

(e) All pleadings, correspondence, exhibits, transcripts of testimony, exceptions, briefs, decisions, and other documents filed in any proceeding may be inspected in the Chief Docket Clerk's office during regular business hours.

[61 FR 52218, Oct. 4, 1996, as amended at 64 FR 3801, Jan. 25, 1999]

### Subpart B—Administrative Law Judge

#### § 180.200 Designation.

Proceedings under this part shall be presided over by an ALJ appointed under 5 U.S.C. 3105. HUD's Chief ALJ shall designate the presiding ALJ.

#### § 180.205 Authority.

The ALJ shall have all powers necessary to conduct fair, expeditious and impartial hearings, including the power to:

- (a) Administer oaths and affirmations and examine witnesses;
- (b) Rule on offers of proof and receive evidence;
- (c) Take depositions or have depositions taken when the ends of justice would be served;
- (d) Regulate the course of the hearing and the conduct of persons at the hearing;
- (e) Hold conferences for the settlement or simplification of the issues by consent of the parties;
- (f) Rule on motions, procedural requests, and similar matters;
- (g) Make and issue initial decisions;
- (h) Impose appropriate sanctions against any person failing to obey an order, refusing to adhere to reasonable standards of orderly and ethical conduct, or refusing to act in good faith;
- (i) Issue subpoenas if authorized by law; and
- (j) Exercise any other powers necessary and appropriate for the purpose and conduct of the proceeding as authorized by the rules in this part or in conformance with statute, including 5 U.S.C. 551-59.

#### § 180.210 Withdrawal or disqualification of ALJ.

(a) *Disqualification.* If an ALJ finds that there is a basis for his/her disqualification in a proceeding, the ALJ

shall withdraw from the proceeding. Withdrawal is accomplished by entering a notice in the record and providing a copy of the notice to the Chief ALJ.

(b) *Motion for recusal.* If a party believes that the presiding ALJ should be disqualified for any reason, the party may file a motion to recuse with the ALJ. The motion shall be supported by an affidavit setting forth the alleged grounds for disqualification. The ALJ shall rule on the motion, stating the grounds therefor.

(c) *Redesignation of ALJ.* If an ALJ is disqualified, the Chief ALJ shall designate another ALJ to preside over further proceedings.

#### § 180.215 Ex parte communications.

(a) An ex parte communication is any direct or indirect communication concerning the merits of a pending proceeding, made by a party in the absence of any other party, to the presiding ALJ, and which was neither on the record nor on reasonable prior notice to all parties. Ex parte communications do not include communications made for the sole purpose of scheduling hearings, requesting extensions of time, or requesting information on the status of cases.

(b) Ex parte communications are prohibited.

(c) If the ALJ receives an ex parte communication that the ALJ knows or has reason to believe is prohibited, the ALJ shall promptly place the communication, or a written statement of the substance of the communication, in the record and shall furnish copies to all parties. Unauthorized communications shall not be taken into consideration in deciding any matter in issue. Any party making a prohibited ex parte communication may be subject to sanctions including, but not limited to, exclusion from the proceeding and an adverse ruling on the issue that is the subject of the prohibited communication.

#### § 180.220 Separation of functions.

No officer, employee, or agent of the Federal Government engaged in the performance of investigative, conciliatory, or prosecutorial functions in connection with the proceeding shall, in