

Chapter 29, “Office of Administrative Hearings: Rules Applicable in Specific Classes of Cases,” of Title 1 of the DCMR is repealed in its entirety and replaced with:

**CHAPTER 29 OFFICE OF ADMINISTRATIVE HEARINGS: RULES FOR  
RENTAL HOUSING, PUBLIC BENEFITS, AND  
UNEMPLOYMENT INSURANCE CASES**

<b>Secs.</b>	
<b>2920</b>	<b>Rental Housing Cases – Scope</b>
<b>2921</b>	<b>Rental Housing Cases – Beginning a Case</b>
<b>2922</b>	<b>Rental Housing Cases – Parties</b>
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<b>2999</b>	<b>Definitions</b>

**2920 RENTAL HOUSING CASES – SCOPE**

2920.1 Sections 2920 through 2941 govern procedures in rental housing cases at OAH.

2920.2 For procedural issues not covered in Sections 2920 through 2941, the Rules in Chapter 28 apply.

**2921 RENTAL HOUSING CASES – BEGINNING A CASE**

2921.1 A party may begin a rental housing case by filing a petition with the Rent Administrator in accordance with 14 DCMR § 3901.

2921.2 The timeliness of the filing of any petition shall be measured from the date the Rent Administrator accepts it for filing.

2921.3 The Rent Administrator may refuse to accept a petition for filing as provided in 14 DCMR § 3901.

2921.4 After filing, the Rent Administrator shall forward the petition and all accompanying papers to OAH, together with a copy of the registration statement for the housing accommodation.

2921.5 When OAH receives a petition from the Rent Administrator, OAH shall open the case. The parties then shall file all papers and attachments at OAH in accordance with Section 2809.

**2922 RENTAL HOUSING CASES – PARTIES**

2922.1 Any petition that is filed on behalf of more than one person or entity shall individually name each person or entity.

2922.2 Any tenant association may file and shall be granted party status to prosecute or defend a petition on behalf of any one or more of its members who have provided the association with written authorization to represent them in the action, or to seek on behalf of all members any injunctive relief available under the Rental Housing Act. No further inquiry into the membership of the association shall be permitted.

2922.3 Any tenant association that is a party to the action pursuant to Subsection 2922.2 shall be listed in the caption.

2922.4 The housing provider as listed on the registration statement, if any, shall be a party, and shall be named in the caption. If a managing agent represents the housing provider in the proceeding, the managing agent also shall be a party, and shall be identified as the managing agent and named in the caption.

## **2923 RENTAL HOUSING CASES – SENDING NOTICE**

- 2923.1 OAH shall notify the parties by first-class mail of proceedings.
- 2923.2 OAH shall mail a copy of any tenant petition, by first-class mail, to any adverse party named in the tenant petition and to the housing provider listed on the registration statement for the housing accommodation.
- 2923.3 A housing provider who files a petition shall provide for each tenant in the housing accommodation one (1) copy of the petition and one (1) envelope addressed to each tenant by name, address, and rental unit, with first class mail postage prepaid. The envelope shall bear OAH's return address unless the housing provider files a hardship petition or voluntary agreement. The envelopes for those petitions shall bear the return address of the Rent Administrator.
- 2923.4 If a housing provider files a petition for a building with ten (10) or more rental units, the housing provider shall provide a hard copy and computer file of a service list containing the name, address, and rental unit for each tenant. The computer file shall be in Microsoft Word format, arranged so that the list may be printed onto labels measuring one (1) inch by two and five-eighth inches (2 5/8").

## **2924 RENTAL HOUSING CASES – SERVICE**

- 2924.1 Every paper filed at OAH in a rental housing case must be served in accordance with § 904 of the Rental Housing Act, D.C. Official Code § 42-3509.04, which allows papers to be served by one of the following methods:
- (a) By handing the paper to the person, by leaving it at the person's place of business with some responsible person in charge, or by leaving it at the person's usual place of residence with a person of suitable age and discretion;
  - (b) By telegram, when the content of the information or document is given to a telegraph company properly addressed and prepaid;
  - (c) By mail or deposit with the United States Postal Service properly stamped and addressed; or
  - (d) By any other means that is in conformity with an order of the Rental Housing Commission or OAH in any proceeding.

