

Frequently Asked Questions about Informal Reviews and Informal Hearings

Note: this FAQ is provided as summary information only. Full details on informal hearings and reviews can be found in the Administrative Plan, Chapter 15, part III and the Property Management Policy sections 7.0 and Appendix C. In the event of a discrepancy in information the Admin Plan will prevail.

INFORMAL REVIEWS

Who is eligible for an Informal Review?

Informal reviews are provided for program applicants under the Administrative Plan for the programs operated by the Housing Programs Department (the Housing Choice Voucher Program, the Project-Based Voucher Program, the Moderate Rehabilitation SRO Program, and the Shelter Plus Care Program). Informal Reviews are offered under the Property Management Policy only for applicants applying to live in AHA-owned and managed units. An applicant is someone who has applied for admission to the program, but is not yet a participant in the program or is not yet housed in an AHA-owned unit.

What is an Informal Review?

Informal Reviews are intended to provide a “minimum hearing requirement” [24 CFR 982.554], and need not be as elaborate as the informal hearing requirements. (Federal Register Volume 60, No. 127, p 36490).

What decisions are subject to Informal Review?

Generally Informal Reviews are for the denial of Section 8 assistance under the Administrative Plan or for denial of a unit under the Property Management Policy.

Under the Administrative Plan for program participants: Denial of assistance may include any or all of the following

- Denying listing on the AHA waiting list
- Denying or withdrawing a voucher
- Refusing to enter into a HAP contract or approve a lease
- Refusing to process or provide assistance under portability procedures
- Denying assistance based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.

Informal Reviews are *not* required for the following reasons

- Discretionary administrative determinations by the AHA
- General policy issues or class grievances
- A determination of the family unit size under the AHA subsidy standards
- An AHA determination not to grant approval of the tenancy
- An AHA determination that the unit is not in compliance with the HQS
- An AHA determination that the unit is not in accordance with the HQS due to family size or composition

Under the Property Management Policy for tenants in AHA-owned and managed units, an Informal Review is offered when an applicant’s name is being removed from a wait list or a unit is denied for failure to meet the eligibility criteria (Section 8.1 in the Property Management Policy).

How do I request an Informal Review?

A request for an Informal Review must be made in writing and delivered to the AHA either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the AHA’s denial of

Frequently Asked Questions about Informal Reviews and Informal Hearings

assistance

Who is the Reviewing Officer?

The Informal Review must be conducted by a person other than the one who made or approved the decision under review, or a subordinate of this person. The applicant must be provided an opportunity to present written or oral objections to the decision of the AHA. The person conducting the review will make a recommendation to the AHA, but the AHA is responsible for making the final decision as to whether assistance should be granted or denied.

Can I attend the Informal Review?

The household requesting the review is expected to be present, although the Review Officer may conduct the review over the phone for out-of-area applicants or as a reasonable accommodation to a disability-related need.

How am I informed of the outcome?

The AHA will notify the applicant of the final decision, including a statement explaining the reason(s) for the decision. The notice will be mailed within 14 calendar days of the Informal Review to the applicant and his or her representative, if any, along with proof of mailing. Decisions will not be announced during in-person meetings.

INFORMAL HEARINGS

Generally Informal Hearings are for the termination of Section 8 assistance; calculation of rent in the Housing Programs Department programs; denial or approval of a reasonable accommodation to a disability-related need; or termination of tenancy for cause in an AHA-owned and managed unit. More information on Informal Hearings can be found in the Administrative Plan chapter 15 for Housing Program participants or Appendix C of the Property Management Policy for tenants of AHA-owned and managed properties.

What decisions are Subject to Informal Hearing?

Circumstances for which the AHA must give a Section 8 participant family an opportunity for an Informal Hearing are as follows:

- A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
- A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the AHA utility allowance schedule
- A determination of the family unit size under the AHA's subsidy standards
- A determination to terminate assistance for a participant family because of the family's actions or failure to act
- A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under AHA policy and HUD rules
- A determination to terminate a family's Family Self-Sufficiency contract, withhold supportive services, or propose forfeiture of the family's escrow
- A determination to terminate assistance based on an unfavorable history that may be the result of domestic violence, dating violence, or stalking.
- A determination to deny a request for reasonable accommodation for a disability-related need.
- The AHA also will offer participants the opportunity for an Informal Hearing when the AHA determines not to approve an extension of or suspends a voucher term

Circumstances for which an Informal Hearing is not required are as follows:

Frequently Asked Questions about Informal Reviews and Informal Hearings

- Discretionary administrative determinations by the AHA
- General policy issues or class grievances
- Establishment of the AHA schedule of utility allowances for families in the program
- An AHA determination not to approve a unit or tenancy
- An AHA determination that a unit selected by the applicant is not in compliance with the HQS
- An AHA determination that the unit is not in accordance with HQS because of family size
- A determination by the AHA to exercise or not to exercise any right or remedy against an owner under a HAP contract

Circumstances for which the AHA must give a tenant in an AHA-owned and managed unit an opportunity for an Informal Hearing are as follows:

- Denial of a Reasonable Accommodation to a disability-related need
- Termination of tenancy on actions from a notice with cause notice not including terminations issued in a 3-day notice

How do I request an Informal Hearing?

