

§ 1000.423

§ 1000.423 Are there any decisions that are not administratively appealable under this subpart?

Yes, the following types of decisions are not administratively appealable under this subpart but may be appealable under other substantive provisions of the Code of Federal Regulations:

(a) Decisions relating to planning and negotiation grants (subparts C and D of this part) and certain discretionary grants not awarded under Title IV (25 CFR part 2);

(b) Decisions involving a limitation and/or reduction of services for BIA programs (subpart H of this part)(25 CFR part 2);

(c) Decisions regarding requests for waivers of regulations (subpart J of this part);

(d) Decisions regarding construction (subpart K of this part) addressed in §1000.251(b); and

(e) Decisions under any other statute, such as the Freedom of Information Act and the Privacy Act (see 43 CFR part 2).

§ 1000.424 Does a Tribe/Consortium have a right to an informal conference to resolve any disputes?

Yes, the Tribe/Consortium may request an informal conference (a non-binding alternative dispute resolution process). An informal conference is a way to resolve both Title I-eligible program and other disputes as quickly as possible, without the need for a formal appeal.

§ 1000.425 How does a Tribe/Consortium request an informal conference?

The Tribe/Consortium shall file its request for an informal conference with the office of the person whose decision it is appealing, within 30 days of the day it receives the decision.

(a) The Tribe/Consortium may either hand-deliver the request for an informal conference to that person's office, fax the request with confirmation or mail it by certified mail, return receipt requested.

(b) If the Tribe/Consortium mails the request, it will be considered filed on the date the Tribe/Consortium mailed it by certified mail.

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§ 1000.426 How is an informal conference held?

For all purposes relating to these informal conference procedures, the parties are the designated representatives of the Tribe/Consortium and the bureau.

(a) The informal conference shall be held within 30 days of the date the request was received, unless the parties agree on another date.

(b) Where practicable, at the option of the Tribe/Consortium, the informal conference will be held at the Tribe's/Consortium's office. If the meeting cannot be held at the Tribe's/Consortium's office, the parties must agree on an alternative meeting place.

(c) The informal conference shall be conducted by a designated representative of the Secretary.

(d) Only the parties may make presentations at the informal conference.

(e) The informal conference is not a hearing on the record. Nothing said during an informal conference may be used by either party in litigation.

§ 1000.427 What happens after the informal conference?

(a) Within 10 business days of the informal conference, the person who conducted the informal conference shall mail to the Tribe/Consortium a brief summary of the informal conference. The summary must include any agreements reached or changes from the initial position of the bureau or the Tribe/Consortium.

(b) If in its judgment no agreement was reached, the Tribe/Consortium may choose to appeal the initial decision, as modified by any changes made as a result of the informal conference, under §1000.421 of this subpart to the IBIA, bureau head/Assistant Secretary, or IBCA.

§ 1000.428 How may a Tribe/Consortium appeal a decision made after the AFA or compact or amendment to an AFA or compact has been signed?

With the exception of certain decisions concerning reassumption for imminent jeopardy (see §1000.408 of this subpart), the Tribe/Consortium may appeal post-award administrative decisions to the IBCA.