## **2925 RENTAL HOUSING CASES – CALCULATING DEADLINES**

- 2925.1 The Rules governing calculating deadlines are found in Section 2812. The timeliness of any appeal to the Commission shall be governed by the Rental Housing Commission Rules in 14 DCMR § 3802.

**2926 RENTAL HOUSING CASES – CONCILIATION, ARBITRATION, AND MEDIATION**

2926.1 The parties may request conciliation or arbitration of any dispute by the RAD in accordance with its regulations.

2926.2 The parties may request, or an Administrative Law Judge may order, mediation of any dispute pursuant to Section 2815.

**2927 RENTAL HOUSING CASES – SUBSTITUTION OR ADDITION OF PARTIES**

2927.1 An Administrative Law Judge may substitute or add a party under Subsection 2816.1 if: a party dies; a party entity is dissolved or reorganized; a party entity's ownership or interest changes; or an amended registration statement for the housing accommodation is filed under 14 DCMR § 4103.

2927.2 If a party has been incorrectly named, the Administrative Law Judge may substitute or add the correct party under Subsection 2816.1.

**2928 RENTAL HOUSING CASES – INTERVENORS**

2928.1 Motions for intervention are governed by Subsections 2816.2 and 2816.3.

**2929 RENTAL HOUSING CASES – CONSOLIDATION OF PETITIONS AND EXPANDING THE SCOPE OF A PROCEEDING**

2929.1 An Administrative Law Judge may consolidate (join) two (2) or more petitions if they present identical or similar issues, involve the same rental unit or housing accommodation, or involve other circumstances in which consolidation would be expedient and would not prejudice the parties. A party may file a motion to consolidate or an Administrative Law Judge may consolidate cases on his or her own motion.

2929.2 If the Administrative Law Judge determines that the issues raised in a tenant petition may affect other tenants or all tenants in the housing accommodation, the Administrative Law Judge may expand the scope of the proceeding to include all affected tenants.

2929.3 Before expanding the scope of the proceeding, the Administrative Law Judge shall provide notice to the affected tenants and the housing provider.

2929.4 That notice shall state the issues to be decided and shall advise the tenants that they have a right to participate in the proceedings and that any decision shall be binding on them.

2929.5 Tenants and the housing provider may present any arguments in support of or opposition to expanding the scope of the proceeding.

**2930 RENTAL HOUSING CASES – HEARINGS**

2930.1 A petition received by OAH will be treated as a request for a hearing. OAH will schedule a status conference, a hearing, or mediation. OAH shall notify the parties of the hearing date and of their right to obtain a lawyer at least fifteen (15) calendar days before a hearing.

2930.2 An Administrative Law Judge may dismiss any petition or any claim in a petition without holding a hearing if the Rental Housing Act does not provide relief for the claim(s). The Administrative Law Judge shall first give the parties notice and an opportunity to respond.

**2931 RENTAL HOUSING CASES – RENT ADMINISTRATOR’S SHOW CAUSE ORDERS**

2931.1 If the Rent Administrator concludes after investigation that a housing provider has violated the Rental Housing Act, the Rent Administrator may file an order to show cause with OAH and shall serve the housing provider with a copy of the order to show cause.

2931.2 The order to show cause shall specify the Sections of the Rental Housing Act or rules that the housing provider has allegedly violated, and shall describe the evidence that supports the Rent Administrator’s assertions and the proposed corrective action or sanction.

2931.3 Once the Rent Administrator files the order to show cause, the case shall proceed under this Chapter.

**2932 RENTAL HOUSING CASES – BURDEN OF PROOF**

2932.1 The proponent of an order shall have the burden of proof. The tenant has the burden to prove the claims alleged in the tenant petition except that the housing provider has the burden to prove any exemption under the Rental Housing Act. When the housing provider files a petition, the housing provider has the burden to prove the claims.

2932.2 Unless otherwise provided by law, a party must prove each fact essential to his or her claim by a preponderance of the evidence so that the Administrative Law Judge finds that it is more likely than not that each fact is proven.

