

Section 7 Post-Test

1. The purpose of the hearing is to:
 - a. Terminate the participant
 - b. Bypass the courts
 - c. Resolve complaints before judicial action is necessary
 - d. Correct participant errors
 - e. All of the above
2. Hearing officers are a position unique to housing authorities.
 - a. True
 - b. False
3. The hearing officer is precluded from scheduling hearings.
 - a. True
 - b. False
4. A mandatory policy or procedure is one stated in any of the following except:
 - a. Current law
 - b. HUD regulation
 - c. Guidebook
 - d. Current notice
 - e. Handbook
5. The PHA should never correct or reverse its decisions.
 - a. True
 - b. False
6. A hearing could be about an adverse PHA action or failure to act.
 - a. True
 - b. False

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7. PHA decisions will be more defensible if:
 - a. The PHA can demonstrate that it has prevailed in a majority of hearings
 - b. The PHA's policies are vague enough to be subject to interpretation by the hearing officer
 - c. The decision is based on relevant HUD regulations and guidance, and PHA policies
 - d. Local judges or magistrates routinely back up the PHA's decisions
8. Generally, applicants have the right to:
 - a. Request a hearing
 - b. Request a grievance hearing
 - c. Dispute PHA policies
 - d. Request an administrative review
 - e. Dispute HUD regulations
9. PHA policies and procedures must address every situation that could arise during participation in the program.
 - a. True
 - b. False
10. When a mandatory reference states, "The PHA may not"... take a particular action, it means:
 - a. The PHA may or may not take that action, on a case-by-case basis
 - b. The PHA is not allowed to take that particular action
 - c. The PHA must set policy stipulating whether or not it will take that action
 - d. The PHA must obtain HUD approval before taking that action

11. When a mandatory reference states, “The PHA may”... take a particular action, it means:
 - a. The PHA may or may not take that action, on a case-by-case basis
 - b. The PHA is not allowed to take that particular action
 - c. The PHA must set policy stipulating whether or not it will take that action
 - d. The PHA must obtain HUD approval before taking that action
 - e. a and c

Learning Activity 2-1: Burden of Proof

Scenario

- Johnson Rojo was a participant in the Section 8 program of the West Hills Housing Authority (WHHA). He received Section 8 assistance for leasing a house in which only he, his wife and 5 minor children were to reside per the lease. Rojo received a termination notice after a neighbor reported that an undisclosed person had also been living in the house. The termination notice was based upon HUD regulations which prohibit an unauthorized tenant in assisted units, but do not prohibit a participant from having house guests. 24 C.F.R. §982.551(h)(2). WHHA policies consider an individual to be unauthorized if residing in the unit more than 15 consecutive days without authority approval, or a total of 30 days in a 12 month period.
- The PHA's case was based on a police report indicating that Winona Rojo, Mr. Rojo's mother, was in the unit when the family called 911 for a suspected health emergency of Winona Rojo's. One week after the police report, the WHHA inspector, performing an annual inspection, noted the presence of Mr. Rojo's mother in the unit.
- An informal hearing requested by Rojo was held by WHHA. After an adverse decision, and unsuccessful efforts to have the hearing officer's decision overturned, the Rojos filed a lawsuit alleging deprivations of their rights to procedural due process under 24 C.F.R. §982.555(e)(5)&(6), and 42 U.S.C. §1983. Specifically, the Rojos claimed that the PHA improperly placed the burden of proof on them rather than on the PHA seeking to terminate their housing assistance. The District Court granted summary judgment against the Rojos, finding no violation of due process, and this appeal was taken.
- The inquiry on appeal was whether WHHA or the Section 8 participant bore the burden of persuasion in an administrative hearing held under HUD regulations to determine whether a participant's housing subsidy should be terminated. If the public housing authority had that burden, the question was then whether due process allowed the burden to be met in this case by the submission of copies of the police report and inspector's report on which the authority relied.

Section 3: Hearings for Participants/Tenants

Your decision?

- How would you have decided this case if you were the appeal court judge?

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There may be more than one correct answer.

1. The PHA notice to the family denying assistance need not reference reason(s) for the PHA's denial.
 - a. True
 - b. False
2. Per the HUD regulations, the timeframe in which the PHA must give the family written notice of a decision denying assistance is:
 - a. Prompt
 - b. 5 days
 - c. 10 working days
 - d. Established in PHA policy
 - e. a and d
 - f. c and d
3. Whenever the PHA makes a determination to deny based on ineligible immigration status, the PHA must offer the applicant family the opportunity to request:
 - a. A review
 - b. A meeting with the person who made the decision
 - c. A judicial hearing
 - d. A hearing
 - e. A meeting with the person who approved the decision
4. The family must be given the opportunity to examine, before the hearing, any PHA documents directly relevant to the hearing.
 - a. True
 - b. False
5. A person other than the person who conducts the hearing may issue a written decision on the case.
 - a. True
 - b. False

Section 5: Post-Test

6. Determinations related to the circumstances of the case under hearing must be based on (select all that apply):
 - a. Indisputable proof
 - b. Written documents and not oral testimony
 - c. Hearsay
 - d. Whether the PHA followed all due process steps
 - e. Preponderance of the evidence
7. The PHA is always bound by a hearing decision.
 - a. True
 - b. False
8. If a PHA obtains criminal record information from a state or local agency under 5.903, showing that an applicant's household member has been involved in a crime relevant to applicant screening, the PHA must do all of the following except:
 - a. Notify the household of the intention to deny admission based on criminal history
 - b. Immediately notify the family of denial of admission
 - c. Provide the subject of record and the applicant a copy of (or opportunity to view) the criminal record information
 - d. Provide an opportunity, before denial, to dispute the accuracy and/or relevancy of the criminal record information
9. Applicants are provided the right to the full hearing when the case involves:
 - a. Termination of assistance for criminal or drug-related activity
 - b. Denial based on restrictions to noncitizens
 - c. Nonpayment of rent
 - d. Discrimination complaints
 - e. Due process
10. It is reasonable for the PHA to set policy to deny admission for criminal activity that indicates a demonstrable risk or threat to safety and/or property.
 - a. True
 - b. False

Learning Activity 3-1: Informal Review Scenario

Instructions:

You are conducting a voucher informal review. The following are the facts:

Scenario

Several years ago, Pamela Woods applied for housing assistance with the Green River PHA. At her request, she was placed on the waiting lists for both public housing and the voucher program. Four months ago, Ms. Woods reached the top of the public housing list. The PHA determined that the family was eligible, and they moved into a public housing development.

Two weeks ago, the PHA notified Ms. Woods that her name had reached the top of the waiting list for the voucher program. The PHA notice went on to say that since Ms. Woods had signed a one-year lease for her public housing unit, the PHA would not issue a voucher at this time. Ms. Woods appealed the PHA’s decision.

At the review, the PHA explains its policy governing public housing tenants who reach the top of the voucher waiting list; the PHA will hold the tenant’s application until the end of the 12-month public housing lease and will then issue a voucher if the family is still eligible. The public housing lease is a legally binding contract and allowing tenants to move out after only a few months is disruptive and costly for the agency. The PHA states that it is not denying Ms. Woods’ application for voucher assistance, but Ms. Woods will be required to complete the term of the public housing lease prior to voucher issuance. Most of the applicants on the voucher waiting list are not already receiving assisted housing and have a greater need for immediate assistance.

What is your decision, and why?

Learning Activity 3-2: Mitigating Circumstances

Stephanie Stewart was a disabled Section 8 participant in the Oakville Housing Authority's (OHA) HCV program. Her adult son, Ray, was charged with murder and assault and battery by means of a dangerous weapon. The criminal conduct occurred approximately 1.7 miles from the Section 8 apartment. Ms. Stewart had no knowledge of her son's criminal activity. With the exception of one delay in reporting her income, Ms. Stewart had always complied with HCV program requirements.

