

8903

NOTICE OF HEARING AND PRODUCTION OF DOCUMENTS

8903.1

Requests for an Informal Hearing shall follow the following guidelines:

- (a) Requests for an Informal Hearing or extension of time to request an Informal Hearing shall be reduced to writing.
- (b) DCHA may assist participants in reducing requests for an Informal Hearing or extension of time to request an Informal Hearing to writing to comply with § 8903.1(a).
- (c) Any assistance provided by DCHA to reduce a request to writing shall not be deemed the provision of legal advice to the participant.
- (d) Participants shall either mail via first class mail or personally deliver to DCHA's Office of Fair Hearings their request for an Informal Hearing or request for an extension of time to request an Informal Hearing. If personally delivered, DCHA shall provide a receipt to the participant noting that the request for an Informal Hearing was received and the date it was received.
- (e) If the request for an Informal Hearing is mailed to DCHA, the request shall be postmarked within thirty-five (35) calendar days from:
 - (1) the postmark date of DCHA's notification under § 8902; or
 - (2) the notice of an action or determination by DCHA.
- (f) If the request for an Informal Hearing is personally delivered to DCHA, the request must be received by DCHA's Office of Fair Hearings within thirty-five (35) calendar days from:
 - (1) the postmark date of DCHA's notification under § 8902; or
 - (2) the date of the issuance of the notice of a challenged action.
- (g) Requests to reschedule an Informal Hearing shall be subject to the following conditions:
 - (1) Either party may request to reschedule an Informal Hearing for the convenience of the party up to three (3) calendar days prior to the first scheduled Informal Hearing date, with or without a showing of good cause.
 - (2) Either party may request to reschedule an Informal Hearing any time prior to the first scheduled Informal Hearing date or prior to

any subsequent hearing date, only if the requesting party can demonstrate good cause and if delay will not result in harm or prejudice to the other party.

- (3) Notwithstanding the paragraph above, the Office of Fair Hearings will reschedule an Informal Hearing as a reasonable accommodation if the participant can demonstrate that a disability prevented them from rescheduling within the prescribed time periods.
- (h) Once a timely request for an Informal Hearing has been filed, the Housing Assistance Payments (HAP) will continue to the current landlord in accordance with the current HAP contract in effect at the time of the request for an Informal Hearing until a final determination is made in accordance with this chapter.
- (i) If a participant has not submitted a timely request for an Informal Hearing per § 8903.1, but still desires an Informal Hearing to be held, the participant must file a “Good Cause Hearing” request. The Good Cause Hearing request shall explain the reason or reasons that the participant failed to comply with the requirements of § 8903.1.

8903.2 Good Cause Hearings shall follow the following guidelines:

- (a) A participant can only request a Good Cause Hearing if the participant has been terminated from the Housing Choice Voucher Program.
- (b) If the Office of Fair Hearings receives an Informal Hearing request that does not comply with the deadlines in § 8903.1, the Office of Fair Hearings will notify the participant in writing of the right to request a Good Cause Hearing.
- (c) Any Good Cause Hearing Request received more than sixty (60) calendar days after the date of the issuance of the notice pursuant to § 8903.2(a) shall be denied as untimely and barred.
- (d) If the Office of Fair Hearings does not schedule a Good Cause Hearing within thirty (30) calendar days of the participants’ timely request, then DCHA shall automatically reinstate any relevant benefits retroactive to the date of termination, pending the issuance of a decision following a Good Cause Hearing.
- (e) The sole issue for determination in the Good Cause Hearing shall be whether the participant had good cause for failing to timely request an Informal Hearing.