2932.3 In show cause hearings, the burden of proof shall rest on the Rent Administrator.

2932.4 In retaliation cases, the tenant has the burden of proving that retaliation occurred or that a presumption applies. If a presumption applies, then the housing provider has the burden to rebut the presumption by clear and convincing evidence.

**2933 RENTAL HOUSING CASES – PAPERS FILED WITH THE RAD OR OTHER AGENCIES**

2933.1 Any party who wishes the Administrative Law Judge to consider a document that is on file with the RAD or any other District of Columbia agency must introduce a copy of that document into evidence. The Administrative Law Judge shall admit the document into evidence if he or she finds that it is relevant and is an accurate copy of a document on file with the RAD or other agency.

2933.2 A party can establish that a document is an accurate copy of a document on file with RAD or other agency by one of the following methods:

- (a) Providing a copy with a legible original file stamp;
- (b) Providing a copy with a legible copy of the original file stamp;
- (c) Providing a copy certified by the Rent Administrator or an authorized employee of RAD;
- (d) Providing testimony or other evidence that the Administrative Law Judge finds satisfactory; or
- (e) If all parties consent to the admission of the document into evidence.

**2934 RENTAL HOUSING CASES – SUBPOENAS**

2934.1 In rental housing cases, the Clerk shall issue no more than three (3) subpoenas to the tenant side and no more than three (3) subpoenas to the housing provider side under Subsection 2824.5 to compel:

- (a) The appearance at a hearing of any witnesses, including housing inspectors, with knowledge of conditions, repairs, or maintenance in a party's rental unit or any common areas for the three (3) year period immediately before the filing of the petition with the Rent Administrator;
- (b) The production at or before a hearing of all records not created by a government agency, relating to conditions, repairs, or maintenance to a party's rental unit or any common areas for the three (3) year period immediately before the filing of the petition with the Rent Administrator;
- (c) The production at or before a hearing of housing violation notices in the possession of the Department of Consumer and Regulatory Affairs

relating to a party's rental unit or any common areas for the three (3) year period immediately before the filing of the petition with the Rent Administrator.

- (d) The production at or before a hearing of all records in a housing provider's possession relating to any rent increases demanded or implemented for a party's rental unit for the three (3) year period immediately before the filing of the petition with the Rent Administrator.

2934.2 Section 2824 applies to all other subpoenas for witnesses and documents at hearings in rental housing cases. Section 2825 applies to discovery.

## **2935 RENTAL HOUSING CASES – REPRESENTATION**

2935.1 Persons authorized to appear before OAH by Sections 2833 and 2835 may represent parties in rental housing cases.

2935.2 A tenant association may represent one or more tenants in any proceeding as follows:

- (a) A statement must be filed with OAH stating that the tenant consents to representation by the tenant association and the tenant association consents to represent the tenant;
- (b) A tenant or a tenant association may revoke the consent by filing a statement to that effect;
- (c) A tenant association shall designate one (1) or more members or attorneys to represent the association and any of the tenants it represents;
- (d) A tenant association may elect to proceed only in a representative capacity without being listed as a party or listed in the caption.

2935.3 The provisions of Sections 2833 and 2835 concerning discipline of persons appearing before OAH apply to all representatives in rental housing cases.

2935.4 If an Administrative Law Judge decides that a proceeding is so complex, or the potential liability so great that a party should be represented by a lawyer, the Administrative Law Judge shall explain to the party the advantages of obtaining a lawyer and offer to continue the case to give the party an opportunity to obtain a lawyer.

## **2936 RENTAL HOUSING CASES – APPEALS BEFORE A FINAL ORDER**

2936.1 An Administrative Law Judge's rulings in a proceeding ordinarily may not be appealed to the Commission until a final order is issued. Before a final order is

issued, a party may appeal an order of the Administrative Law Judge only if the Administrative Law Judge certifies the ruling for appeal to the Commission.

2936.2 A party may move the Administrative Law Judge to certify to the Commission an appeal of any ruling other than a final order. Such an appeal is an “interlocutory appeal.”

