

Exhibit 9-3

Informal Hearing for Citizenship Determination

This process applies only to those persons that have been determined ineligible due to citizenship status.

- For the Ineligible Noncitizen process, see the Meet Citizenship Requirements exhibit for the citizenship determination
- For the informal review process for applicants, see the Applicant Informal Review Process
- For the grievance process for participants, see the appropriate grievance process exhibit

1. Notification to Families

HUD Regulation – 24 CFR 5.514(f)

Informal hearing –

(1) When request for hearing is to be made. After notification of the INS decision on appeal, or in lieu of request of appeal to the INS, the family may request that the responsible entity provide a hearing. This request must be made either within 30 days of receipt of the notice described in paragraph (d) of this section, or within 30 days of receipt of the INS appeal decision issued in accordance with paragraph (e) of this section.

2. Informal Hearing Process

HUD Regulation – 24 CFR 5.514(f)

(2) Informal hearing procedures –

- (i) Tenants assisted under a Section 8 covered program: For tenants assisted under a Section 8 covered program, the procedures for the hearing before the responsible entity are set forth in:
 - (A) For Section 8 Moderate Rehabilitation assistance: 24 CFR part 882;
 - (B) For Section 8 tenant-based assistance: 24 CFR part 982; or
 - (C) For Section 8 project-based certificate program: 24 CFR part 983.
- (ii) Tenants assisted under any other Section 8 covered program or a Public Housing covered program: For tenants assisted under a Section 8 covered program not listed in paragraph (f)(3)(i) of this section or a Public Housing covered program, the procedures for the hearing before the responsible entity are set forth in 24 CFR part 966.
- (iii) Families under Housing covered programs and applicants for assistance under all covered programs. For all families under Housing covered programs (applicants as well as tenants already receiving assistance) and

for applicants for assistance under all covered programs, the procedures for the informal hearing before the responsible entity are as follows:

(A) Hearing before an impartial individual. The family shall be provided a hearing before any person(s) designated by the responsible entity (including an officer or employee of the responsible entity), other than a person who made or approved the decision under review, and other than a person who is a subordinate of the person who made or approved the decision;

(B) Examination of evidence. The family shall be provided the opportunity to examine and copy at the individual's expense, at a reasonable time in advance of the hearing, any documents in the possession of the responsible entity pertaining to the family's eligibility status, or in the possession of the INS (as permitted by INS requirements), including any records and regulations that may be relevant to the hearing;

(C) Presentation of evidence and arguments in support of eligible status. The family shall be provided the opportunity to present evidence and arguments in support of eligible status. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

(D) Controverting evidence of the responsible entity. The family shall be provided the opportunity to controvert evidence relied upon by the responsible entity and to confront and cross-examine all witnesses on whose testimony or information the responsible entity relies;

(E) Representation. The family shall be entitled to be represented by an attorney, or other designee, at the family's expense, and to have such person make statements on the family's behalf;

(F) Interpretive services. The family shall be entitled to arrange for an interpreter to attend the hearing, at the expense of the family, or responsible entity, as may be agreed upon by the two parties to the proceeding; and

(G) Hearing to be recorded. The family shall be entitled to have the hearing recorded by audiotape (a transcript of the hearing may, but is not required to, be provided by the responsible entity).

2.A Hearing Decision

HUD Regulation – 24 CFR 5.514(f)(3)

Hearing decision. The responsible entity shall provide the family with a written final decision, based solely on the facts presented at the hearing, within 14 days of the date of the informal hearing. The decision shall state the basis for the decision.

2.B Judicial Relief

HUD Regulation – 24 CFR 5.514(g)

Judicial relief. A decision against a family member, issued in accordance with paragraphs (e) or (f) of this section, does not preclude the family from exercising the right, that may otherwise be available, to seek redress directly through judicial procedures.

3. Protection from Liability

HUD Regulation – 24 CFR 5.526

(a) Protection from liability for responsible entities. Responsible entities are protected from liability as set forth in Section 214(e) (42 U.S.C 1436a(e)).

(b) Protection from liability for State and local government agencies and officials. State and local government agencies and officials shall not be liable for the design or implementation of the verification system described in §5.512, as long as the implementation by the State and local government agency or official is in accordance with prescribed HUD rules and requirements.

4. Document Retention

HUD Regulation – 24 CFR 5.514(h)

Retention of documents. The responsible entity shall retain for a minimum of 5 years the following documents that may have been submitted to the responsible entity by the family, or provided to the responsible entity as part of the INS appeal or the informal hearing process:

- (1) The application for financial assistance;
- (2) The form completed by the family for income reexamination;
- (3) Photocopies of any original documents (front and back), including original INS documents;
- (4) The signed verification consent form;
- (5) The INS verification results;
- (6) The request for an INS appeal;
- (7) The final INS determination;
- (8) The request for an informal hearing; and
- (9) The final informal hearing decision.

5. Definitions

See the Meet Citizenship Requirements exhibit.

Numbered Memo

21-21 Grievance Policy and Procedures