OHA terminated the participant's Section 8 assistance based on:

1. A family member engaging in violent criminal activity, and
2. A family member engaging in criminal activity that threatens the health and safety of other residents and persons in the immediate vicinity of the premises.

The OHA hearing officer upheld the termination. In her decision, the hearing officer documented that there were mitigating factors that applied to the participant: she did not participate in or know of her son's criminal activity, and she suffered from a disability and would be “greatly affected” by termination that would render her homeless. Additionally, the participant offered to remove her son from the lease.

The OHA hearing officer's decision took strong consideration of these mitigating circumstances, but ultimately determined that, when weighed against the seriousness of the violations in this case, they were not sufficient to offset termination. The hearing officer's decision stated that a hearing officer does not have the authority to consider a lesser sanction. The participant subsequently was rendered homeless. The participant sued the PHA in court.

How would you decide if you were the judge in this case?

Learning Activity 3-3: Evaluating Notice

***Middletown Housing Authority
2200 Town Square
Middletown STATE, ZIP***

July 12, 2019

Family	Mitchell Fabre	Owner	Crown Ridge Apts.
Address:	<u>Middletown, NV</u>	Address:	<u>Middletown, NV</u>

**Tenant Notification of Termination of Program Assistance and
Housing Assistance Payment Contract
(Tenant Noncompliance)**

HAP Contract #: VO1824
Anniversary Date: September

In compliance with federal requirements, the Middletown Housing Authority will terminate the above-referenced Housing Assistance Payments (HAP) Contract, effective September 1, 2019 because:

Specifically:

On March 2, 2019 you came into the office to turn in documentation that was requested from you. You were told, in order for your file to be completed, a statement from your landlord was needed approving the additional person to your household. That same day you came back with a signed letter of approval. That letter was not written by the apartment manager, and appears to have a forged signature.

You are the hearing officer in this case. How would you decide?

Section 5 Post-Test

1. In which documents must the PHA state its policies for informal review for applicants and informal hearing for participants?
 - a. PHA plan and administrative plan
 - b. Administrative plan and briefing packet
 - c. Tenant obligations under the voucher and the HAP contract
 - d. The ACC and administrative plan
 - e. The PHA's 5-year-plan and the grievance procedures
2. The PHA is not required to provide an applicant the opportunity for an informal review for:
 - a. A determination of the family unit size under the PHA subsidy standards
 - b. Determination of ineligibility for being over the income limits
 - c. Denial for criminal history
 - d. The PHA is required to provide the opportunity for an informal review for all of the above
3. The PHA must give a participant family an opportunity to request an informal hearing for the following:
 - a. Establishment of the PHA schedule of utility allowances
 - b. PHA determination not to approve an extension of a voucher term
 - c. PHA determination of the family's income and computation of the housing assistance payment
 - d. PHA determination that the unit is not in accordance with HQS because of the family size
 - e. The PHA must afford the family an opportunity to request an informal hearing for all of the above

Section 5: Post-Test

4. The Housing Choice Voucher hearing decision is based on what standard of proof?
 - a. Beyond a reasonable doubt
 - b. Guilty until proven innocent
 - c. Preponderance of the evidence
 - d. Innocent until proven guilty
 - e. Statistically significant
5. The PHA must pay for the family's legal counsel or other representative if requested by the family.
 - a. True
 - b. False
6. All of the PHA's policies in the administrative plan are subject to informal hearings.
 - a. True
 - b. False
7. The PHA Housing Choice Voucher hearing procedures:
 - a. Must provide that the PHA must be given the opportunity to examine, before the PHA hearing, any family documents directly relevant to the hearing
 - b. May provide that the PHA must be given the opportunity to examine, before the PHA hearing, any family documents directly relevant to the hearing
 - c. Must provide that the PHA may be given the opportunity to examine, after the PHA hearing, any family documents directly relevant to the hearing
 - d. Do not contain any provisions pertaining to the PHA examination of family documents before the hearing
8. Which statement is true?
 - a. The person who conducts the hearing must issue a written decision
 - b. An impartial person who attends the hearing must issue a written decision
 - c. Any person designated by the PHA may issue a written decision
 - d. The hearing officer may be other than the person who issues a written decision

Section 5: Post-Test

9. For what circumstances may the family first request an explanation, before an informal hearing is requested and conducted?
 - a. Determination of the family's annual or adjusted income
 - b. Determination of the appropriate utility allowance (if any) for tenant-paid utilities
 - c. Determination of the family unit size under the PHA subsidy standards
 - d. All of the above
 - e. None of the above
10. A voucher family can request a hearing for a PHA action against an owner.
 - a. True
 - b. False
11. In the voucher program, if participant is evicted from the unit for violation of the lease, the PHA must terminate the participant's assistance.
 - a. With no exceptions
 - b. Except that if the family includes a person with disabilities, the PHA decision is subject to consideration of reasonable accommodation
 - c. Except if the hearing officer believes it would be a hardship for the participant to move, and the PHA's payment standards are already set at 120 percent of FMR
 - d. b and c above

Learning Activity 4-1: Due Process

As important as the facts in the case is whether the PHA followed *due process*. Read the following scenario. Did the PHA follow due process? How do you think the court ruled?

Scenario

The Northwest Housing Authority served an eviction notice on Gloria Mata, a public housing tenant, this year. A few years earlier, Mata—an immigrant with three kids—had told the agency that her husband had moved out of their apartment. In response, the agency reduced her rent for almost two years.

But recently, housing officials became convinced that Mata had lied to them. They said her husband had been living with her during her time of reduced rent. They accused her of claiming that her husband was her brother. And they demanded that she pay \$5,900 in back rent, or move.

At Mata’s request, the agency scheduled a grievance hearing, but on a day when her lawyer was unavailable. When Mata, who spoke limited English, asked to hold it on another day, the hearing officer refused, saying he didn’t have the authority to do so. He talked with a housing official about this outside of her presence. Then the hearing officer upheld the eviction.

How would you rule if you were the judge hearing the case?

Section 5 Post-Test

1. Who may grieve in public housing?
 - a. Any adult in the household
 - b. Anyone in the household
 - c. A tenant
 - d. Anyone on behalf of the household
 - e. None of the above
2. In public housing, grievance rights are more extensive than in the Housing Choice Voucher program.
 - a. True
 - b. False
3. If HUD has issued a due process determination, the PHA may exclude from its public housing grievance procedures any grievance concerning termination of tenancy that involves:
 - a. Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other tenants
 - b. Any criminal activity that threatens the health or safety of employees of the PHA
 - c. Any violent or drug-related criminal activity on or off the premises
 - d. Any criminal activity that resulted in felony conviction of a household member
 - e. All of the above
4. A “tenant” in public housing may be all of the following except:
 - a. The adult person or persons who reside in the unit who executed the lease
 - b. The PHA-approved live in aide residing in the unit
 - c. If there is no adult residing in the unit who executed the lease, the remaining head of household living in the unit

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5. The public housing grievance procedure is applicable to the following:
 - a. Disputes between tenants not involving the PHA
 - b. Class grievances involving HUD regulations awaiting adjudication by the courts
 - c. Any dispute which a tenant may have with respect to PHA action or failure to act in accordance with the individual tenant's lease
 - d. As a forum for negotiating PHA policy changes in consideration of comments by the Resident Advisory Board (RAB)
 - e. All of the above
6. Which statement is *not* true of the informal settlement for tenants?
 - a. The right to informal settlement is the first step in the grievance process afforded public housing tenants
 - b. The decision, or summary, of the informal hearing must be in writing
 - c. The informal settlement may be conducted by the property manager of the project in which the tenant resides
 - d. The decision, or summary, of the informal settlement need not be in writing
 - e. The purpose of the informal settlement is to resolve the matter without a hearing
7. If the complainant does not request a grievance hearing within the timeframe specified in the PHA's grievance procedure, the complainant waives the right to a court hearing on the matter.
 - a. True
 - b. False