2936.3 The Administrative Law Judge shall certify a ruling for interlocutory appeal only if he or she determines that the issue presented is of such importance to the proceeding that it requires the immediate attention of the Commission, and only if the following are shown:

- (a) The ruling involves an important question of law or policy requiring interpretation of the Rental Housing Act, and about which there is substantial basis for difference of opinion; and
- (b) Either of the following applies:
  - (1) An immediate ruling will materially advance the completion of the proceeding; or
  - (2) Denial of an immediate ruling will cause undue harm to the parties or the public.

2936.4 A party seeking review by interlocutory appeal shall file a motion for certification within five (5) calendar days of service of a ruling by the Administrative Law Judge. The opposing party shall have five (5) calendar days in which to respond. Unless extended by a written order, the Administrative Law Judge shall rule on the motion within ten (10) calendar days following the filing of any response.

2936.5 If the Administrative Law Judge declines to certify a ruling, the Commission may review that ruling on appeal from a final order.

2936.6 The Administrative Law Judge may stay the proceeding while an interlocutory appeal is pending.

## **2937 RENTAL HOUSING CASES – FINAL ORDERS**

2937.1 OAH shall serve all final orders on the parties by first-class mail. OAH also shall serve all final orders on the Rent Administrator and the Commission.

## **2938 RENTAL HOUSING CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER**

2938.1 Motions for reconsideration, a new hearing, or relief from a final order shall be decided according to the Rules found in Section 2828.

2938.2 If any party files a motion for reconsideration or for a new hearing within the ten (10) calendar day deadline specified in Subsection 2828.3, an Order will not be final for purposes of appeal to the Commission until the Administrative Law Judge rules on the motion or the motion is denied as a matter of law under Subsection 2828.15.

2938.3 Any motion for relief from final order has no effect on the deadline for appealing to the Commission.

**2939 RENTAL HOUSING CASES – OFFICIAL RECORD OF A PROCEEDING**

2939.1 The official record of a proceeding shall consist of the following:

- (a) The final order and any other orders or notices of the Administrative Law Judge;
- (b) The recordings or any transcripts of the proceedings before the Administrative Law Judge;
- (c) All papers and exhibits offered into evidence at the hearing; and
- (d) All papers filed by the parties or the Rent Administrator at OAH.

2939.2 Documents attached to a petition or other filings must be offered and received in evidence at a hearing before the Administrative Law Judge can use them to establish facts.

**2940 RENTAL HOUSING CASES – ATTORNEY’S FEES**

2940.1 All motions for an award of attorney’s fees shall be filed within thirty (30) calendar days of service of the final order.

2940.2 Standards for the award of attorney fees are found in 14 DCMR § 3825.

**2941 RENTAL HOUSING CASES – INTEREST ON SECURITY DEPOSITS**

2941.1 In any case in which a tenant claims entitlement to interest on a security deposit under D.C. Official Code § 42-3502.17(b), the tenant must produce evidence of the amount of the security deposit that was given to the housing provider, the date on which it was given, and amount of interest, if any, paid to the tenant.

2941.2 If the tenant does so, then the housing provider must produce evidence of the amount of interest that was earned on the security deposit.

2941.3 If the housing provider fails to produce evidence of the amount of interest that was earned, or the security deposit was not held in an interest bearing account, the

Administrative Law Judge shall compute interest by applying the Superior Court of the District of Columbia judgment rate prevailing on January 1st and on July 1st for each 6-month period (or part thereof) of the tenancy.

**2970 PUBLIC BENEFITS CASES – SCOPE**

2970.1 Sections 2970 through 2978 contain the Rules for OAH hearings requested by individuals, other than service providers, concerning the following kinds of benefits:

- (a) Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;
- (b) Temporary Assistance for Needy Families (TANF);
- (c) Supplemental Nutrition Assistance Program (SNAP) (formerly Food Stamps);
- (d) Interim Disability Assistance;
- (e) Shelter and services for homeless persons;
- (f) Rental Assistance programs;
- (g) General Assistance for Children;
- (h) Child Care Subsidy;
- (i) Program on Work, Employment, and Responsibility (POWER);
- (j) Burial Assistance;
- (k) Any other benefits provided by the Department of Human Services; and
- (l) Low Income Home Energy Assistance Program benefits provided by the District of Columbia Energy Office.

