

Exhibit 9-2

Participant Informal Hearing Process

AHFC **will** provide a participant an opportunity for an Informal Hearing to consider whether the following decisions relating to the individual circumstances of a participant are in accordance with the law, HUD regulations, and AHFC policies (24 CFR 982.555).

- Determination of the family's annual or adjusted income and the use of such income to compute the family's rental portion;
- Determination of the appropriate utility allowance (if any) for tenant-paid utilities from the utility allowance schedule;
- Determination of the unit size assigned to participants under AHFC's subsidy standards;
- A decision to terminate assistance because of the family's action or failure to act;
- A decision to terminate assistance because the participant has been absent from the assisted unit for longer than the period permitted under AHFC's policies;
- A decision to terminate assistance due to a family's violation of Housing Quality Standards (HQS);
- A decision not to grant a reasonable accommodation request for a family member with a disability;
- Denial of a hardship exemption to the minimum rent requirement (24 CFR 5.630).

AHFC **will not** provide the participant family an opportunity for an Informal Hearing for any of the following reasons (24 CFR 982.555):

- AHFC discretionary administrative determinations, general policy issues, or class grievances;
- Establishment of AHFC's subsidy standards and schedule of utility allowances;
- A determination not to approve an extension or suspension of a voucher term;
- A determination not to approve a unit or tenancy;
- A determination that an assisted unit is not in compliance with the Housing Quality Standards;
- A determination that a unit is not in accordance with Housing Quality Standards because of the family size or composition;
- A determination to exercise or not to exercise any right or remedy against the owner under a Housing Assistance Payments contract.

9-2.1 CONTINUED ASSISTANCE DURING THE PROCESS

AHFC will give the participant family the opportunity for an Informal Hearing before AHFC terminates housing assistance payments for the family. 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.

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.

9-2.2 PARTICIPANT NOTIFICATION

AHFC will provide prompt notice of any decision to deny assistance, re-determine the family's portion of rent, or terminate assistance (24 CFR 982.555). Any such notice will contain the following information:

- A brief statement of the reasons for the decision. If a denial is due to criminal screening, a copy of the criminal record is included.
- If eligible, a statement that the family may request an Informal Hearing if they disagree with the decision.
- A statement that the family's written request must occur by the deadline stated in the notice.
- A copy of the *Participant Informal Hearing*, form V744.

9-2.3 PARTICIPANT INFORMAL HEARING (FORM V744)

This form contains the Informal Hearing procedures as well as a request form a participant can use. The form states:

- The participant's written request must be postmarked or received by AHFC within fifteen (15) business days from the notice date.
- The participant's rights during the process.
- AHFC's offer of an Administrative Review and how that works.
- Possible outcomes of the Informal Hearing.
- How the participant can request a reasonable accommodation to participate in the process.

Upon receiving the family's request, AHFC will:

- Notify the landlord that HAP checks will continue if the participant is still in residence in the unit. Staff will send form V764L, *Housing Assistance Payments Contract Change*, to the landlord and check the first box. If the participant is not in the unit and HAP checks have stopped, no landlord notification is necessary.
- Proceed with the Administrative Review or Informal Hearing as described below.

9-2.4 THE ADMINISTRATIVE REVIEW

This is a meeting to enable the family to discuss the reasons for the AHFC notice and any possible solutions to resolve the dispute. Unlike an Informal Hearing, the AHFC staff person responsible for the notice, or a supervisor familiar with the cause for the notice, may conduct the Administrative Review.

9-2.4.A Conducting the Administrative Review

AHFC will conduct an Administrative Review as follows.

1. Field staff will contact the participant within ten (10) calendar days to schedule the review. The review will be scheduled as quickly as possible.
2. The Review may be conducted in person or by telephone.
3. The Review may be conducted by any AHFC staff person.
4. The participant may ask someone to assist him/her at the review. Any attorney fees or other costs are at the applicant's expense.
5. Participants may review AHFC records at the Review. Document copies are at the participant's expense. See Exhibit 1-3 for exceptions.
6. The participant will be given an opportunity to present written or oral objections to AHFC's position, call any witnesses she/he thinks are relevant, and present any documents she/he thinks support her/his position.
7. AHFC field staff will prepare evidence for the Review.
8. Both parties may present additional evidence at the Review.

9-2.4.B The Administrative Review Decision

The person conducting the review will prepare and mail a written summary of the meeting within ten (10) business days. The summary will include:

- The names of all the persons present;
- The date of the review;
- A brief discussion of the outcome and reasons for such outcome;
- A statement that the participant will have ten (10) calendar days from the date of the review decision to request an Informal Hearing if they disagree with the outcome. The participant's written request must be postmarked or received by AHFC within the ten calendar days.
- A copy of the participant informal hearing, form V744.

Upon receiving the family's request for an informal hearing, AHFC will proceed as described below.

9-2.5 THE INFORMAL HEARING PROCESS

Field staff will complete and submit the *Informal Hearing Request* (form PW315) to the regional manager or their designee to forward to Central Office. Central Office is responsible for coordinating and scheduling the Informal Hearing.