Section 5: Post-Test

8. Which statement is **not** true about the grievance hearing?
 - a. Must be conducted by an impartial person
 - b. PHA is required to consult with resident organizations before PHA appointment of each hearing officer or panel member
 - c. Must be conducted by a person other than a person who made or approved the PHA action under a review or a subordinate of such person
 - d. Method of selection of hearing officer(s) must be stated in the lease
9. The tenant's right to a fair hearing includes:
 - a. The right to a public hearing unless a private hearing is requested
 - b. A decision based on any documentation received before, during, or after the hearing
 - c. The right to be represented only by a person approved by the PHA
 - d. The right to examine and copy, before the hearing, any PHA documents relevant to the hearing
 - e. All of the above
10. The PHA must maintain a log of all hearing decisions.
 - a. True
 - b. False
11. Tenants no longer have the right to request, in advance, a transcript of the hearing.
 - a. True
 - b. False
12. For public housing hearings, the complainant has a right to arrange for a transcript of the hearing at the complainant's expense.
 - a. True
 - b. False
13. Hearings are applicable to a PHA's adverse actions but are not applicable to a PHA's failure to act regarding the individual's or family's tenancy.
 - a. True
 - b. False

Learning Activity 6-1: Administrative Plan Policies

Read the case below. Do you agree with the hearing decision? Why or why not?

Regarding: Hank Low

Participant

INFORMAL HEARING DECISION HOUSING CHOICE VOUCHER PROGRAM

INTRODUCTION

Iris Impartial, Hearing Officer, conducted an informal hearing on June 20, 2011, pursuant to the provisions of 24 CFR 982.555 and the Foothills County Housing Authority's Section 8 Administrative Plan (hereinafter FCHA Plan), Chapter 16-III, *Informal Hearings for Participants*, pp. 10-16. Participant appeared, representing himself. Penny Lipscomb, Rental Assistance Program Manager, appeared on behalf of the Housing Authority. The Hearing Officer did not make or approve the decision under review and is not a subordinate of the person who did make the decision.

PROCEDURAL HISTORY

On May 5, 2011, the Housing Authority sent Participant a *Tenant Notification of Termination of Program Assistance and Housing Assistance Payment Contract* effective June 30, 2011. The issue involved in this notice was scheduled for May 23, 2011; however, Participant requested that the hearing be rescheduled so he could request time off from his work. The hearing was rescheduled and heard on June 20, 2011.

HEARING ISSUES

The Housing Authority notified Participant that pursuant to 24 CFR 982.405, 24 CFR 982.552, and FCHA Plan, Exhibit 12-1 *Statement of Family Obligations*, Participant's housing assistance would be terminated effective June 30, 2011 because:

Specifically:

There have been two (2) attempts made to inspect the unit with no success. Therefore, the unit has failed HQS because you have failed to meet both dates scheduled by the Housing Authority with sufficient notice to complete the annual inspection.

It is a HUD requirement that the Housing Authority complete Annual Inspections for all federally assisted units. You are in violation of U.S. Department of Housing and Urban Development (HUD) regulations and your Family Obligations; therefore, your Section 8 assistance will be terminated.

This type of conduct or failure to perform a family obligation violates HUD regulations, Foothill County Housing Authority (FCHA) policies, and the Family Obligations.

Having fully considered the entire record, the undersigned Hearing Officer enters the following Findings of Fact, Conclusions of Law, and Decision:

FINDINGS OF FACT

1. On April 4, 2011, the Housing Authority sent Participant written notice of an annual inspection scheduled for April 19, 2011. Participant was not home. On April 19, 2011, the Housing Authority sent Participant written notice of the missed annual inspection. The letter indicates that a final inspection was scheduled for May 2, 2011. The letter advised that “failure to keep this appointment may result in the withdrawal of your housing assistance.”
2. At hearing, Participant denied that he received the April 19, 2011 notice. In any case, he did not respond to the notices because he had already been sent a Warning Notice and Dept Repayment Agreement for \$11,124.
3. Participant acknowledged having signed the FCHA Family Obligations on November 17, 2009 and March 29, 2011.

CONCLUSIONS OF LAW

The undersigned Hearing Officer makes the following conclusions:

1. 24 CFR 982.552 *PHA denial or termination of assistance for family.*
 - (a) *Action or inaction by family.* (1) a PHA may deny assistance for an applicant or terminate assistance for a participant under the programs because of the family’s action or failure to act as described in this section or §982.553.
 - (c) *Authority to deny admission or terminate assistance:* (1) *Grounds for denial or termination of assistance.* The PHA may at any time deny program assistance for an applicant, or terminate program assistance for a participant, for any of the following grounds:
 - (i) If the family violates any family obligations under the program (see §982.551).

See also FCHA Plan Chapter 12-IE. *Mandatory Policies and Other Authorized Terminations*, p.5.

2. 24 CFR 982.551 *Obligations of Participant*
 - (d) *Allowing PHA inspection.* The family must allow the PHA to inspect the unit at reasonable times and after reasonable notice.
3. 24 CFR 982.405 *PHA Initial and Periodic Unit Inspection.*
 - (a) The PHA must inspect the unit leased to a family prior to the initial term of the lease, at least annually during assisted occupancy, and at other times as needed, to determine if the unit meets the HQS. See also *FCHA Plan, Chapter 8-II.A. Annual Inspections*, p.7.

Section 2: Hearing Policies Specific to the Housing Choice Voucher Program

4. FCHA Plan, Chapter 8.II.C. *Annual HQS Inspections*, pg. 9.

PHA Policy:

If the family misses the first scheduled appointment without requesting a new inspection date, the family must request that the PHA schedule a second inspection. If the family misses two scheduled inspections without PHA approval, the PHA will consider the family to have violated its obligation to make the unit available for inspection. This may result in termination of the family's assistance in accordance with Chapter 12. See also 24 CFR 982.405(a).

5. *FCHA Family Obligations*.

The Family MUST:

8. Allow the Housing Authority to inspect the unit at reasonable times and after reasonable notice (48-hour minimum).
6. Based on a preponderance of evidence, the undersigned concludes that Participant failed to allow the Housing Authority to inspect the assisted unit at reasonable times and after reasonable notice. By doing so, he violated the Family Obligations in 24 CFR 982.552(d); and FCHA Family Obligations, No. 8.
7. The Housing Authority's decision to terminate housing assistance was in accordance with the law, HUD regulations and the Housing Authority's policies.

DECISION

The Housing Authority's decision to terminate Participant Hank Low's housing assistance is **UPHELD**. Participant's Housing Assistance Payments will terminate effective June 30, 2011.

Date of Decision: June 22, 2011

Iris Impartial

Hearing Officer

This decision shall not constitute a waiver of, nor affect in any manner whatever, any rights you may have to judicial review through the court system in this matter.

Date of Mailing: _____

A copy of the hearing decision was sent by first class mail, postage prepaid, to the following:

Learning Activity 6-2: Case Study

THE PROBLEM:

Several years ago, a PHA (we'll refer to this PHA as Cedartown PHA) was conducting about 12-20 voucher termination hearings per month—almost 200 per year. The PHA administered over 8,000 vouchers. Out of all those hearings, only seven participants prevailed—termination was upheld in all the other cases. Another PHA in the area, that administered almost 8,000 vouchers, held fewer than 20 voucher termination hearings per year.