2970.2 Sections 2970 through 2978 also apply to hearings requested by the Department of Human Services when it seeks to disqualify someone from receiving SNAP (formerly Food Stamps) benefits due to an intentional program violation.

2970.3 If Sections 2970 through 2978 do not address a procedural issue, the Rules in Chapter 28 apply.

2970.4 If there is a conflict between any federal law or regulation and anything in these Rules, the federal law or regulation shall control.

2970.5 If there is a conflict between any District of Columbia statute and anything in these Rules, the District of Columbia statute shall control.

2970.6 If there is a conflict between any other agency's procedural rules or regulations and these Rules, these Rules shall control.

**2971 PUBLIC BENEFITS CASES – BEGINNING A CASE**

2971.1 A person can request a hearing in writing, in person, or by telephone.

2971.2 Hearing request forms shall be available at OAH, at all service centers of the Department of Human Services, at the Department of Health Care Finance, at the District Department of the Environment, and at the Division of Early Childhood Education at the Office of the State Superintendent of Education.

2971.3 A hearing request must describe the type of benefits and the action or inaction to which the person objects. The request also must contain the name, address, and telephone number of the person requesting a hearing;

2971.4 A person may bring, mail, or fax a written hearing request to:

- (a) The Department of Human Services;
- (b) The Department of Health Care Finance for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;
- (c) The District Department of the Environment for a hearing concerning Low Income Home Energy Assistance Program benefits (LIHEAP);
- (d) A shelter or other service provider for a hearing under the Homeless Services Reform Act;
- (e) The Division of Early Childhood Education at the Office of the State Superintendent of Education for a hearing concerning child care benefits;  
or
- (f) OAH.

2971.4 To request a hearing in person, a person may come to:

- (a) A Department of Human Services service center;
- (b) The Department of Health Care Finance, for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;

- (c) The District Department of the Environment, for a hearing concerning Low Income Home Energy Assistance Program benefits (LIHEAP);
- (d) The Division of Early Childhood Education at the Office of the State Superintendent of Education, for a hearing concerning child care benefits; or
- (e) OAH.

2971.5 To request a hearing by telephone, a person may call:

- (a) The Department of Human Services;
- (b) The Department of Health Care Finance, for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;
- (c) The Division of Early Childhood Education at the Office of the State Superintendent of Education; or
- (d) OAH.

2971.6 If the Government receives a written hearing request, it must file the request with OAH within three (3) calendar days of receiving it.

2971.7 If the Government receives an oral or telephone hearing request, it must prepare and file a hearing request form with OAH within three (3) calendar days of receiving the request.

2971.8 If OAH receives a written hearing request from an individual, it will send the request to any agency or service provider whose decision is being challenged.

2971.9 If OAH receives an oral or telephone hearing request from an individual, it will complete a written summary of the request and send it to any agency or service provider whose decision is being challenged.

2971.10 The Department of Human Services can request a hearing concerning a claim that a SNAP (formerly Food Stamps) recipient should be disqualified from receiving benefits due to an intentional program violation by filing a hearing request form approved by the Chief Administrative Law Judge.

## **2972 PUBLIC BENEFITS CASES – REPRESENTATIVES**

2972.1 An applicant for, or recipient of, public benefits may be represented by an attorney, a relative, a friend, or any other representative who is not employed by the District of Columbia government.

2972.2 Any person who is not a lawyer who requests a hearing on behalf of someone else must file a statement, signed by the person, authorizing that non-lawyer to be a representative. A hearing request is subject to dismissal unless that statement is filed. Before dismissing a case under this Subsection, an Administrative Law Judge shall notify the representative of this requirement.

2972.3 As required by the District of Columbia Public Assistance Act, D.C. Official Code § 4-210.10, if the person who requested the hearing is not represented by a lawyer, a Government agency or service provider may not be represented by a lawyer at any hearing involving the following public benefit programs:

- (a) Medicaid, Healthcare Alliance or other healthcare programs administered by the District of Columbia;
- (b) Temporary Assistance for Needy Families (TANF);
- (c) SNAP (formerly Food Stamps);
- (d) Interim Disability Assistance;
- (e) General Assistance for Children; and
- (f) Program on Work Employment and Responsibility (POWER).