- (f) In determining whether the participant has demonstrated good cause, the Hearing Officer shall consider the following factors:
 - (1) Whether and when the participant received notice of the challenged DCHA determination, action, or inaction; and
 - (2) Any mitigating circumstances related to the untimely filing of the request for an Informal Hearing, including but not limited to circumstances related to the participant's disability, incapacity, or an emergency affecting the participant or a member of the participant's household.
- (g) At the Good Cause Hearing, the Hearing Officer shall not hear evidence or address the merits of the participant's underlying challenge to the DCHA's action, inaction or determination. The Hearing Officer shall only consider evidence regarding the timeliness of the request and the factors listed in § 8903.2(f) at the Good Cause Hearing.
- (h) In the event that the Hearing Officer hears the merits of the underlying challenged DCHA action or determination, either party may request the Executive Director or his/her designee to vacate the Hearing Officer's decision and reschedule the Good Cause Hearing with another impartial Hearing Officer in accordance with the provisions above.
- (i) The Hearing Officer shall make his or her best effort to render a decision on the good cause showing on the same day that the Good Cause Hearing is held, but shall render a decision no more than three (3) business days after the Good Cause Hearing.

8903.3 The following process for scheduling and issuing Informal Hearing and Good Cause Hearing notification letters shall apply:

- (a) When the Office of Fair Hearings receives a timely written request for an Informal Hearing or a Good Cause Hearing the following provisions apply:
 - (1) The Office of Fair Hearings shall mail a letter notifying the participant of the date and time of the Hearing within fifteen (15) calendar days of the postmark date of the hearing request if the hearing request is mailed to the Office of Fair Hearings, or within fifteen (15) calendar days of the receipt if the hearing request is hand-delivered to the Office of Fair Hearings.
 - (2) The Office of Fair Hearings notification letter shall also be mailed to any representative of the participant who is identified by name and address on the request for the Hearing or who has entered his

or her appearance since then.

- (3) The Office of Fair Hearings shall deliver a letter notifying the DCHA Office of General Counsel of the date and time of the Hearing within fifteen (15) calendar days of the postmark date of the hearing request.
- (4) The date of the hearing shall be no sooner than fifteen (15) calendar days and no later than thirty (30) calendar days after the postmark date of the Office of Fair Hearings letter notifying the participant of the date and time of the Hearing.

(b) All notification letters for Hearings shall contain:

- (1) The date and time of the Hearing;
- (2) The location of the Hearing;
- (3) The participant's right to bring evidence, witnesses, and legal or other representation at the participant's expense;
- (4) The right to view, or have their counsel or other representative view, subject to a timely request under § 8903.4 any documents in the participant's file, or any evidence in the possession of DCHA, upon which DCHA based the proposed action, inaction or determination, or that DCHA intends to rely on at the Hearing;
- (5) The right to obtain, subject to a timely request under Section 8903.4, a copy of documents or evidence in the possession of DCHA prior to the Hearing and notice that DCHA shall provide the copies pursuant to § 8903.4; and
- (6) The participant must provide to the Office of the General Counsel copies of any documents or evidence the participant intends to use at the Hearing at least three (3) business days prior to the scheduled Hearing.

(c) If DCHA provides evidence that it mailed the notice via first class mail in the ordinary course of business to the participant's address of record and the notice was not returned to DCHA, then the participant shall be presumed to have received the notice. The participant bears the burden of rebutting this presumption by providing sufficient evidence that the notice was not received.

8903.4

The following rules shall apply to the Production of Documents:

- (a) DCHA shall make copies of requested documents for the participant. DCHA shall provide the first seventy-five (75) such pages to the participant at no charge and shall charge twenty-five (25) cents per page for each page in excess of seventy-five (75). If the documents are provided electronically or on a CD, DCHA is authorized to charge for the cost of the CD and the total number of pages produced electronically.
- (b) Upon request by a participant or its representative to review and/or copy any documents in the participant's file, DCHA shall make such documents available to the participant, or its representative for review and/or copying either within twenty-one (21) calendar days of the request or seven (7) calendar days prior to the Informal Hearing date, whichever is sooner.
- (c) In no case shall the participant, or its representatives, be allowed to remove a file from DCHA's office.

SOURCE: Notice of Final Rulemaking published at 49 DCR 7193, 7195-97 (July 26, 2002); as amended by Final Rulemaking published at 60 DCR 13170 (September 20, 2013).