Cedartown PHA basically relied on a single hearing officer to preside over all cases. The hearing officer had no training specific to the hearing officer function. Basic procedural rights were frequently disregarded, such as the right to cross examination or the right to a continuance for good cause. More significantly, Cedartown's hearing officer refused to consider or make rulings on the basis of legal authorities he was not accustomed to, such as case law, statutes, briefs, etc.; typically, he would rely exclusively on HUD regulations or provisions of the PHA's administrative plan. Over time, the PHA officially sanctioned this approach and decided that such "legal arguments and defenses" were impermissible at informal hearings, on the grounds that such arguments exceeded the skills of its hearing officers.

YOUR SOLUTIONS:

What best practices and steps should Cedartown PHA take in order to address these problems?

Section 5 Post-Test

1. PHA policies play a minor role in making hearing decisions.
 - a. True
 - b. False
2. When a HUD regulation states, “The PHA *may*...” it means that:
 - a. The PHA can do or not do something on a case-by-case basis
 - b. The PHA needs to make a policy decision
 - c. The PHA must ask HUD's permission before taking any action
 - d. The PHA is not required to follow the regulation
 - e. None of the above
3. HUD regulations stipulate the details of how the PHA administers its reviews and hearings.
 - a. True
 - b. False
4. In the Housing Choice Voucher program, the PHA may make a policy decision to offer applicants the opportunity for an informal review for reasons other than those required by the regulations.
 - a. True
 - b. False
5. Some of the persons authorized to attend a hearing could be:
 - a. A PHA representative
 - b. Any witnesses for the PHA
 - c. The participant and any witnesses for the participant
 - d. The participant’s counsel or other representative
 - e. Any other person approved by the PHA as a reasonable accommodation for a person with a disability
 - f. All of the above

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6. The PHA's policies must be approved by:
 - a. PHA legal counsel
 - b. HUD Office of Inspector General
 - c. A majority of participants and tenants
 - d. The PHA's board of commissioners
 - e. None of the above
7. Which statement is true about the PHA plan, the program policies, and hearing/grievance policies?
 - a. They all must be approved by HUD
 - b. They all must be approved by the PHA's board
 - c. The policies must be consistent
 - d. a and c
 - e. b and c
 - f. None of the above
8. The public housing grievance procedure can be either included in the lease or incorporated by reference in the tenant lease.
 - a. True
 - b. False

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1. All of the PHA's internal processes related to hearings must be in the PHA's hearing or grievance policies.
 - a. True
 - b. False
2. PHA procedures must be approved by the PHA's board of commissioners.
 - a. True
 - b. False
3. Which of the procedures below could be addressed in an internal process document rather than the hearing/grievance policies?
 - a. How late a participant/tenant may be before the right to a hearing is waived
 - b. Reasons for which and how many times a hearing may be rescheduled
 - c. How the hearing coordinator sets up the hearing room
 - d. The format of the hearing officer's final decision
 - e. The right of the family to examine any documents before the hearing that the PHA intends to present at the hearing
4. The hearing coordinator duties are:
 - a. Dictated by law
 - b. Specified in HUD regulations
 - c. Described in PHA policies and procedures
 - d. Identical in all housing authorities
5. If a PHA has an experienced hearing coordinator, there is no need for a hearing tracking system.
 - a. True
 - b. False

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6. The hearing coordinator must be a full-time position per HUD regulations.
 - a. True
 - b. False
7. The important benefit(s) of a hearing tracking system:
 - a. Enables the PHA to deal with cases in a timely manner
 - b. Helps the PHA to avoid over-scheduling
 - c. Ensures equal treatment of all applicants, participants, and tenants by the PHA
 - d. Maintains public confidence in the PHA
 - e. All of the above

Learning Activity 8-1:

Simon Lessing is substantially limited in his ability to walk and uses a motorized scooter for mobility purposes. He applies to live in public housing, and accepts a unit in a nice building that has just had the flooring replaced. The manager is sympathetic to the assisted individual's need for his motorized scooter, but lets Simon know that the weight of the scooter will wear on the floor. Plus, the manager has had past experience with a tenant whose scooter not only wore down the hallway carpet but also left marks on the corner of walls when the tenant turned corners too sharply and quickly.

Can the manager refuse to allow the scooter?

If the manager does allow the scooter, could he require Simon (and all users of motorized scooters in the future) to pay a deposit?

Can the manager require that tenants with motorized scooters carry liability insurance?

Section 6 Post-Test

1. All requests for accommodations made by persons with disabilities must be granted.
 - a. True
 - b. False
2. It is best if the hearing coordinator or hearing officer offers specific accommodations for a hearing before a participant/tenant with disabilities asks for assistance.
 - a. True
 - b. False
3. Requested accommodations for hearings may include:
 - a. A sign language interpreter
 - b. The hearing officer requiring everyone to speak slowly
 - c. Ensuring that the hearing location is accessible
 - d. Allowing a service animal or support animal to be present
 - e. Any of the above
4. Which of the following is not an example of a reasonable accommodation?
 - a. Allowing rent to be paid after the “grace period” without late fees
 - b. Allowing an extra bedroom for a live-in aide
 - c. Moving a family to a first floor unit
 - d. Exempting a family from paying rent
5. A reasonable accommodation is not considered reasonable if:
 - a. It would fundamentally alter the nature of the program
 - b. It is expensive or would cause the PHA more work
 - c. There is a disability-related need for the accommodation
 - d. The request for accommodation is made on behalf of a person with disabilities

Section 6: Post-Test

6. Before a specific live-in aide is approved for a family, the PHA has the right to ensure that the live-in aide:
 - a. Is duly trained and certified by a healthcare agency
 - b. Is not a relative of the participant/tenant being cared for
 - c. Passes criminal background screening
 - d. Meets PHA income eligibility criteria
 - e. Will not work full-time outside the home
7. Some of the issues going to hearing may be affected by the following reasonable accommodation issues:
 - a. Denial of transfer (PH) or denial of move during initial lease term (HCV)
 - b. Terminations where the PHA has not responded to participant/tenant's request to add a live-in aide
 - c. Termination for threat to health and safety
 - d. All of the above

Section 3 Learning Activities

Learning Activity 9-1:

You are reviewing a case before the hearing.

The PHA has issued an eviction notice for Josephine Hernandez. Ms. Hernandez lives in a one-bedroom unit in a mixed-population (elderly and disabled families) public housing development. Ms. Hernandez recently was given legal guardianship of her 2-year-old grandson, Javier.

The PHA required Ms. Hernandez to transfer to a two-bedroom unit in a family development. Because Ms. Hernandez refused to transfer (her clinic and a daycare are very close), the PHA issued a 30-day notice to terminate, based on the fact that she lives in an elderly/disabled development and children are not allowed to reside in the development.

What does it appear your decision will be?

DISCUSSION:

Learning Activity 9-2:

You are reviewing a case before a hearing. The Seward family is under eviction action for unauthorized persons. The PHA has determined that Lettie Seward has allowed her ex-husband, Gerald, to reside in the unit.

In the hearing, Ms. Seward states, “He has been living with me. I did not tell the PHA—he threatened to harm me and my kids if I told. He’s been giving me money that I have not been reporting but then he stole money out of my account and now I can’t pay my rent...but I am a victim of domestic violence.”

A domestic violence advocate is present at the hearing.

What are some considerations?

DISCUSSION:

Learning Activity 9-3:

You are reviewing a case before the hearing.

The PHA has issued a termination notice for the Byron family for failure to meet family obligations under the voucher (“The family must not commit any serious or repeated violation of the lease.”) Maria Byron is head of house and Joe Byron is the spouse.