2972.4 A Government agency or service provider may be represented by a lawyer at a hearing involving any other public benefit program regardless of whether the person who requested a hearing is represented by a lawyer.

2972.5 The practice of lawyers or other party representatives is governed by Sections 2833 and 2835.

### **2973 PUBLIC BENEFITS CASES – ADMINISTRATIVE REVIEWS**

2973.1 An administrative review is an informal meeting between the person who has requested a hearing at OAH and a representative of the agency or service provider whose action or inaction is being challenged by that person. The purpose of an administrative review is to determine whether the agency's or service provider's position is valid and, if possible, to achieve an informal solution.

2973.2 An agency or service provider shall offer each person who requests a hearing at OAH an opportunity for an administrative review, if required by law. At least five (5) calendar days before the hearing date, the agency or service provider shall file and send to all parties and their representatives a status report, which says whether an administrative review was held, and the results of any review.

2973.3 In cases involving shelter or other services for homeless persons, as required by the Homeless Services Reform Act of 2005, D.C. Official Code §§ 4-1601.01, *et seq.*, the Department of Human Services shall conduct the administrative review.

2973.4 As required by law, the agency or service provider shall make the case file available to the person who requested the hearing.

#### **2974 PUBLIC BENEFITS CASES – SUBPOENAS**

2974.1 Any party may file a request in writing for an Administrative Law Judge to issue a subpoena to require a witness to attend a hearing.

2974.2 The Administrative Law Judge shall issue a subpoena under this Section if it is likely that the witness will be able to provide testimony that will be helpful in deciding the case, and if requiring the witness to appear will not be unduly burdensome, or otherwise contrary to law.

2974.3 Any party also may request a subpoena to require a witness to bring documents, photographs, or other things to the hearing. The Administrative Law Judge will issue a subpoena if it is likely that the requested items will be helpful in deciding the case, and if requiring those items to be produced will not be unduly burdensome, or otherwise contrary to law.

2974.4 A form to be used to request a subpoena is available from OAH.

2974.5 If an Administrative Law Judge issues a subpoena, the party requesting the subpoena must deliver it pursuant to Subsections 2824.6 through 2824.9 and 2824.11. Unless otherwise ordered by an Administrative Law Judge, delivery shall be made at least two (2) days before the hearing.

#### **2975 PUBLIC BENEFITS CASES – HEARING DATES**

2975.1 After a hearing request is filed, an Administrative Law Judge ordinarily will schedule a hearing. If any applicable law requires that an administrative review be completed before a hearing takes place, a hearing will not be scheduled until the administrative review has been completed.

2975.2 An Administrative Law Judge may schedule a status conference or other preliminary hearing in order to simplify the issues in the case, identify the parties' legal and factual positions, rule on any preliminary legal issues, or for any other purpose.

2975.3 Any party may ask an Administrative Law Judge for a different hearing date. Copies of a request form will be sent with every hearing notice and are available from OAH.

2975.4 Only an Administrative Law Judge can change a hearing date.

**2976 PUBLIC BENEFITS CASES – HEARINGS AND EVIDENCE**

2976.1 At each hearing, the Administrative Law Judge shall decide the order in which the parties will present their cases.

2976.2 If a party who requests a hearing fails to attend the hearing without good cause, the Administrative Law Judge may dismiss the case without prejudice. “Good cause” includes, but is not limited to: serious illness, an accident, a childcare problem, severe weather conditions, or other emergency.

2976.3 If the agency or service provider whose action or inaction is being challenged fails to attend the hearing, the Administrative Law Judge may rule in favor of the person who requested the hearing.

2976.4 In a SNAP (formerly Food Stamps) Intentional Program Violation case, the Government must prove its case even if the other party fails to attend the hearing.

