

THE HOUSING AUTHORITY OF THE CITY OF FORT PAYNE, AL
HOUSING CHOICE VOUCHER PROGRAM
INFORMAL REVIEW OR HEARING PROCEDURE

I. RIGHT FOR INFORMAL REVIEW OR HEARING

(A) Applicant's right to an informal review: The Housing Authority (HA) shall give the applicant for participation in the HA's Housing Choice Voucher Program the opportunity for an informal review of the HA's decision to deny assistance to the applicant. The applicant can request an informal review when he or she is denied assistance for the following:

1. Denied an opportunity to be placed on HA's waiting list.
2. Denied issuance of a Housing Voucher.

(B) Participant's right to an informal hearing: The HA shall give a participant an opportunity for an informal hearing to consider whether decisions relating to the individual circumstances of the family are in accordance with law, HUD regulations and HA rules, in the following cases:

1. Determination of the amount of the Total Tenant Payment, Tenant Rent or Housing Assistance Payment (excluding the HA's determination of utility allowances).
2. Denial or termination of assistance on behalf of the participant
3. A determination that a participant family is residing in a unit with a larger number of bedrooms appropriate under the HA standards and/or the HA's determination to deny a family's request for an exception from the standards as outlined in the HA's Housing Choice Voucher Administrative Plan.
4. When an assisted family wants to move to another dwelling unit, within the HA's jurisdiction and/or an area in which the HA has determined that the HA is not legally barred from entering into a contract, with continued participation in the HA's program.
5. A determination of the number of bedrooms entered on the Housing Voucher under the standards established by the HA.

II. DEFINITIONS

For the purpose of this informal review or hearing procedure, the following definitions are applicable:

(A) A "Review" shall be afforded to any applicant as outlined in Section I (A) above.

(B) A "Hearing" shall be afforded to any Housing Choice Voucher participant as outlined in Section (B) above.

(C) "Elements of due process" shall mean a denial action or a termination of Housing Choice Voucher assistance in which the following procedural safeguards are required:

1. Adequate notice to the applicant or participant of the grounds for denial or termination of Housing Choice Voucher assistance;
2. Right of the applicant or participant to be represented by counsel;
3. Opportunity for the applicant or participant to refute the evidence presented by the HA including the right to confront and cross-examine witnesses and to present any affirmative legal or equitable defense which the participant may have; and
4. A decision on the merits.

(D) "Informal Review/Hearing Officer" shall mean a person selected in accordance with Section IV of these procedures to hear arguments and render a decision with respect thereto.

(E) "Participant" shall mean the person or persons listed on the Housing Choice Voucher.

(F) "Promptly" (as used in this procedure) shall mean within the time period indicated in a notice from the HA of a proposed action which would provide a basis for an informal review or hearing if the applicant or participant has received a notice of a proposed action from the HA.

III. PROCEDURES PRIOR TO INFORMAL REVIEW OR HEARING

Informal settlement prior to review or hearing: Any complaint by an applicant or participant shall be promptly and personally presented, either orally or in writing to the HA representative so that the issue of concern may be discussed informally and settled without a review or hearing. A summary of such decision shall be prepared within a reasonable time and one copy shall be given to the applicant or participant and one retained in the HA's file for the applicant or participant. The summary shall specify the names of the participants, date of meeting, the nature of the proposed disposition of the complaint and the specific reasons therefore, and shall specify the procedures by which a review or hearing under these procedures may be obtained if the applicant or participant is not satisfied.

IV. PROCEDURE TO OBTAIN AN INFORMAL REVIEW OR HEARING

(A) Request for review or hearing: The applicant or participant shall submit a written request for a review or hearing to the HA within five (5) business days from the date of mailing of the summary of discussion pursuant to Section III. The written request shall specify:

1. The reason for the complaint; and
2. The action or relief sought.

(B) Selection of Review or Hearing Officer: A complaint review or hearing shall be conducted by an impartial person appointed by the HA other than a person who made the approval of the HA's action under review or a subordinate of such person.

The HA shall post the designated person or persons authorized to conduct reviews and hearings in the HA's office. The list will be updated annually by the HA. From this list a review or hearing officer will be selected.

