



Housing Authority Regulations Regarding Informal Hearings for Section 8 Participants

The following regulations are found in the Everett Housing Authority's 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.

1) 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 deny or terminate assistance.
- 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 a family's Family Self-Sufficiency (FSS) contract, withhold supportive services, or propose forfeiture of the family's escrow account.

2) Notification of Right to Informal Hearing

In taking any of the actions indicated in 1a or 1b 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 ten (10) business days of the date of PHA's Notice.

In taking actions relating to 1c 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 ten (10) business days of the date of the notice or the participant will not be entitled to subsequently request an Informal Hearing.

3) 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.

4) 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 ten (10) business days of the date of the notice, except when an explanation has been requested in which case it shall be within ten (10) 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.

5) Conduct of Informal Hearing

- a) The PHA must schedule and send written notice of the Informal Hearing within 10 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 two business days prior to the scheduled hearing date.

- f) At the Informal Hearing, the participant will be given an opportunity to examine evidence, question witnesses, and present testimony and evidence applicable to judicial proceedings.
- g) 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.
- h) 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.
- i) During the Informal Hearing, the Hearing Officer:
 - 1. Shall afford both parties an opportunity to examine evidence and witness 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.
- j) The hearing officer will issue a written decision to the family and the PHA no later than 10 business days after the hearing. The hearing report will contain the hearing 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. 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.

6) 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.