At the hearing, both partners state that they are victims of domestic violence. What if both partners in an assisted family point fingers at each other?

What will you look for in the hearing documents?

DISCUSSION:

Learning Activity 9-4: VAWA

Kevin Randall and Susan Long moved into their public housing unit on March 28, 2018. On April 3, 2018, Kevin physically abused Susan in their new unit. Susan escaped to a neighbor's unit and the police were called. Kevin was arrested and charged with assault and battery. There was a detailed police report describing the incident.

After the incident, the PHA discussed the situation with both Kevin Randall and Susan Long. The PHA had a self-described "Zero Tolerance Policy" regarding such violations. Despite this policy, the PHA decided not to evict based on the abuse occurring during the first week of tenancy.

Susan Long subsequently had at least three conversations with PHA employees in May and June of 2018 about what was needed to get Kevin off the lease ("bifurcating" the lease). Up to that point, Susan and her daughter, while legally recognized tenants on the lease, had been listed there only as "authorized" members of the household.

The PHA orally advised her what documentation she needed to provide to get Kevin off the lease. The PHA led Susan to believe that if Kevin did not voluntarily agree to take himself off the lease, she would have to marshal additional evidence to pursue bifurcation, such as a restraining order.

Susan requested a hearing, for the PHA's failure to act in bifurcating the lease. The hearing was held in August 2018. In the hearing Susan did not expressly state that her reliance on the PHA's misinformation was the reason she failed to pursue removing Kevin from the lease. However, she did testify that "on many occasions, I went to the PHA but they told me it was a court matter to have Kevin removed from the lease." The hearing officer's decision upheld the PHA's case since Susan had not met the burden of proof to demonstrate the PHA had failed to act properly. Susan had not followed through with any of the PHA's requests for documentation such as a restraining order.

In October of 2018, Kevin renewed the lease, but records later showed that he moved out shortly after that. Susan became the sole rent payer and paid her rent on time.

Six months after Kevin moved out, he was arrested for drug dealing across town. The police report reflected that he was residing at his mother's apartment at the time of the arrest. There was nothing in the record to suggest that Susan participated in or had any knowledge of Kevin's conduct. Nevertheless, because Kevin remained the head of household on the public housing lease, the PHA pursued an eviction against the household. Susan requested a hearing, which was held in May 2019. You are the hearing officer now in this hearing, reviewing the evidence and testimony in order to make your decision.

Susan argued in the hearing that she was entitled to protections under VAWA. In response, the PHA minimized Kevin's assault and pointed out Susan's failure to get a restraining order. Susan conceded that Kevin's drug dealing was not criminal activity relating to domestic violence.

Instead, she contended that the PHA's failure to comply with VAWA led to Kevin's continued presence on the lease long after he vacated.

The Hearing Decision. What are the issues in this case? What is your decision? Specify your reason(s):

Section 4 Post-Test

1. HUD's Limited English Proficiency (LEP) requirements apply to PHA hearings.
 - a. True
 - b. False
2. It is a good practice to have LEP individuals' friends or family act as interpreters at a hearing.
 - a. True
 - b. False
3. The purpose of the Violence Against Women Act (VAWA) is to protect victims or threatened victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking while being able to remove, evict, or terminate assistance to the perpetrator.
 - a. True
 - b. False
4. In a domestic violence situation, it is always clear who is the victim and who is the perpetrator.
 - a. True
 - b. False
5. VAWA is gender-neutral.
 - a. True
 - b. False
6. The benefits of working with advocacy groups include all of the following except:
 - a. Advocacy groups provide expertise to the PHA
 - b. The PHA can refer applicants, participants and tenants to advocacy groups
 - c. Advocacy groups will enforce the PHA's rules
 - d. Advocacy groups can help the PHA develop best-practice policies and strategies
 - e. Advocacy groups help represent underserved persons

Section 4: Post-Test

7. Which statement below is true regarding LEP persons?
 - a. For the hearing, the PHA must provide an interpreter, and may charge the family a reasonable amount
 - b. For the hearing, the PHA must provide an interpreter, free of charge, upon request
 - c. The PHA should automatically provide interpreters for all hearings if the PHA is aware that the family is LEP
 - d. The PHA may, if in policy, provide an interpreter, free of charge, upon request
 - e. Any of the above may be true, depending on PHA policy
8. VAWA does not limit the PHA's authority to: (two correct answers):
 - a. Honor court orders addressing rights of access to or control of property
 - b. Stipulate the number of times VAWA rights will be afforded to a participant or tenant
 - c. Terminate assistance or tenancy when the PHA is able to demonstrate there is an actual and imminent threat
 - d. Stipulate that only women can be considered victims
 - e. VAWA allows the PHA authority to establish any and all of the above
9. The following helps manage advocates' roles at a hearing:
 - a. Clear hearing/grievance procedures
 - b. The hearing officer clearly explains the protocol and process at the hearing
 - c. The hearing officer is in charge of the hearing at all times
 - d. All parties have reviewed documentary evidence before the hearing
 - e. All of the above

Section 4: Post-Test

10. The benefit of working with advocacy groups includes increased transparency and accountability.
 - a. True
 - b. False
11. Mallory Jones is an elderly resident residing in the PHA's public housing mixed population (elderly/disabled) development. She resides in a one-bedroom apartment. She notifies the PHA that she is getting custody of her 7-year-old granddaughter, Hannah. Which statement below is true?
 - a. The PHA may require Ms. Jones to transfer to a general occupancy (family) development
 - b. The PHA may require Ms. Jones to transfer to a two-bedroom unit in a general occupancy (family development)
 - c. The PHA may not require Ms. Jones to transfer to a general occupancy (family) development
 - d. The PHA may prohibit Ms. Jones from getting custody of her grandchild
 - e. a and b
12. The PHA may not require any further verification if an accommodation has been requested, and third-party verification is not necessary when:
 - a. The person's disabilities are obvious or otherwise known to the PHA
 - b. The need for the accommodation is clear or known
 - c. The request is reasonable
 - d. The accommodation is inexpensive
 - e. a. and b

Section 1 Scenarios

SCENARIO #1

INSTRUCTIONS

You are presiding over a hearing. The following are the facts, based on documentary evidence in the hearing packet.

SCENARIO

Kamala Khan and her family are public housing residents. Ms. Khan’s son is disabled due to a hearing disability. Ms. Khan notified the property manager in July 2019 that she intended to purchase a dog as a hearing assistance “service animal” for her son. Ms. Khan’s lease with the PHA prohibits dogs over 20 pounds. The Khan’s dog is 40 pounds. In August 2019, Ms. Khan purchased and began training the dog. In September, the Khans moved to another PHA property which had the same lease restriction on pets. On October 2, 2019, Ms. Khan provided the PHA with written notice of the existence of the hearing assistance dog. On December 15, 2019, she filed a waiver request with the PHA alleging that the dog was a service animal and not a pet and therefore not subject to the lease restriction.

On January 11, 2020, the PHA refused plaintiffs’ waiver request. On February 1, 2020, the PHA filed an eviction action against the Khan family. To prevent eviction from their home, Ms. Khan agreed to remove the dog from the PHA property, and on February 16, 2020, took the dog to the Humane Society.

The tenants requested a hearing, alleging that the housing authority violated the Americans with Disabilities Act, the Federal Fair Housing Amendments Act, and Section 504 of the Rehabilitation Act, by failing to reasonably accommodate their request to allow for a hearing assistance animal (service animal) in the rental unit to reasonably accommodate a hearing disability.

The housing authority argued that the dog was not a reasonable accommodation for the tenant’s specific disability because the dog was not certified as a hearing assistance animal.

What is your decision and why?