1. AHFC shall appoint an impartial hearing officer.
2. After securing a hearing officer, Central Office will notify all parties in writing of the date, time, and place for the hearing.
3. The hearing may be held telephonically.
4. If the family discloses that legal counsel will represent, field staff will notify Central Office at once. AHFC must notify the family if it will be represented by legal counsel.
5. Exhibits from both parties are due to the Central Office no later than seven (7) calendar days prior to the hearing.
6. AHFC field staff will prepare exhibits for the hearing.
7. AHFC field staff will submit an exhibit list, copies of the exhibits, and a list of any witnesses to the hearing scheduler in accordance with the deadlines in the *Informal Hearing Notification* (form AD910).
8. Both parties may present additional evidence at the hearing.

9-2.5.A Rights of the Participant

Prior to the hearing, the family will be given the opportunity to examine any AHFC documents that are directly relevant to the hearing.

- The family may copy any such document at the family's expense. The term "document" includes records and regulations. Refer to Exhibit 1-3 for documentation fee guidelines.
- At the family's own expense, a lawyer or other representative may represent the family.
- The family will be given the opportunity to present evidence, present objections, and may question any witness.
- The family will be provided a written decision from the Hearing Officer within ten (10) business days following the completion of the hearing stating the reasons for the decision.
- The parties have up to 30 days to file an appeal of the decision in the State of Alaska Superior Court.

9-2.5.B Persons Representing AHFC

The AHFC staff member who made the decision to issue a notice of adverse action or their supervisor will prepare and present the documentation to prove the AHFC case. The documentation will include all exhibits and a witness list. At times, AHFC may be represented by legal counsel, and counsel may assist staff with preparation of the documentation.

1. Exhibit Preparation

Exhibits will be prepared and submitted prior to the hearing. However, additional exhibits may be presented at the hearing with copies made for all parties.

Exhibits should include the basis for the adverse action, correspondence to and from the family regarding the action, and documents proving that AHFC properly informed the family of their obligations.

Example: Hearing Exhibits

A decision is made to terminate the family for abandonment. The exhibits should include the following:

1. AHFC policy documents giving AHFC authority to terminate;
2. Back up citations from the CFR, if necessary;
3. Statement of how AHFC was made aware the family had moved;
4. Notice of termination to the family;
5. Family request for the hearing;
6. Copy of the outcome of the Administrative Review, if conducted;
7. Voucher signed by the family citing the requirement to notify AHFC prior to moving;
8. Briefing Statement signed by the family; and
9. Any other documents that prove AHFC acted within its authority and that the family was given proper notice of their responsibilities.

2. Exhibit Numbering

AHFC exhibits will be numbered with Exhibit 1, 2, 3, etc. Participant exhibits will be numbered with Exhibit A, B, C, etc.

For exhibits with multiple pages, staff will number with the page number and total number of pages. For example, for a three page exhibit, "page 1 of 3", "page 2 of 3", and "page 3 of 3".

9-2.6 HEARING OFFICER SELECTION AND DUTIES

Any Informal Hearing shall be conducted by an impartial hearing officer. The hearing officer shall not have had any previous participation in the events which are the subject of the grievance. The hearing officer will not be a person supervised by the person who made the decision.

The hearing shall be conducted informally. Oral or documentary evidence pertinent to the facts and issues raised by the complaint shall be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.

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.

Guidance for hearing officers is located on the AHFC's intranet at <http://athome/phd/manuals/manuals.htm>. The slide show is called "Hearing Officer Training."

9-2.6.A Failure to Appear

If a party fails to appear, the hearing officer will continue with 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.

9-2.6.B Hearing Officer Decision Content

The hearing officer will prepare a written decision, which includes a statement of the reasons why the decision was made and a description of any mitigating circumstances presented, within ten (10) business days after 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.

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."

The decision will be sent to PHD's Central Office for distribution to all parties. AHFC will keep a copy of the decision in the family's file.

9-2.6.C Effect of Decision

The decision of the hearing officer is binding on AHFC, unless the Director, Public Housing Division, determines and promptly notifies the family that AHFC is not bound by a hearing decision for the following reasons:

- The decision concerns a matter for which AHFC is not required to provide an opportunity for an Informal Hearing, or that otherwise exceeds the authority of the person conducting the hearing under AHFC's hearing procedures; or
- The decision is contrary to HUD regulations or requirements, or otherwise contrary to federal, state, or local law.

If AHFC determines that it is not bound by a hearing decision, AHFC will promptly notify the family of the determination and of the reasons for the determination.

9-2.6.D Notification to Participant

The Central Office will mail a copy of the hearing officer's decision to the client. Staff will mail the:

- Client the *Informal Hearing Result* (form V764P). This letter tells the client how the hearing decision will affect their housing assistance.
- Landlord the *Housing Assistance Payments Contract Change* (form V764L), so that the landlord knows whether HAP checks will continue or not. If assistance is terminated, it tells the landlord when the family is responsible for the full rent.

Forms

AD910 Informal Hearing Notification

PW315 Informal Hearing Request

V744 Participant Informal Hearing

V764L Housing Assistance Payments Contract Change

V764P Informal Hearing Result

Administrative Desk Manual

None