(C) Failure to request a review or hearing: If the applicant or participant does not request a review or hearing in accordance with this Section, then the HA's disposition of the complaint under Section III shall become final, provided, that failure to request a review or hearing shall not constitute a waiver by the applicant or participant to contest the HA's action on disposing of the complaint in an appropriate judicial proceeding.

(D) Review or Hearing prerequisite: All complaints shall be promptly presented in person, either orally or in writing pursuant to the informal procedure prescribed in Section III as a condition precedent to a hearing under this section. Provided, that if the applicant or participant shall show good cause why there was failure to proceed in accordance with Section III to the review or hearing officer.

The provisions of this subsection may be waived by the hearing officer.

(E) Scheduling of review or hearing: Upon the applicant's or participants compliance with this section a review or hearing shall be promptly scheduled by the hearing officer for a time and place convenient to both the applicant or participant and the HA. A written notification specifying the date, time, place and the procedures governing the hearing shall be delivered to the applicant or participant and appropriate HA official.

V. PROCEDURES GOVERNING THE INFORMAL REVIEW OR HEARING

(A) The applicant or participant shall be afforded a fair informal review or hearing, which shall include:

1. The opportunity to examine before the review or hearing any HA documents, including records and regulations that are directly relevant to the review or hearing. The applicant or participant shall be provided a copy of any such documents at the applicants or participants expense. If the HA does not make the documents available for examination upon request by the applicant or participant, the HA may not rely on such documents at the review or hearing.
2. The right to be represented by counsel or other person chosen as the applicants or participants representative, and to have such person make statements on the applicants or participants behalf.
3. The right to private hearing, unless the applicant or participant requests a public hearing.
4. The right to present written or oral objections to the HA decision. The right to present evidence and question any witnesses upon whose testimony or information the HA relies.
5. A decision based solely and exclusively upon the facts presented at the review or hearing.

(B) Accommodations of person with disabilities:

1. The HA shall provide reasonable accommodations for persons with disabilities to participate in the review or hearing. Reasonable accommodations may include qualified sign language, interpreters, readers, accessible locations, or attendants.
2. If the applicant or participant is visually impaired, any notice to the applicant or participant which is required by these procedures must be in an accessible format.

VI. DECISION OF THE REVIEW OR HEARING OFFICER

(A) The review or hearing officer shall prepare a written decision, together with the reason therefore, within ten (10) calendar days after the review or hearing. A copy of the decision shall be sent to the applicant or participant and the HA. The HA shall retain a copy of the decision in the applicants or participants file.

(B) The decision of the review or hearing officer shall be binding on the HA, which shall take all actions, or refrain from any actions necessary to carry out the decision. Unless the HA determines that it is not bound by the decision of the reviewing or hearing officers decision concerning the following:

1. A determination for which the HA is not required to provide an opportunity for a review or hearing pursuant to Sections 882.216(a3), 882.216(b2), 887.405(a3), and 887.405(b2), or otherwise in excess of the authority of the person conducting the review or hearing under these procedures, or
2. A determination contrary to HUD regulations or requirements or otherwise contrary to Federal, State, or local law.

If the HA determines that it is not bound by a review or hearing officer decision, the HA shall notify the applicant or participant of the determination, and state the reason for the determination, within ten (10) days from the receipt of the decision by the review or hearing officer.

(C) The decision of the review or hearing officer in favor of the HA or which denies the relief requested by the applicant or participant in whole or in part shall not constitute a waiver of, nor affect in any manner whatsoever, any rights the applicant or participant may have to a trial de novo or judicial review in any judicial proceedings, which may thereafter be brought in the matter.

Informal Review or Hearing Procedure

Acknowledgement

I/we acknowledge that I/we have received a copy of the Section 8 Housing Choice Voucher Program Informal Review or Hearing Procedure.

I/we further acknowledge that it has been explained and that I have had an opportunity to ask questions about the procedure(s).

I/we further acknowledge that this form will become a part of my permanent file with the Housing Authority of the City of Fort Payne, Alabama.

Head of Household Signature

Date

Spouse or Co-Head Signature

Date

Other Adult 18 or Older Signature

Date

Signature and Title of PHA Official

Date