SCENARIO #2

INSTRUCTIONS:

You are presiding over a hearing. The following are the facts, based on documentary evidence in the hearing packet.

SCENARIO

Mauricio Rodriguez has been evicted by his Housing Choice Voucher landlord for nonpayment of rent. The PHA is terminating Mr. Rodriguez' voucher assistance as a result of the eviction (CFR 982.552(b)(2)): (b) Requirement to deny admission or terminate assistance. (2) The PHA must terminate program assistance for a family evicted from housing assisted under the program for serious violation of the lease.

At the hearing, Mr. Rodriguez' cousin, Adela Garcia, who is representing him, states that Mr. Rodriguez is requesting that a family member move in as a full-time live-in aide, since Mr. Rodriguez has become quite disabled. His disability is manifested in cognitive difficulties, and one of the difficulties is that he can't remember to pay his rent and other bills. He also hasn't been cooking for himself or eating properly. A live-in aide would assist Mr. Rodriguez with his financial responsibilities as well as household assistance.

What is your decision and why?

Section 1: Scenarios

SCENARIO #3

INSTRUCTIONS:

You are presiding over a hearing. The following are the facts, based on documentary evidence in the hearing packet.

SCENARIO:

Joseph Aquino, a voucher holder, requested that he be given additional medical expenses, when his rent was calculated. He had a particular mental disability and it was not safe for him to use a stove or oven. His PHA did not dispute that Joe was a person with a disability or that his disability prevented him from cooking meals in the stove or on the oven, but the PHA did not give him the requested additional medical allowance expenses.

Joseph’s advocate argues in the hearing that Joseph’s disability made it necessary for him to go out to eat meals which resulted in increased food costs. Those food costs, it was argued, should be considered medical expenses as a reasonable accommodation of his disability by the PHA.

Without the requested accommodation, Joseph was unable to afford his rent, along with his other normal expenses, adversely impacting his quality of life and his ability to use and enjoy his dwelling. Put another way, but for the accommodation, the advocate argued, Joseph “likely” will be “denied an equal opportunity” to use and enjoy his dwelling.

The PHA responded that the requested accommodation was neither necessary nor reasonable. It contended that to the extent the disability presented a difficulty in his daily meal preparation, Joseph had alternative methods of obtaining or preparing food which required no accommodation by the PHA. In the PHA’s view, Joseph’s disability did not prevent him from obtaining or preparing meals in other alternative methods such as eating cold food, using a microwave, or having someone else prepare his meals. In fact, the PHA got Joseph enrolled on a state program that allowed for a care attendant to come in several times a week (at no cost to Joseph) to make meals.

Joseph, however, preferred eating out, did not want a care attendant in his home, and had shown a nexus between the disability and the requested accommodation. Case law and HUD guidance suggest that the PHA should take into consideration the person with the disability’s preferred method of accommodation since that person is best aware of his/her own needs.

What are you going to consider and why?

SCENARIO #4

INSTRUCTIONS:

You are presiding over a hearing. The following are the facts, based on documentary evidence in the hearing packet.

SCENARIO

Audrey Green and her two children are participants in the voucher program. For the last five years, Ms. Green had reported part-time employment income working retail. No other income was reported. Last year, the PHA revised its verification policies to require that the participant provide IRS tax returns.

A housing specialist at the PHA found that Ms. Green advertised her wedding planning business, “Green Dream Weddings” on social media. During processing of Ms. Green’s annual reexamination, Ms. Green’s tax returns showed that Ms. Green had been self-employed for the last three years as a wedding planner. When asked about the unreported income at the annual reexamination, Ms. Green confirmed the existence of her business, but stated that she was not aware of any requirement to report self-employment. Her reexamination forms for the past three years indicated only the part-time retail income.

The PHA determined that due to Ms. Green’s unreported self-employment income, subsidy had been overpaid by \$1,980. In compliance with the PHA’s administrative plan, the PHA offered Ms. Green a repayment agreement. The PHA’s repayment agreement policies were as follows:

PHA Policy

Before executing a repayment agreement with a family, the PHA will generally require a down payment of 10 percent of the total amount owed. If the family can provide evidence satisfactory to the PHA that a down payment of 10 percent would impose an undue hardship, the PHA may, in its sole discretion, require a lesser percentage or waive the requirement.

The PHA has established the following thresholds for repayment of debts:

- Amounts between \$3,000 and the federal or state threshold for criminal prosecution must be repaid within 36 months.
- Amounts between \$2,000 and \$2,999 must be repaid within 30 months.
- Amounts between \$1,000 and \$1,999 must be repaid within 24 months.
- Amounts under \$1,000 must be repaid within 12 months.

Per the PHA’s administrative plan, Ms. Green requested an explanation and stated she could not afford to pay \$198 up front and \$148.50 each month. The PHA agreed to waive the 10 percent upfront payment and adjust the monthly payment to \$75 monthly.

Section 1: Scenarios

Ms. Green declined to sign the repayment agreement. The PHA then issued a notice of termination of assistance for violation of family obligations under the voucher, and for owing money to the PHA and refusing to enter into a repayment agreement. Ms. Green requested an informal hearing.

At the hearing, Ms. Green explained that she did not sign the repayment agreement because she could not afford to repay the overpayment. The PHA had increased her family share of rent, and she stated she would not have enough money to buy food and pay rent if she was required to pay \$75 per month, along with her increased rent. She requested that any repayment be postponed for at least two years

What is your decision and why?

Section 2 Post-Test

1. In order to preside over a termination hearing for the Housing Choice Voucher program, you should study and refer to:
 - a. The admissions and continued occupancy policy
 - b. The capital fund 5-year action plan
 - c. The annual contributions contract (ACC)
 - d. The voucher family obligations
 - e. The public housing lease
2. The hearing officer must be a technical expert in all areas of the Housing Choice Voucher and/or public housing program.
 - a. True
 - b. False
3. Termination in the public housing program may mean taking eviction action.
 - a. True
 - b. False
4. It may be important for the hearing officer to have access to an impartial person who is an expert in HUD regulations.
 - a. True
 - b. False

Section 4 Post-Test

1. In hearings, essential documentation will vary depending on the issues.
 - a. True
 - b. False
2. The hearing officer needs to see documentation that the PHA has met its procedural requirements and duties. The important requirement(s) is or are:
 - a. Did the PHA's notice of adverse action state the reasons in sufficient detail to enable the participant to prepare a defense?
 - b. Did the notice of adverse action explain that the family had the right to request a hearing?
 - c. Did the notice of adverse action explain to the family how to request a hearing?
 - d. Did the PHA explain to the family their right to review and copy all documents intended to be presented at the hearing?
 - e. All of the above
3. Advance arrangements may need to be made for witnesses testifying by telephone.
 - a. True
 - b. False
4. During the hearing, the hearing officer is prohibited from having copies of pertinent regulations and procedures in the hearing room.
 - a. True
 - b. False
5. A good principle for the hearing officer, in preparing for a hearing, is:
 - a. A stitch in time saves nine
 - b. The unexamined life is not worth living
 - c. Be prepared
 - d. Caveat emptor
 - e. Do a good turn daily

Section 6 Post-Test

1. Generally, which party makes the first opening statement?
 - a. The family
 - b. The party with the burden of proof
 - c. Legal Aid
 - d. The plaintiff
 - e. Whoever is most strident
2. Whose duty is it to keep the hearing on track?
 - a. The hearing coordinator's
 - b. The PHA representative's
 - c. Legal Aid's
 - d. The plaintiff's
 - e. The hearing officer's
3. When a participant behaves inappropriately and disrupts the hearing, the hearing officer could take the following action(s):
 - a. Issuing warnings that explain what behavior is expected and the consequences of noncompliance
 - b. Offer a recess to allow participants time to gain self-control
 - c. Reschedule the hearing for a future date
 - d. Close the hearing and make the decision based on what has been submitted and presented
 - e. Any of the above
4. It is never permitted to hold the hearing open for additional evidence.
 - a. True
 - b. False

