

SOMERSWORTH HOUSING AUTHORITY

INFORMAL HEARING POLICY

1.0 Applicability of Informal Hearing:

- A. SHA will offer an informal hearing for Applicants denied admission for the following:
1. If the SHA makes a decision that has a negative impact on an applicant family:
 - i. Denying listing on the waiting listing/being determined ineligible to be placed on the waiting list based on criminal background, sex offender registration, landlord/rental history, inaccurate/incomplete information submitted, household composition ineligibility for unit/voucher size selected and over income determination.
 2. Immigration status- after notification of the USCIS decision on appeal, or in lieu of an appeals to the USCIS.
- B. PHA will offer an informal hearing for Housing Choice Voucher (Section 8) participants for the following:
1. Refusing to enter into a HAP contract or approve a lease
 2. Terminating housing assistance payment under an outstanding HAP contract
 3. Refusing to process or provide assistance under portability procedures
 4. One of the following decisions are made:
 - i. A determination of the family's annual or adjusted income, and the use of such income to compute the housing assistance payment
 - ii. A determination of the appropriate utility allowance (if any) for tenant-paid utilities from the PHA utility allowance schedule
 - iii. A determination of the family unit size under the PHA's subsidy standards
 - iv. A determination to terminate assistance for a participant family because of the family's actions or failure to act
 - v. 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

2.0 Notice to the Family:

In cases where the SHA makes a decision for which an informal hearing must be offered, the notice to the family will include all of the following:

- The proposed action or decision of the SHA.
- A brief statement of the reasons for the decision, including the regulatory reference.
- The date the proposed action will take place.
- A statement that if the family does not agree with the decision the family may request an informal hearing of the decision.
- A deadline for the family to request the informal hearing.
- To whom the hearing request should be addressed.

3.0 Scheduling an Informal Hearing:

A request for an informal hearing must be personally presented, either orally, in writing or by email, to the SHA's central office **within 14 calendar days from the date of the SHA's decision or notice to terminate assistance.**

The SHA must schedule and send written notice of the informal hearing to the family within 14 calendar days of the family's request.

The tenant may request to reschedule a hearing on a one-time basis. Should the complainant need to reschedule a second time, he or she may do so for good cause, or if 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.

If the family does not appear within 30 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.

4.0 Pre-Hearing Right to Discovery:

Participants and the SHA are permitted pre-hearing discovery rights. The family must be given the opportunity to examine before the hearing any SHA documents that are directly relevant to the hearing. The family must be allowed to copy any such documents free of charge. If the SHA does not make the document available for examination on request of the family, the SHA may not rely on the document at the hearing.

The SHA hearing procedures may provide that the SHA must be given the opportunity to examine at the SHA offices before the hearing, any family documents that are directly

relevant to the hearing. The SHA must be allowed to copy any such document at the SHA's expense. If the family does not make the document available for examination on request of the SHA, the family may not rely on the document at the hearing.

The family must request discovery of PHA documents no later than 12:00 p.m. on the business day prior to the scheduled hearing date.

5.0 Participants Rights to Bring Counsel:

At their own expense, the family may be represented by a lawyer or other representative at the informal hearing.

6.0 Informal Hearing Officer:

The PHA has designated the following to serve as hearing officers:
Deborah Evans, Executive Director (or other person(s) designated by the Executive Director).

7.0 Attendance at the Informal Hearing:

Hearings may be attended by a hearing officer and the following applicable persons:

- A PHA representative(s) and any witnesses for the PHA
- The participant and any witnesses for the participant
- The participant's counsel or other representative
- Any other person approved by the PHA as a reasonable accommodation for a person with a disability

8.0 Conduct at Hearings:

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.

9.0 Evidence at Hearings:

Any evidence to be considered by the hearing officer must be presented at the time of the hearing. There are four categories of evidence.

Oral evidence: the testimony of witnesses

Documentary evidence: a writing which is relevant to the case, for example, a letter written to the PHA. Writings include all forms of recorded communication or representation, including letters, words, pictures, sounds, videotapes or symbols or combinations thereof.

Demonstrative evidence: Evidence created specifically for the hearing and presented as an illustrative aid to assist the hearing officer, such as a model, a chart or other diagram.

Real evidence: A tangible item relating directly to the case.

Hearsay Evidence is evidence of a statement that was made other than by a witness while testifying at the hearing and that is offered to prove the truth of the matter. Even though evidence, including hearsay, is generally admissible, hearsay evidence alone cannot be used as the sole basis for the hearing officer's decision.

If either the PHA or the family fail to comply with the discovery requirements described above, the hearing officer will refuse to admit such evidence.

Other than the failure of a party to comply with discovery, the hearing officer has the authority to overrule any objections to evidence.

10.0 Procedures for Rehearing or Further Hearing:

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 hearing officer will make a decision based on the evidence presented and another hearing will not be granted.

11.0 Hearing Officer's Decision:

In rendering a decision, the hearing officer will consider the following matters:

SHA Notice to the Family: The hearing officer will determine if the reasons for the SHA's decision are factually stated in the Notice.

Discovery: The hearing officer will determine if the SHA and the family were given the opportunity to examine any relevant documents in accordance with SHA policy.

SHA Evidence to Support the SHA Decision: The evidence consists of the facts presented. Evidence is not conclusion and it is not argument. The hearing officer will evaluate the facts to determine if they support the SHA's conclusion.

Validity of Grounds for Termination/Denial of Assistance (when applicable):

The hearing officer will determine if the termination of assistance/denial of admission is for one of the grounds specified in the HUD regulations and SHA policies. If the grounds for termination are not specified in the regulations or in compliance with SHA policies, then the decision of the SHA will be overturned.

The hearing officer will issue a written decision to the family and the SHA no later than 14 calendar days after the hearing. The report will contain the following information:

Hearing information:

- Name of the participant/applicant;
- Date, time and place of the hearing;
- Name of the hearing officer;
- Name of the SHA representative; and
- Name of family representative (if any).

Background: A brief, impartial statement of the reason for the hearing.

Summary of the Evidence: The hearing officer will summarize the testimony of each witness and identify any documents that a witness produced in support of his/her testimony and that are admitted into evidence.

Findings of Fact: The hearing officer will include all findings of fact, based on a preponderance of the evidence. *Preponderance of the evidence* is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Preponderance of the evidence may not be determined by the number of witnesses, but by the greater weight of all evidence.

Conclusions: The hearing officer will render a conclusion derived from the facts that were found to be true by a preponderance of the evidence. The conclusion will result in a determination of whether these facts uphold the SHA's decision.

Order: The hearing report will include a statement of whether the SHA's decision is upheld or overturned. If it is overturned, the hearing officer will instruct the SHA to change the 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.

12.0 Issuance of Decision:

The hearing officer will mail a “Notice of Hearing Decision” to the participant. This notice will be sent by first-class mail. A copy of the “Notice of Hearing Decision” will be maintained in the SHA’s file.

SHA Board of Commissioner Adopted Procedure on: _____