2976.5 Parties shall have the following rights at a hearing:

- (a) To testify and to have other witnesses testify for them;
- (b) To cross-examine witnesses called by another party;
- (c) To request that any prospective witness be excluded from the courtroom;
- (d) To examine all exhibits offered into evidence by another party;
- (e) To object to the admission of any testimony or other evidence;
- (f) To subpoena witnesses, as provided in Section 2974; and
- (g) To appear with a representative, as provided in Section 2972.

2976.6 At a hearing, all parties may present evidence. “Evidence” includes testimony by the parties and any witnesses that a party may present. Evidence also includes documents, photographs, or any other items that a party believes may help the Administrative Law Judge decide the case. The Administrative Law Judge shall decide what evidence becomes part of the record.

2976.7 At least five (5) calendar days before the hearing date, each party shall file with OAH a list of witnesses and copies of any documents, photographs, or other items that the party wants the Administrative Law Judge to consider at the hearing. Copies must be sent to the other party in the following manner:

- (a) Any agency or service provider must send copies to all other parties;
- (b) If an individual is represented by a person other than a family member, the representative shall send copies to all other parties;
- (c) If a shelter makes free copying services available to a shelter resident, the shelter resident must make and deliver a copy to the shelter director;
- (d) For all other individuals, OAH will deliver copies by interagency mail to the appropriate agency.

2976.8 If anything is not filed according to the requirements of Subsection 2976.7, and the other party shows that it has been prejudiced, the Administrative Law Judge shall have the discretion to set a new hearing date to allow the other party to prepare.

2976.9 If any party demonstrates that it has been prejudiced by the unexpected appearance of a witness, the Administrative Law Judge shall have the discretion to set a new hearing date to allow the other party to prepare for the witness testimony. If a witness was named on the witness list in the manner provided in Subsection 2976.7, the Administrative Law Judge shall find that there has been no prejudice.

**2977 PUBLIC BENEFITS CASES – DEADLINES**

2977.1 As required by Federal law, 7 C.F.R. 273.15(c), decisions in cases involving SNAP (formerly Food Stamps) benefits shall be issued and served on the parties within sixty (60) calendar days of receipt of the hearing request, except that in Intentional Program Violation cases, as required by 7 C.F.R. 273.16(e)(2)(iv), the decisions shall be issued and served within ninety (90) calendar days after a hearing notice has been issued.

2977.2 As required by the District of Columbia Public Assistance Act, D.C. Official Code § 4-210.12(a), decisions shall be issued and served on the parties within sixty (60) calendar days of receipt of the hearing request in cases involving the following public benefit programs: Temporary Assistance for Needy Families (TANF); Interim Disability Assistance; General Assistance for Children; Program on Work, Employment and Responsibility (POWER); and Medicaid.

2977.3 As required by the Homeless Services Reform Act of 2005, D.C. Official Code § 4-1601.25(f)(3)(C), decisions in cases involving shelter or other services provided for homeless persons shall be issued and served on the parties within fifteen (15) calendar days of the completion of the hearing.

2977.4 If a postponement of the hearing date is granted to the party requesting a hearing, the deadline for the issuance and service of the decision shall be extended for as

many days as the hearing is postponed. In Intentional Program Violation cases, the deadline shall be extended only if the Respondent requested the postponement.

**2978 PUBLIC BENEFITS CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER**

2978.1 Motions for reconsideration, a new hearing, or relief from a final order shall be decided according to the Rules found in Section 2828.

**2980 UNEMPLOYMENT INSURANCE CASES – SCOPE**

2980.1 Sections 2980 through 2986 contain the Rules for OAH hearings of appeals of decisions of the District of Columbia Department of Employment Services (DOES) concerning unemployment compensation insurance.

2980.2 If Sections 2980 through 2986 do not address a procedural issue, the Rules in Chapter 28 apply.

2980.3 If there is a conflict between any federal law or regulation and anything in these Rules, the federal law or regulation shall control.

2980.4 If there is a conflict between any District of Columbia statute and anything in these Rules, the District of Columbia statute shall control.

2980.5 If there is a conflict between any other agency’s procedural rules or regulations and these Rules, these Rules shall control.

