ATTACHMENT

RESOLUTION 05-27
To Adopt as Emergency Regulations Sections 8904
and 8905 of Chapter 89 of Title 14 of the District of
Columbia Municipal Regulations Governing Informal
Hearing Procedures for The Housing Choice Voucher Program:

CHAPTER 89 INFORMAL HEARING PROCEDURES FOR APPLICANTS AND PARTICIPANTS OF THE HOUSING CHOICE VOUCHER AND MODERATE REHABILITATION PROGRAMS

8904 INFORMAL HEARING PROCEDURES

8904.1 Participant Families or applicants have the right to:

(a) Examine any document in the applicant's or participant's file and any other documents that DCHA submits to the Hearing Officer;

(b) Present written or oral objections to the DCHA's determination;

(c) Present any information or witnesses pertinent to the issue of the informal hearing; and

(d) Be represented by legal counsel, advocate or other designated representative at their own expense, provided that if the family has not notified DCHA in writing at least three business days in advance of their intentions to be represented, the hearing officer shall grant any request from DCHA for a continuance.

8904.2 In addition to other rights contained in this Chapter, DCHA has a right to:

(a) Present evidence and any information pertinent to the issue of the informal hearing;

(b) Have its attorney present; and

(c) Have staff persons and other witnesses familiar with the case present documents and provide testimony.

8904.3 The informal hearing may be conducted by any person designated by the DCHA, other than a person who made or approved the decision under review, a subordinate of that person or a person who is an employee in the Housing Choice Voucher Program. The designated hearing officer shall regulate the conduct of the informal hearing in accordance with these regulations.

8904.4 The informal hearing shall be conducted as follows:

(a) The informal hearing shall concern only the issues for which the participant or applicant has received a notice in conformance with Subsection 8901.3.

(b) DCHA and the participant or applicant shall be given the opportunity to present evidence and question any witnesses;

(c) Evidence presented at the informal hearing may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings;

(d) Documents may not be presented or relied upon which have not been provided to the other party timely, except, in the case of an applicant or participant proceeding *pro se* where the hearing officer has determined that admission of such a document will not prejudice DCHA and a continuance is not practical;

(e) The hearing officer may request the submission of additional documentation, verification or briefs or letters of explanation from the parties or their representatives, provided such request is responded to within five (5) business days;

(f) The hearing officer shall have the power to grant appropriate relief not in conflict with controlling law and regulations, including remanding to a program specialist for further review or recalculation, granting a voucher or voucher extension , participant recertification, adjustment to total tenant payment, reversal of termination, scheduling continuances and reschedulings.

8905 PROPOSED AND FINAL DECISIONS

8905.1 The hearing officer shall, within 14 days of the hearing, make a proposed decision as follows:

(a) Whether or not the hearing officer has jurisdiction under these regulations to hear the case;

(b) Factual determinations relating to the individual circumstances of the participant or applicant based on a preponderance of the evidence and testimony presented at the informal hearing; <u>and</u>

(c) Whether the action, inaction, or determination of DCHA is in accordance with applicable federal and local law, including applicable HUD and DCHA regulations and the HCVP Administrative Plan.

8905.2 A notice of the proposed decision shall be provided in writing by the hearing officer to the participant or applicant, and their representative, if any, with a copy to the

Director of the Housing Choice Voucher Program and the counsel representing DCHA including:

(a) A brief reasoned decision including an assessment of the factual basis and explanation of the legal reasoning in support of the decision;

(b) If the decision involves money owed, the amount owed;

(c) A review of the calculation of any monies owed;

(d) The effective date of the decision;

(e) The implementation date for any actions ordered to be taken by either of the parties;

(f) The parties' rights to request a final decision from the Executive Director; and

(g) The time limit and procedure for filing a request for the Executive Director to make a final decision.

8905.3 The proposed decision will become final on the tenth (10th) day following the postmark of the proposed decision unless one of the parties has submitted a written request to the Executive Director requesting the Executive Director to reconsider the proposed decision before issuing a final decision and stating the basis for such review.

8905.4 In the event of a request for s final decision by the Executive Director, the Executive Director will render a final written decision within fifteen (15) days of receipt of the request, which shall include DCHA's reasons for the final decision.

(a) The final decision shall include notification that final decisions are not precedent setting for DCHA or the courts and cases thereafter taken to Superior Court of the District of Columbia are *de novo, are* not an appeal of an administrative decision, and are not based on the record of the informal hearing.

(b) The Executive Director may modify or set aside, in whole or in part, the decision of the hearing officer which (1) concerns a matter for which DCHA is not required to provide an informal hearing, or that otherwise exceeds the authority of the hearing officer, or (2) is contrary to applicable HUD regulations or requirements, or is otherwise contrary to federal or local law, including the provisions of Title 14 of the DCMR and the HCVP Administrative Plan.

8905.5 All requests for an informal hearing, supporting documentation and a copy of the proposed and final decisions shall be retained in the participant's or applicant's file.

RESOLUTION 05-27

TO ADOPT AS EMERGENCY REGULATIONS SECTIONS 8904 and 8905 of CHAPTER 89 OF TITLE 14 OF THE DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS GOVERNING INFORMAL HEARING PROCEDURES FOR THE HOUSING CHOICE VOUCHER PROGRAM

WHEREAS, the District of Columbia Housing Authority (DCHA) administers the Housing Choice Voucher Program for the District of Columbia on behalf of the U.S. Department of Housing and Urban Development (HUD); and

WHEREAS, DCHA adopted informal hearing procedures as Chapter 89 of Title 14 of the District of Columbia Municipal Regulations four years ago; and

WHEREAS, discussions with various interested parties and staff are ongoing with respect to various provisions of Chapter 89 based on the experience of DCHA and representatives of applicants and stakeholders; and

WHEREAS, certain procedural amendments addressing the conduct of hearings and appeals from initial decisions are critically important to improving the process while substantive discussions continue;

NOW THEREFORE BE IT RESOLVED, that the Board of Commissioners hereby adopts on an emergency basis amended and restated Section 8904 and 8905 of Chapter 89 to Title 14 of the District of Columbia Municipal Regulations, in the form attached hereto, to govern the informal hearing and appeal process for the Housing Choice Voucher Program.

ADOPTED by the Board of Commissioners and signed in authentication of its passage the13th day of July 2005.

ATTEST:

Michael Kelly
Executive Director/Secretary

APPROVAL:

Russell Simmons
Chairman

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

Margaret McFarland,
General Counsel

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