

## § 180.300

that proceeding or any factually related proceeding under this part, participate or advise in the decision of the ALJ, except as a witness or counsel during the proceedings or in its appellate review.

### Subpart C—Parties

#### § 180.300 Rights of parties.

Each party may appear in person, be represented by counsel, examine or cross-examine witnesses, introduce documentary or other relevant evidence into the record and, in Fair Housing Act matters, request the issuance of subpoenas.

#### § 180.305 Representation.

(a) HUD is represented by the General Counsel.

(b) Any party may appear on his/her/its own behalf or by an attorney. Each party or attorney shall file a notice of appearance. The notice must identify the matter before the ALJ, the party on whose behalf the appearance is made, and the mailing address and telephone number of the person appearing. Similar notice shall also be given for any withdrawal of appearance.

(c) An attorney must be admitted to practice before a Federal Court or the highest court in any State. The attorney's representation that he/she is in good standing before any of these courts is sufficient evidence of the attorney's qualifications under this section, unless otherwise ordered by the ALJ.

#### § 180.310 Parties.

(a) Parties to proceedings under this part are HUD, the respondent(s), and any intervenors. Respondents include persons named as such in a charge issued under 24 CFR part 103 and Recipients/applicants named as respondents in hearing notices issued under 24 CFR parts 1, 6, 8 or 146 and notices of proposed adverse action under this part.

(b) An aggrieved person is not a party but may file a motion to intervene. Requests for intervention shall be filed within 50 days after the filing of the charge; however, the ALJ may allow intervention beyond that time. An intervenor's right to participate as a

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party may be restricted by order of the ALJ pursuant to statute, the rules in this part or other applicable law. Intervention shall be permitted if the person requesting intervention is

(1) The aggrieved person on whose behalf the charge is issued; or

(2) An aggrieved person who claims an interest in the property or transaction that is the subject of the charge and the disposition of the charge may, as a practical matter, impair or impede this person's ability to protect that interest, unless the aggrieved person is adequately represented by the existing parties.

(c) A complainant in a non-Fair Housing Act matter is not a party but may file a motion to become an amicus curiae.

(d) Any person may file a petition to participate in a proceeding under this part as an amicus curiae. An amicus curiae is not a party to the proceeding and may not introduce evidence at the hearing.

(1) A petition to participate as amicus curiae shall be filed before the commencement of the hearing, unless the petitioner shows good cause for filing the petition later. The petition may be granted if the ALJ finds that the petitioner has a legitimate interest in the proceedings, and that such participation will not unduly delay the outcome and may contribute materially to the proper disposition thereof.

(2) The amicus curiae may submit briefs within time limits set by the ALJ or by the Secretary in the event of an appeal to the Secretary.

(3) When all parties have completed their initial examination of a witness, the amicus curiae may request the ALJ to propound specific questions to the witness. Any such request may be granted if the ALJ believes the proposed additional testimony may assist materially in elucidating factual matters at issue between the parties and will not expand the issues.

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

#### § 180.315 Standards of conduct.

(a) All persons appearing in proceedings under this part shall act with integrity and in an ethical manner.

(b) The ALJ may exclude parties or their representatives for refusal to comply with directions, continued use of dilatory tactics, refusal to adhere to reasonable standards of orderly and ethical conduct, failure to act in good faith, or violations of the prohibitions against *ex parte* communications. If an ALJ suspends or bars an attorney from participating in a proceeding, the ALJ shall include in the record the reasons for such action. An attorney who is suspended or barred from participation may appeal to the Chief ALJ. The proceeding will not be delayed or suspended pending disposition on the appeal, except that the ALJ shall suspend the proceeding for a reasonable time to enable the party to obtain another attorney.

#### Subpart D—Proceedings Prior to Hearing

##### § 180.400 Service and filing.

(a) *Service*—(1) *Service by the Office of ALJs*. The Office of ALJs shall serve all notices, orders, decisions and other such documents by mail to each party and amicus curiae at the last known address.

(2) *Service by others*. A copy of each filed document shall be served on each party and each amicus curiae. Service shall be made upon counsel if a party is represented by counsel. Service on counsel shall constitute service on the party. Service may be made to the last known address by first-class mail or other more expeditious means, such as:

(i) Hand delivery to the person to be served or a person of suitable age and discretion at the place of business, residence, or usual place of abode of the person to be served;

(ii) Overnight delivery; or

(iii) Facsimile transmission or electronic means. The ALJ may place appropriate limits on service by facsimile transmission or electronic means.

(3) *Certificate of service*. Every document served shall be accompanied by a certificate of service containing a statement as to the date of service, the method of service, the parties served and the address at which they were served, which is signed and dated by the person making service.

(b) *Filing*—(1) *Method*. All documents shall be filed with the Chief Docket Clerk. Filing may be by first class mail, delivery, facsimile transmission, or electronic means; however, the ALJ may place appropriate limits on filing by facsimile transmission or electronic means.

(2) *Form*. Every pleading, motion, brief, or other document shall contain a caption setting forth the title of the proceeding, the docket number assigned by the Office of ALJs, and the designation of the type of document (e.g., charge, motion).

(3) *Signature*. Every document filed by a party shall be signed by the party or the party's attorney and must include the signer's address and telephone number. The signature constitutes a certification that: the signer has read the document; to the best of the signer's knowledge, information and belief, the statements made therein are true; and the document is not interposed for delay.

##### § 180.405 Time computations.

(a) In computing time under this part, the time period begins the day following the act, event, or default and includes the last day of the period, unless the last day is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which case the time period includes the next business day.

(b) *Modification of time periods*. Except for time periods required by statute, the ALJ may enlarge or reduce any time period required under this part where necessary to avoid prejudicing the public interest or the rights of the parties. Requests for extension of time should set forth the reasons for the request.

(c) *Entry of orders*. In computing any time period involving the date of the ALJ's issuance of an order or decision, the date of issuance is the date of service by the Chief Docket Clerk.

(d) *Computation of time for delivery by mail*. When documents are filed by mail, three days shall be added to the prescribed time period for filing any responsive pleading. Documents are not filed until received by the Chief Docket Clerk.