A request for an Informal Hearing must be made in writing and delivered to the AHA either in person or by first class mail, by the close of the business day, no later than 14 calendar days from the date of the AHA's decision or notice to terminate assistance.

What are the next steps?

The AHA must schedule and send written notice of the Informal Hearing to the family within 14 calendar days of the family's request.

Can I reschedule?

The family may request to reschedule a hearing for good cause, or if it is needed as a reasonable accommodation for a person with a disability. Good cause is defined as an unavoidable conflict, which seriously affects the health, safety or welfare of the family. Requests to reschedule a hearing must be made orally or in writing prior to the hearing date. At its discretion, the AHA may request documentation of the "good cause" prior to rescheduling the hearing.

What if I don't show up?

If the family does not appear at the scheduled time, and was unable to reschedule the hearing in advance due to the nature of the conflict, the family must contact the AHA within 24 hours of the scheduled hearing date, excluding weekends and holidays. The AHA 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 a disability.

What is discovery?

Participants and the AHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any AHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents at their own expense. If the AHA does not make the document available for examination on request of the family, the AHA may not rely on the document at the hearing. The family must request discovery of AHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

What must I provide to the AHA and by when?

The AHA must be given an opportunity to examine at the AHA offices before the hearing any family documents that are directly relevant to the hearing. Whenever a participant requests an Informal Hearing, the AHA may request a copy of all documents that the participant intends to present or utilize at the hearing. If

Frequently Asked Questions about Informal Reviews and Informal Hearings

requested, the participant must make the documents available no later than 12:00 pm on the business day prior to the scheduled hearing date.

Can I bring a representative or a lawyer?

At its own expense, the family may be represented by a lawyer or other representative at the Informal Hearing.

Is the hearing recorded?

All Informal Hearings will be recorded by audiotape. The AHA will not provide a transcript of an audio taped hearing. The tape will be retained for a period of 90 days from the date of the "Notice of Final Decision" at which time the tape may be destroyed.

I need a translator – can the AHA help?

You may bring your own translator provided they are over 18 or you may request one from the AHA. If you request a translator AHA will provide one either in person or over the phone at no cost to you.

Who is the Hearing Officer?

Informal Hearings will be conducted by a person or persons approved by the AHA, other than the person who made or approved the decision or a subordinate of the person who made or approved the decision.

Who can attend the Informal Hearing?

Hearings may be attended by a Hearing Officer and the following applicable persons

- An AHA representative and any witnesses for the AHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the AHA as a reasonable accommodation for a person with a disability
- Other necessary professionals, such as translators

What happens at the Informal Hearing?

The person who conducts the hearing may regulate the conduct of the hearing in accordance with the AHA's hearing procedures [24 CFR 982.555(4)(ii)]. The Hearing Officer is responsible to manage the order of business and to ensure that hearings are conducted in a professional and businesslike manner. Attendees are expected to comply with all hearing procedures established by the Hearing Officer and guidelines for conduct. Any person demonstrating disruptive, abusive or otherwise inappropriate behavior will be excused from the hearing at the discretion of the Hearing Officer.

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 AHA will take effect.

What happens next?

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 must be based on a preponderance of evidence presented at the hearing. A copy of the hearing must be furnished promptly to the family, generally within 14 calendar days.

Is the Hearing Officer's decision the final decision?

The AHA is not bound by the decision of the Hearing Officer for matters in which the AHA is not required to provide an opportunity for a hearing, decisions that exceed the authority of the Hearing Officer, decisions that

Frequently Asked Questions about Informal Reviews and Informal Hearings

conflict with or contradict HUD regulations, requirements, or are otherwise contrary to Federal, State or local laws.

If the AHA determines it is not bound by the Hearing Officer's decision in accordance with HUD regulations, the AHA must promptly notify the family of the determination and the reason for the determination.

The AHA will mail a "Notice of Final Decision" including the Hearing Officer's report, to the participant and their representative. This Notice will be sent by first-class mail, postage pre-paid with an affidavit of mailing enclosed. The participant will be mailed the original "Notice of Final Decision" and a copy of the proof of mailing. A copy of the "Notice of Final Decision" along with the original proof mailing will be maintained in the AHA's file.

What if I disagree with the decision?

Once the "Notice of Final Decision" has been sent, the family's time to obtain a judicial review of that decision through administrative mandamus is limited to 90 days after service of the "Notice of Final Decision." This means you have 90 days to file a lawsuit challenging the "notice of Final Decision, in court, at your own expenses.