Section 6: Post-Test

5. The following is a best practice strategy to ensure safety at the hearing.
 - a. Requiring the attendance of a security guard at all hearings
 - b. Requiring law enforcement presence at all hearings
 - c. Discuss security arrangements before the hearing
 - d. Have controversial witnesses appear privately, without the opportunity for cross-examination
 - e. All of the above
6. The tone and demeanor of the hearing officer contributes greatly to the orderly conduct of hearings.
 - a. True
 - b. False
7. The hearing officer should set the tone of:
 - a. Authoritarian control
 - b. Parental permissiveness
 - c. Calm authority
 - d. Sternness and strictness
 - e. Confrontation and encounter
8. The hearing officer is never allowed to end the hearing before all evidence has been presented.
 - a. True
 - b. False
9. A hearing is considered “informal” because:
 - a. There is no dress code
 - b. The hearing officer's decision carries no weight
 - c. The hearing is not bound by the protocols of a court
 - d. Attendees can be unruly

Section 6: Post-Test

10. The hearing officer may:
- a. Exclude evidence that has been submitted
 - b. Place reasonable time limits on the presentation of evidence
 - c. Have private conversations with different parties during the course of the hearing
 - d. Leave the room during the hearing for a break while testimony continues
 - e. All of the above
 - f. None of the above

Section 7 Post-Test

1. The longer a hearing decision, the better.
 - a. True
 - b. False
2. The final decision template should be identical to a court decision template.
 - a. True
 - b. False
3. Hearsay evidence:
 - a. Is not admissible at a hearing
 - b. Should not be used as the sole basis for the hearing officer's decision
 - c. Is sometimes more powerful than documentary or real evidence
 - d. Can be heard but cannot be considered in the hearing officer's decision
4. You are the hearing officer in a termination case for Sandy Martin, a public housing tenant. Your decision to uphold or overturn the PHA's intended action will be based on all of the following except:
 - a. The validity of the evidence
 - b. Prior tenancy history before moving into public housing
 - c. Whether or not the PHA followed all due process requirements
 - d. The validity of the grounds for termination

Section 7: Post-Test

5. You are reviewing the evidence presented in a termination hearing and conclude that the evidence on both sides carries equal weight. You would:
 - a. Consider any evidence presented by the PHA after the hearing is closed
 - b. Consider that the PHA has not met the burden of proof
 - c. Decline to make a decision on the case
 - d. Refer the decision to the executive director
 - e. Conduct your own investigation after the hearing is closed
6. A police incident report always carries more weight than other evidence.
 - a. True
 - b. False

Section 3 Post-Test

1. Nothing waives a family's right to:
 - a. Remain on the program
 - b. Go to court
 - c. Be afforded the opportunity for a hearing
 - d. Argue with a witness at a hearing
 - e. Challenge the hearing officer's authority at a hearing
2. If, in a public housing hearing, the hearing decision upholds the PHA's decision to terminate:
 - a. The PHA locks the tenant out
 - b. The tenant has 5 days to move out
 - c. The eviction process will continue
 - d. The tenant is then entitled to another administrative appeal
 - e. The PHA may take any of the above actions
3. In the voucher program, if the hearing decision is to uphold the PHA in terminating the participant from the program, the participant must move out of the assisted unit.
 - a. True
 - b. False

SCENARIOS

These scenarios will help us with discussion and critical thinking. We won't cite HUD regulations here. These are real court cases. To save paper and time, the court decisions are greatly abbreviated. Precedent cases and HUD citations are omitted.

SCENARIO #1

Your Task

Review the scenario and make your tentative decision. Discuss with your group. This hearing decision was appealed in court. We'll review the court decision later.

The Scenario

Deborah Morales lives at 444 South Street, Pineville, USA. Since 2010, she has received rental assistance through the Section 8 HCV program administered by Pineville Housing Authority (PHA). Thomas Gallegos is the father of Ms. Morales' three minor children.

On April 30, 2019, Deborah Morales was sent a termination notice by the Pineville Housing Authority which stated:

You failed to report and disclose all household members for program purposes and any associated household income.

Ms. Morales requested an informal hearing. On June 5, 2019, the PHA sent Ms. Morales a letter which stated:

Please be advised that the Pineville Housing Authority Housing Choice Voucher Program has scheduled an informal hearing for Thursday, June 20, 2019. The purpose of the informal hearing is to determine your continued eligibility for the program based on the following program determination:

You failed to report and disclose all household members for program purposes and any associated household income.

At the hearing, PHA called no witnesses and submitted only one document in support of the allegation set forth in its April 30th letter. The document is untitled and undated, and appears similar to a computer-generated document, but contains no computer identification. Nothing on the face of the document identifies its origin or source.

According to the hearing officer's findings, Morales and Gallegos testified that Gallegos visited his children at her residence "all the time," and that he spent the night at Morales' home "two or three" nights each week. Gallegos did this to discourage further hostile conduct by a neighbor against whom Ms. Morales had made a criminal complaint, which complaint resulted in battery with charges pending against the neighbor. Gallegos, according to the hearing officer's findings, testified that he used Deborah Morales' address for his vehicle registration because he could obtain a more favorable insurance rate at that address.

At the hearing, to attempt to establish that Gallegos did not reside with her, Ms. Morales produced the following documents:

- A recent subpoena from the County District Attorney to Gallegos at 123 Park Place.
- A recent letter from the County District Attorney to Gallegos at 123 Park Place.
- A recent “Monthly Statement of Account” (regarding child support) by the County Bureau of Child Support for Gallegos at 123 Park Place.
- Copies of three wage statements from Crosstown Trucking for Gallegos at 123 Park Place.
- Driver’s license for Gallegos at 123 Park Place.

The hearing officer upheld the PHA’s decision to terminate Ms. Morales' benefits based on his conclusion that: 1) “based upon testimony at the hearing that the demeanor of both the participant and Mr. Gallegos to be questionable at best; and 2) “both the participant’s and Mr. Gallegos’ testimony to be vague, self-serving, uncorroborated and at time contradictory and wholly not credible.”

Your Decision

Based on the facts presented, what would your decision have been if you were the hearing officer?

CASE STUDY

Your Task

The purpose in this first case study is to understand and weigh the issues. You may want to refer to Chapter 7.

