

Everett Housing Authority Policies and Procedures Regarding Informal Hearings for Housing Choice Voucher Participants

The following regulations are found in the Everett Housing Authority's Housing Choice Voucher (HCV) Administrative Plan (see Chapter 16.III.C) for the Section 8 Program. They explain the procedures by which a participant may seek an Informal Hearing. Everett Housing Authority will only offer participants the opportunity for an informal hearing when required to by the regulations.

Actions Subject to Informal Hearing Request

A Participant (as defined by HUD) has the right to request an Informal Hearing solely for the purpose of determining whether a Public Housing Authority (PHA) decision relating to individual circumstances of the family are in compliance with law, HUD regulations and the PHA's rules in the following cases:

- a) A decision to terminate assistance for a participant family because of the family's actions or failure to act
- b) A determination of the family unit size under the PHA's subsidy standards
- c) A determination of the Tenant's annual or adjusted income, and the use of such income to compute the housing assistance payment
- d) A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility-allowance schedule
- e) A determination to terminate assistance because the participant has been absent from the assisted unit for longer than the maximum period permitted under PHA policy and HUD rules
- f) A determination to terminate a family's Family Self-Sufficiency (FSS) contract, withhold supportive services, or propose forfeiture of the family's escrow account

Notification of Right to Informal Hearing

In taking any of the actions indicated in 1a, 1e, or 1f above, the PHA shall provide the participant with a written notice of the action, the reasons for the action, the right to request an Informal Hearing on the action, and the need to make such a request within twenty (20) business days of the date of PHA's Notice.

In taking actions relating to 1b, 1c, or 1d above, the PHA shall notify the participant of the right to request an explanation of the basis for the action and that, if the participant does not agree with the determination, the Participant may request an Informal Hearing on the decision. The request for the explanation must be made within twenty (20) business days of the date of the notice or the participant will not be entitled to subsequently request an Informal Hearing.

Actions not Subject to Informal Hearing

A participant (as defined by HUD) does not have the right to request an Informal Hearing to:

- a) Review discretionary administrative determinations by the PHA or to consider general policy issues or class grievances
- b) Review the PHA's determination that a unit is not in compliance with HQS
- c) Review the PHA's decision not to approve a participant's request for an extension or suspension of a voucher term
- d) Review a PHA determination not to approve a unit or tenancy
- e) Review the PHA's schedule of utility allowances for families in the program.

Request for Informal Hearing

- a) The request for the Informal Hearing must be in writing and must be received by the PHA (in person or via fax, email, or first-class mail) within twenty (20) business days of the date of the notice, except when an explanation has been requested in which case it shall be within twenty (20) business days of receipt of the PHA explanation.
- b) The written request should indicate:
 1. The action or actions taken by the PHA for which the Informal Hearing is requested.
 2. The reason(s) why the Participant feels the action(s) was(were) improper or incorrect.
 3. The corrective actions desired by the Participant.

Remote Informal Hearing

The PHA has the sole discretion to require that informal hearings be conducted remotely in case of local, state, or national physical distancing orders, and in cases of inclement weather or natural disaster.

The PHA will conduct an informal hearing remotely upon request as a reasonable accommodation for a person with a disability, if a participant does not have childcare or transportation that would enable them to attend the informal hearing, or if the participant believes an in-person hearing would create an undue health risk. The PHA will consider other reasonable requests for a remote informal hearing on a case-by-case basis.

The PHA will ensure that the platform for conducting remote informal hearings is accessible to persons with disabilities and conducted in accordance with Section 504 and accessibility requirements. If no method of conducting a remote informal hearing is available that appropriately accommodates an individual's disability, the PHA should consider whether postponing the remote hearing to a later date is appropriate, or whether there is a suitable alternative. Requirements for persons with limited English proficiency (LEP) apply to remote informal hearings, including the use of interpretation services and document translation.

The PHA will conduct remote informal hearings via a videoconferencing platform that includes an option to participate via audioconference only, or via telephone conferencing call-in. If the informal hearing will be conducted via a videoconferencing platform that includes an audioconference option, the PHA will ensure that all participants, participant representatives, advocates, witnesses, PHA representatives, and the hearing officer can adequately access the platform (i.e., hear, be heard, and/or see, and be seen).