**2981 UNEMPLOYMENT INSURANCE CASES – BEGINNING A CASE**

2981.1 A party requesting a hearing to appeal a DOES Claims Examiner’s Determination in an unemployment compensation case shall file a copy of the determination that the party is appealing with the hearing request. If the party does not file a copy of the determination, OAH will issue an order directing the party to file a copy of the determination in order to establish OAH’s jurisdiction. If the copy is not provided, OAH may dismiss the case.

2981.2 In unemployment compensation cases, OAH may extend the deadline for filing a hearing request upon a showing of excusable neglect or good cause.

2881.3 All other procedures for requesting a hearing are governed by Section 2808.

**2982 UNEMPLOYMENT INSURANCE CASES – REPRESENTATIVES**

2982.1 An authorized agent employed by a firm whose usual business includes providing representation in unemployment compensation cases may represent any party.

2982.2 The practice of lawyers or other party representatives is governed by Sections 2833 and 2835.

**2983 UNEMPLOYMENT INSURANCE CASES – FILING OF PAPERS**

2983.1 In cases concerning unemployment compensation:

- (a) When a request for hearing is mailed to OAH, if the envelope containing the request bears a legible United States Postal Service postmark or if there is other proof of the mailing date, the request shall be considered filed on the mailing date. The filing date cannot be established by a private postage meter postmark alone.
- (b) When a request for hearing is delivered to OAH by commercial carrier, the filing date is the date the commercial carrier received the request for delivery to the Clerk’s office, so long as the cost of delivery is prepaid and delivery is to occur within three (3) calendar days of the commercial carrier’s receipt. The date of commercial carrier’s receipt shall be established by a document or other record prepared by the commercial carrier in the normal course of business.

2983.2 Parties in unemployment insurance cases may file papers electronically in accordance with guidelines set forth on OAH’s website ([www.oah.dc.gov](http://www.oah.dc.gov)).

2983.3 All other procedures for filing papers are governed by Section 2809.

**2984 UNEMPLOYMENT INSURANCE CASES – SUBPOENAS**

2984.1 In unemployment compensation cases, the Clerk shall issue no more than three (3) subpoenas to each party under Subsection 2824.5 to compel:

- (a) The appearance at a hearing of persons who have direct knowledge of Claimant’s separation from employment; or
- (b) The production at a hearing of documents, not more than six (6) months old, in the other party’s possession that directly relate to Claimant’s separation from employment.

2984.2 Service of a subpoena for a witness to appear at a hearing shall be made by personally delivering the subpoena to the witness. Unless otherwise ordered by an Administrative Law Judge, service shall be made at least two (2) calendar days before the hearing.

2984.3 All other procedures for subpoenas are governed by Section 2824.

**2985 UNEMPLOYMENT INSURANCE CASES – HEARINGS AND EVIDENCE**

2985.1 At least three (3) business days before a hearing in an unemployment compensation case, a party shall serve on all other parties and file with the Clerk the following:

- (a) A list of the witnesses, other than a party, whom the party intends to call to testify; and
- (b) A copy of each exhibit that the party intends to offer into evidence, other than exhibits to be used solely for impeachment or rebuttal.

2985.2 All other procedures for hearings are governed by Section 2821.

**2986 UNEMPLOYMENT INSURANCE CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER**

2986.1 Motions for reconsideration, a new hearing, or relief from a final order shall be decided according to the Rules found in Section 2828.

**2999 DEFINITIONS**

Unless otherwise provided, the definitions in Chapter 28 apply to this Chapter.

For purposes of this Chapter, the term:

**Commission** means the Rental Housing Commission.

**RAD** means the Rental Accommodations Division of the Department of Housing and Community Development.

**Rent Administrator** means the Rent Administrator of the RAD.

**Rental Housing Act** means the Rental Housing Act of 1985, D.C. Law 6-10, effective July 17, 1985, D.C. Official Code §§ 42-3501.01, *et seq.*

**Rental housing cases** means cases initiated pursuant to the Rental Housing Act, but does not include petitions for declaratory orders pursuant to the Rental Housing Conversion and Sale Act of 1980.

**Service Provider** means a person or entity that furnishes assistance to members of the public through a contract with or grant from the Government.