for a family that wants to move, and refuse to accept landlord papers if the family is in shopping status.

3.C Family Requirements

A participant family interested in appealing an AHFC decision must:

- Submit their written request within ten (10) calendar days of the AHFC notice date.
 - For a termination of assistance, the family has fifteen (15) business days from the notice date to make a request.
 - For a Rent Change Informal Hearing, the family's written request must be postmarked or received by AHFC within ten (10) business days from the notice date. If the notice was mailed, the participant has an additional three (3) calendar days to submit the written request.
 - The request must be postmarked or received by AHFC by the appropriate deadline.
- Specify if the family wishes to participate in the Administrative Review Process before appealing further for an Informal Hearing.
- Notify AHFC if they plan to have legal representation at the Administrative Review, Informal Hearing, or Expedited Informal Hearing.
- Notify AHFC in advance of the informal hearing if they need a reasonable accommodation to allow a family member with a disability to participate in the process.

Upon receiving the participant's timely request, AHFC will proceed with the administrative review or the informal hearing.

3.D AHFC Requirements

AHFC will promptly schedule the informal review with a written notice containing:

- The date, time, and location of the informal hearing.
- A listing of the participant's rights including:
 - The right to request documentation from their applicant file (a fee may apply; see the Information Requests exhibit).
 - The right to have witnesses or present documentation in support of their position.
 - The right to request legal or personal representation. Any attorney fees or other costs are at the family's expense.
- Notify the landlord that HAP checks will continue if the participant is still in residence in the assisted unit.

4. Conducting the Informal Hearing

4.A Conducting the Administrative Review

This is a meeting for the family to discuss the reasons for the AHFC notice and any possible solutions to resolve the dispute. AHFC will conduct the Administrative Review as follows.

- The review may be conducted in person or by telephone.
- The review may be conducted by the AHFC staff person responsible for the notice, or a supervisor familiar with the cause for the notice.
- The person conducting the review shall notify the applicant, in writing, of AHFC's decision within ten (10) business days of the Administrative Review. The notification will include a brief statement of the reasons for the decision.
- The family will have an opportunity to request an Informal Hearing if they disagree with the decision.

A family's failure to attend the Administrative Review does not waive their right to request an Informal Hearing.

4.B Conducting the Informal Hearing

HUD Regulation 24 CFR 982.555(e)

Hearing procedures

(2) Discovery

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

(ii) By PHA. The PHA hearing procedures may provide that the PHA must be given the opportunity to examine at PHA offices before the PHA hearing any family documents that are directly relevant to the hearing. The PHA must be allowed to copy any such document at the PHA's expense. If the family does not make the document available for examination on request of the PHA, the family may not rely on the document at the hearing.

(iii) Documents. The term "documents" includes records and regulations.

(3) Representation of family. At its own expense, the family may be represented by a lawyer or other representative.

(5) Evidence. The PHA 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.

AHFC Policy

1. Public Housing Division (PHD) Central Office coordinates and schedules the Informal Hearing.
2. PHD Central Office maintains the official record of the Informal Hearing.

4.C Conducting the Expedited Informal Hearing

These are conducted similar to an Informal Hearing with the following exceptions.

1. PHD Quality Assurance staff will serve as the hearing officer.
2. The Central Office coordinator will schedule the Expedited Informal Hearing within ten (10) business days of the family's request.

See the section Failure to Appear for a family's failure to attend the Expedited Informal Hearing.

5. Hearing Officer Selection and Duties

HUD Regulation 24 CFR 982.555(e)

Hearing procedures.

(4) Hearing officer: Appointment and authority.

(i) The hearing may be conducted by any person or persons designated by the PHA, other than a person who made or approved the decision under review or a subordinate of this person.

(ii) The person who conducts the hearing may regulate the conduct of the hearing in accordance with the PHA hearing procedures.

AHFC Policy

1. The Central Office coordinator will select a hearing officer.
2. The hearing officer shall not have had any previous participation in the events that are the subject of the grievance.
3. The hearing officer shall require AHFC staff, the participant, other family members, counsel, and other participants or spectators to conduct themselves in an orderly fashion. Failure to comply with the directions of the hearing officer to obtain order may, at the discretion of the hearing officer, result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly party and granting or denial of the relief sought, as appropriate.

5.A Failure to Appear

AHFC Policy

If a party fails to appear, the hearing officer will conduct the hearing, and the parties in attendance will present their case. If there are extenuating circumstances for why a party did not appear, the parties in attendance can agree to reschedule the hearing for another date.

5.B Hearing Officer Decision Content

HUD Regulation 24 CFR 982.555(e)

Hearing procedures.

(6) Issuance of decision. The person who conducts the hearing must issue a written decision, stating briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing. A copy of the hearing decision shall be furnished promptly to the family.

AHFC Policy

1. The Hearing Officer has ten (10) business days from the completion date of the hearing to render a written decision.
2. All hearing decisions must contain the following, "This decision is a final decision from which only a judicial appeal may be taken within 30 calendar days of receipt of this decision, in accordance with applicable court rules governing administrative appeals."
3. The decision is sent to the Central Office coordinator for distribution to all parties.
4. AHFC will keep a copy of the decision in the family's file.

6. Effect of Decision

HUD Regulation 24 CFR 982.555(f)

Effect of decision.

The PHA is not bound by a hearing decision:

(1) Concerning a matter for which the PHA is not required to provide an opportunity for an informal hearing under this section, or that otherwise exceeds the authority of the person conducting the hearing under the PHA hearing procedures.

(2) Contrary to HUD regulations or requirements, or otherwise contrary to federal, State, or local law.

(3) If the PHA determines that it is not bound by a hearing decision, the PHA must promptly notify the family of the determination, and of the reasons for the determination.

7. Definitions

HUD Regulation 24 CFR 982.4(b)

Definitions.

7.A Admission

The point when the family becomes a participant in the program. The date used for this purpose is the effective date of the first HAP contract for a family (first day of initial lease term) in the tenant-based program.

7.B Applicant

An applicant is a family who has applied for assistance or been selected from the waiting list, but has not had an executed HAP contract for rental assistance.

7.C Continuously Assisted

An applicant is continuously assisted under the 1937 Act if the family is already receiving assistance under any 1937 Act program when the family is admitted to the HCV program. See the Admission & Eligibility chapter for AHFC's definition of continuously assisted.

7.D Family

A person or group of persons, as determined by the PHA consistent with 24 CFR 5.403, approved to reside in a unit with assistance under the program. See "family composition" at §982.201(c).

7.E Family Unit Size

The appropriate number of bedrooms for a family, as determined by the PHA under the PHA subsidy standards.

7.F Jurisdiction

The area in which the PHA has authority under State and local law to administer the program. See the Overall Approach chapter for a listing of AHFC jurisdictions.

7.G Participant (Participant Family)

A family that has been admitted to the PHA program and is currently assisted in the program. The family becomes a participant on the effective date of the first HAP contract executed by the PHA for the family (first day of initial lease term).

7.H Subsidy Standards

Standards established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families of different sizes and compositions.

7.I Suspension

The term on the family's voucher stops from the date that the family submits a request for PHA approval of the tenancy, until the date the PHA notifies the family in writing whether the request has been approved or denied.

7.J Voucher (Rental Voucher)

A document issued by a PHA to a family selected for admission to the voucher program. This document describes the program and the procedures for PHA approval of a unit selected by the family. The voucher also states obligations of the family under the program.

7.K Voucher Holder

A family holding a voucher with an unexpired term (search time).

7.L Waiting List Admission

An admission from the PHA waiting list.

Numbered Memo

21-21 Grievance Policy and Procedures