

INFORMAL HEARING PROCEDURES

I. SCHEDULING AN INFORMAL HEARING

When an informal hearing is required, the HACTV will proceed with the hearing in a reasonably expeditious manner upon the request of the family.

A. REQUEST FOR AN INFORMAL HEARING [24CFR 982.5559(c)]

1. The request must be made in writing and delivered to Public Housing Authority either in person or by first class mail, by the close of the business day, no later than 10 business days from the date of the PHA's decision or notice to terminate assistance.
2. The PHA will schedule and send written notice of the informal hearing to the family within a reasonable time, usually within 10 business days of the family's request.
3. 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. Request to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the PHA may request documentation of the "good cause" prior to rescheduling the hearing.
4. If the family does not appear within 20 minutes of the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the PHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The PHA 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, if the family cannot show good cause for the failure to appear, or a rescheduling is not needed as a reasonable accommodation, the PHA's decision will stand.

B. ACCOMODATION OF PERSONS WITH DISABILITIES

1. The PHA will provide reasonable accommodations for persons with disabilities to participate in the hearing. Reasonable accommodations may include qualified sign language interpreters, readers, accessible locations or attendants.
2. If the tenant is visually impaired, any notice to the tenant which is required under this subpart must be in an accessible format.

C. PRE-HEARING RIGHT TO DISCOVERY [24CFR 982.5559(d)]

1. Prior to the hearing, upon request, the family will be given opportunity to examine and copy at their own expense any PHA documents that are relevant to the hearing. If the PHA does not make the document available upon the family's request, the PHA may not rely on the document at hearing.
2. Prior to the hearing, PHA procedures may require the family to give the PHA the opportunity to examine (at PHA offices) and copy (at PHA's expense) any family documents relevant to the hearing. If the family does not make the document available upon the PHA's request, the family may not rely on the document at the hearing.

D. REPRESENTATION AND EVIDENCE

1. At its own expense, the family may be represented by a lawyer or other representative.
2. The PHA and the family will be given the opportunity to present evidence and to question any witness. Evidence may be considered without regard to admissibility under rules of evidence applicable to judicial proceedings.

E. HEARING OFFICER – Housing Authority Resident Advisory Board

1. The hearing may be conducted by any PHA designated person, other than a person who made or approved the decision or a subordinate of this person. The hearing officer will regulate the conduct of the hearing in accordance with the PHA hearing procedures. Other than during the Informal Hearing itself, the Hearing Panel shall not communicate with the parties or prospective witness, directly or indirectly, orally or in writing, concerning the merits or substance of the subject case.
2. The person/panel who conducts the hearing will issue a written decision stating the reasons for the decisions, and a copy of the decision shall be promptly furnished to the family within 10 business days of the hearing. Determinations shall be based on a preponderance of evidence presented at hearing.

F. EFFECT OF THE DECISION

1. The PHA is not bound by a hearing decision under the following circumstances:
 - The PHA was not required to provide an opportunity for informal hearing;
 - The matter exceeds the authority of the person conducting the hearing; or
 - The decision is contrary to HUD regulations or requirements, or contrary to federal, state, or local law.
2. If the PHA determines it is not bound by a hearing decision, the PHA will promptly notify the family of the determination and the reasons for the determination.

II. INFORMAL HEARING:

A. RULES TO FOLLOW

1. The complainant has the right to be represented by counsel or other person chosen as the complainant's representative and to have such person make statements on the complainant's behalf.
2. The complainant has the right to a private hearing unless the complainant requests a public hearing.
3. The complainant has the right to present evidence and arguments in support of his/her position, to controvert evidence relied on by the PHA and cross-examine all witnesses upon whose testimony or information the PHA or project relies.
4. The Chairperson of the Hearing will notify those in attendance that the meeting is being recorded.
5. The Chairperson of the Hearing Panel shall call the meeting to order, identify the issue to be heard and the parties to be heard.
6. The complainant shall be heard.
7. The PHA shall be heard.

8. The complainant shall be heard in rebuttal.
9. The PHA shall be heard in rebuttal.
10. The complainant shall be heard in final rebuttal.

The Chairperson shall restate the issue and request of the panel members a verbal comment as to whether they are satisfied that enough information has been offered for a clear definition of the position of both parties. If additional information is requested than the Chairperson will allow further inquiries from the panel.

B. MEETING WILL BE ADJOURNED

III. RULES OF CONDUCT:

- A. The Chairperson shall conduct the hearing in an informal atmosphere conducive to open communications between the parties and the panel. The hearing shall be free of abusive language or hostile gestures.
- B. If the Chairperson is unable to maintain order, the hearing will be adjourned and scheduled for a time when assurances can be offered by the offensive parties that order shall be maintained.
- C. The Chairperson can limit presentations to a specific time frame, if in their perception it would benefit the issue at hand. However, the presentations of both parties shall be limited by the same time frames.