

SAMPLE – APPEAL PROCESS

5.13: Review of Denial of Eligibility, Qualification, Priority Status, or Preference Status

(1) The Private Conference between Applicant and LHA. An applicant shall be entitled to a private conference with the LHA as follows:

(a) Notice of a Pre-Conference Determination. If upon a preliminary or final determination the applicant is determined ineligible or unqualified, or if the applicant is determined not to be eligible for a priority category or a preference category for which applicant applied, the LHA shall mail written notice of the determination to applicant at applicant's last known address. The notice shall set out the reason for the adverse determination and shall advise applicant of the provisions of the following paragraph concerning applicant's right to request a private conference with the LHA. The notice shall state that the applicant may be represented at the private conference by counsel or by another person of applicant's choice at the applicant's expense.

(b) Request for a Private Conference. Within 20 days of mailing of notice of a pre-conference determination, the applicant may request a private conference with the LHA. The request for a private conference shall be made in writing and shall be delivered or mailed to the LHA within such 20 day period.

(c) Purpose of the Private Conference. The purpose of the private conference shall be to enable the applicant to discuss with the LHA the reasons underlying the pre-conference determination and to permit consideration of all pertinent information on a new determination of eligibility, qualification and/or priority or preference status.

(d) Scheduling the Private Conference. Promptly after receipt of a request for a private conference the LHA shall notify the applicant of a time, date and place for the private conference. The date shall be within 30 days from the LHA's receipt of the request. Thereafter, for good cause and with notice to applicant the LHA may reschedule the private conference to a later date. Unless the applicant agrees to a shorter period of time, the applicant should receive at least seven days prior notice of the time and date of the private conference.

(e) Applicant's Access to LHA Records. Prior to and at a private conference, the applicant or his or her representative shall have the right to inspect the documentation on the basis of which the pre-conference determination was made and any other documentation pertinent to the applicant's eligibility, qualification or entitlement to priority or preference status. The LHA shall make reasonable arrangements for photocopying any such documentation as applicant may specify with sufficient advance notice.

(f) Procedure at the Private Conference. The executive director shall conduct the private conference or shall designate one or more impartial persons to do so. Selection of persons who made the pre-conference determination shall be avoided unless the executive director deems there to be good reason for their selection. The conference officer or

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officers shall conduct the private conference fairly. Procedure shall be informal. At the private conference, applicant or applicant's representative may offer applicant's own testimony, may question the LHA on pertinent matters, and may offer other testimony, documentation, information, and argument. The LHA may also offer testimony, documentation, information, and argument. The applicant and the LHA may question each other's witnesses. Upon request the LHA may give the applicant additional time to secure documentation or information.

(g) Tape Recordings or Notes of The Private Conference. The LHA shall tape-record the private conference or shall take accurate notes of what occurred. If the applicant makes a written request at least two days before the private conference, the LHA shall tape-record the private conference, unless there is a good reason why it is unable to do so.

(2) The LHA's Decision Following a Private Conference. Within 15 working days after the close of a private conference or as soon thereafter as reasonably possible, the LHA shall notify the applicant in writing of its decision with an explanation of its reasons and shall specify any change, if appropriate, in the prior preliminary determination of the applicant's eligibility, qualifications, and/or priority or preference status. The decision shall be mailed to applicant and applicant's representative, if any, at their last known addresses. Included with a decision shall be notice about the applicant's right to request reconsideration and about the applicant's right to request review by the Department.

(3) The Right to Request Reconsideration of the LHA's Decision. If the LHA's decision following a private conference is adverse to the applicant, within 14 days from the date on which the LHA's decision was mailed, the applicant may mail or deliver to the LHA a written request that the LHA reconsider its decision. The reason or reasons for the request shall be specified. If the applicant has new information relevant to the factual basis of the adverse decision, this new information should be included with the request. Following receipt of a request for reconsideration the conference officer or officers shall review the request for reconsideration, and shall notify the applicant in writing whether or not the prior decision would be changed and, if so, shall specify the changes. Included with the decision on a request for reconsideration shall be notice about the applicant's right to request review by the Department.

(4) The Right to Request Department Review of the LHA's Decision. If the LHA's decision following a private conference or its decision following a request for reconsideration is adverse to the applicant, the applicant or his or her representative may request a review of the adverse decision by the Department. The request for review shall be in writing and shall be delivered or mailed to the Department at 100 Cambridge St., Boston, MA 02202. The request for review must be received by the Department or must be mailed in a properly addressed envelope post-marked no more than 21 days from the date on which the LHA's decision was mailed to applicant. If applicant shows good cause for a late request for review, the Department may permit a request for review to be received late. If an applicant requests reconsideration pursuant to [760 CMR 5.13\(3\)](#), a request for review by the Department should not be made until after the decision on reconsideration.