If any participant, representative, advocate, witness, PHA representative, or hearing officer is unable to effectively utilize the videoconferencing platform, the platform for conducting the informal hearing will be shifted to telephone conferencing call-in. If the family is unable to adequately access the telephone conferencing call-in at any point, the remote informal hearing will be postponed, and an in-person alternative will be provided promptly within a reasonable time. Whether the informal hearing is to be conducted via a videoconferencing platform or telephone call-in, the PHA will provide all parties login information and/or

telephone call-in information before the hearing. Additional requirements can be found in Everett Housing Authority's Administrative Plan (see "Conducting Informal Hearings Remotely," p. 16-19).

At the time the hearing notice is sent, the family will also be advised of the following: the processes involved in a remote informal hearing; the need for the PHA to provide technical assistance prior to and during the informal hearing, if needed; if the family or any individual witness has any technological, resource, or accessibility barriers, the family may inform the PHA, at which time the PHA will assist the family in either resolving the issue or allow the family to participate in an in-person hearing, as appropriate.

Conduct of Informal Hearing

- a) The PHA must schedule and send written notice of the Informal Hearing within 20 business days of receiving the request. 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. Requests 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.
- b) If the family does not appear within 15 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 failure to appear, or if it is needed as a reasonable accommodation for a person with disabilities.
- c) The Informal Hearing will be conducted by a Hearing Officer designated by the PHA. The Hearing Officer shall be an employee of the Everett Housing Authority or another public official other than the person who made or approved the decision under review or a subordinate of such person.
- d) The Participant may retain legal counsel or another representative, if desired, at their own expense.
- e) The participant is permitted pre-hearing discovery rights. The participant will be allowed to copy any documents related to the hearing at a cost of \$0.10 per page. The family must request discovery of PHA documents no later than 12:00pm on the business day prior to the scheduled hearing date.
- f) For in-person hearings, the PHA will not require pre-hearing discovery by the PHA of family documents directly relevant to the hearing; however, in the case of a remote hearing the PHA will require the family to provide any documents directly relevant to the informal hearing at least 24 hours before the scheduled hearing through the mail or via email.
- g) At the Informal Hearing, the participant will be given an opportunity to examine evidence, question witnesses, and present testimony and evidence. Evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- h) Hearings may be attended by a hearing officer and the following applicable persons:
 1. A PHA representative(s) and any witnesses for the PHA
 2. The PHA's counsel
 3. The participant and any witnesses for the participant

4. The participant's counsel or other representative
5. Any other person approved by the PHA as a reasonable accommodation for a person with a disability.

i) The order of business at the Hearing shall be as follows:

1. Outline of Hearing Procedure and comments by Hearing Officer.
2. Comments by participant or participant's counsel or representative.
3. Comments by representative of PHA
4. Presentation of evidence by PHA.
5. Presentation of evidence by Participant.
6. Presentation of rebuttal evidence by PHA.
7. Presentation of rebuttal evidence by participant.
8. Closing comments by PHA.
9. Closing comments by participant.
10. Closing comments by Hearing Officer.

j) During the Informal Hearing, the Hearing Officer:

1. Shall afford both parties an opportunity to examine evidence and question witnesses presented by the other party.
2. May participate in questioning any witnesses.
3. May take any steps necessary to ensure that the Informal Hearing is conducted in a civil manner.
4. May ask the family for additional information and/or 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 PHA will take effect and another hearing will not be granted.

k) The hearing officer will issue a written decision (Notice of Hearing Decision) to the family and the PHA no later than 10 business days after the hearing. The hearing report will contain the following: introductory information, background, a summary of the evidence, the findings of fact, conclusions and the order. The hearing report will include a statement of whether the PHA's decision is upheld or overturned, based on a preponderance of the evidence standard. If it is overturned, the hearing officer will instruct the PHA to change its decision in accordance with the hearing officer's determination. In the case of termination of assistance, the hearing officer will instruct the PHA to restore the participant's program status.

Review of Decision of Hearing Officer

- a) The Executive Director has the authority to determine that the PHA is not bound by the decision of the hearing officer because the PHA was not required to provide a hearing, the decision exceeded the authority of the hearing officer, the decision conflicted with or contradicted HUD regulations, requirements or the decision was otherwise contrary to federal, state or local laws.
- b) If the Executive Director or the Board of Commissioners determines that the Authority is not bound by a decision, or portion thereof, the PHA will mail a "Notice of Final Decision" to the PHA and the participant on the same day via first class mail.