The Case

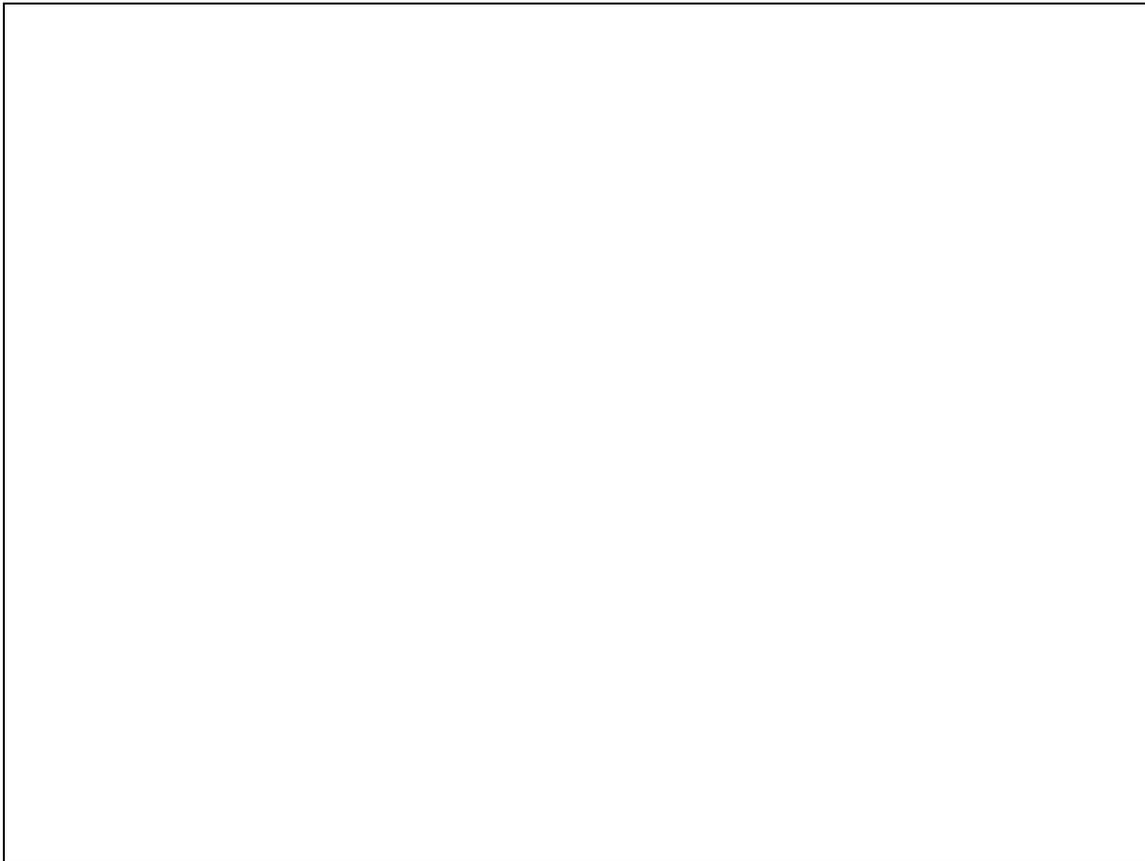
You are presiding over a hearing at the Elm County Housing Authority (ECHA) on September 15, 2020. The following are the facts, based on documentary evidence in the hearing packet. We won't present copies of all the documentary evidence, but rather will give you a synopsis.

George Keppler keeps several snakes in his public housing unit. He often carries them around the development and brings them into the community room. After receiving a number of complaints, the property manager discovered that George had such snakes and let George know through a conversation on February 6, 2020, and a follow-up letter on February 20, 2020, that snakes were not allowed under the property's pet policy. George informed the manager on March 3, 2020, that he needs the snakes because of a disability. The manager responded in writing that she needed documentation of George's disability from a knowledgeable professional. She explained she also needed documentation that the need for the snakes was related to his disability ("nexus"). The manager asked George on March 14, 2020, to fill out the property's reasonable accommodation request form. The manager asked George to sign a release so that she could send verification documents to George's knowledgeable professional 1) verifying that there was a disability and 2) verifying the need for snakes was related to George's disability-posed limitations ("nexus"). George never completed the property's RA request form. George's therapist, Dr. Regina Potter, sent a letter to ECHA on April 12, 2020, stating that George was indeed a person with disabilities. Dr. Potter further verified that the snakes provided a necessary therapeutic benefit due to his disability and were a necessary accommodation to remove a barrier to his housing. The manager let George know in writing on May 2, 2020, that she could accommodate the snakes if George could provide documentation that the snakes were not poisonous. The manager also informed George that needed to agree to keep the snakes in his unit and not to take them outside of his apartment unless in a cage. George assured the manager that the snakes were harmless and agreed to get reassurances that the snakes were not poisonous (from the pet store or his veterinarian). After several days and reminders, George still did not produce documentation regarding the safety of the snakes, and he continued to walk around the development and spend time in the community room with the snakes not in a cage, making some tenants very nervous. He claimed that the snakes were service animals and therefore, under the ADA, the snakes were allowed in public spaces, including the community room. George was sent a warning notice on June 14, 2020, that he was non-lease compliant for disturbance of others' peaceful enjoyment of the development and for having an unauthorized pet.

Eventually, the manager sent George a 30-day termination on July 15, 2020. George requested an informal settlement which was held on August 3, 2020. He then requested a grievance hearing after he was dissatisfied with the results of the informal settlement. George has brought his therapist, Regina Potter, to the hearing. Ms. Potter has submitted additional documentation that George has a mental health disability and that ECHA must not proceed with the eviction but rather must accommodate George's disability and allow him to stay.

Your Hearing Decision

If you were the hearing officer in this case, what are some of the issues you would weigh? What do you think your decision would be? This was a real court case. See if your decision matches the judge's.



CHAPTER 17 **Summary Review**

SUMMARY REVIEW

1. In the Housing Choice Voucher program, the PHA may establish a policy to deny applicants the opportunity for an informal review even when required by the regulations.
 - a. True
 - b. False
2. The PHA has the authority to evaluate the review decision for applicants based on all of the following except:
 - a. The validity of grounds for denial of assistance
 - b. Whether or not the grounds for denial were stated factually in the notice
 - c. The validity of the evidence
 - d. Other history of the applicant not related to grounds for denial
3. If the facts prove that there are grounds for denial, and the denial is discretionary, the PHA will:
 - a. Automatically admit the applicant
 - b. Always uphold the PHA's decision to deny
 - c. Consider the circumstances of the case
 - d. Consider the current political situation
4. The PHA is not permitted to terminate a family's assistance until the time allowed for the family to request a hearing has elapsed, and any requested hearing has been completed.
 - a. True
 - b. False

5. A Housing Choice Voucher participant must be afforded the right to request a hearing for all of the following situations except:
 - a. A determination of the family unit size under the PHA's subsidy standards
 - b. A PHA determination that the unit is not in accordance with HQS because of the family size
 - c. A determination of the family's annual and adjusted income
 - d. A determination to terminate assistance because of the family's actions or failure to act
 - e. A determination to terminate assistance because the participant has been absent from the unit longer than the maximum time permitted under PHA policy
6. The only admissible types of evidence that can be presented at a hearing are documentary evidence and real evidence.
 - a. True
 - b. False
7. Regarding documents that are introduced at the hearing, if the participant or tenant has not been given the opportunity to examine these documents before the hearing, the hearing officer:
 - a. Will overturn the PHA's decision
 - b. Will consider the documents as long as the family is given a reasonable amount of time during the hearing to examine the documents
 - c. Will refuse to admit such evidence
 - d. Must reschedule the hearing for a later date
 - e. May take any of the above actions
8. In the Housing Choice Voucher program, a participant may be terminated from the program without being evicted by the landlord from the dwelling unit.
 - a. True
 - b. False

9. Two important considerations for the hearing officer, in reviewing the facts presented at a hearing, are whether the PHA followed all procedural obligations (proper notices, etc.) and whether the PHA's case has been upheld by a preponderance of the evidence.
 - a. True
 - b. False
10. Regarding hearings for terminations, documentation should include:
 - a. Notice that the participant/tenant may not request a reasonable accommodation during the hearing
 - b. Explanation, with notice of termination, of VAWA rights (Form HUD-5380) and VAWA self-certification form HUD-5382
 - c. All historical information whether relevant or not
 - d. Notice that if the hearing decision is to uphold the PHA's decision to terminate, the participant/tenant may not seek judicial review
11. Two crucial deliberations as you write the hearing decision are (two correct answers):
 - a. Whether the PHA's actions were in compliance with statutes, policies, and procedures
 - b. The prior history of noncompliance of the participant/tenant
 - c. The quality of hearsay evidence
 - d. The preponderance of the evidence
 - e. The written quality of the family's statement(s)