

§ 11.9

shall be considered to be a notice of a final determination under this part.

§ 11.9 Director review of determinations of Hearing Officers.

(a) *Requests for Director review.* (1) Not later than 30 days after the date on which an appellant receives the determination of a Hearing Officer under § 11.8, the appellant must submit a written request, signed personally by the named appellant, to the Director to review the determination in order to be entitled to such review by the Director. Such request shall include specific reasons why the appellant believes the determination is wrong.

(2) Not later than 15 business days after the date on which an agency receives the determination of a Hearing Officer under § 11.8, the head of the agency may make a written request that the Director review the determination. Such request shall include specific reasons why the agency believes the determination is wrong, including citations of statutes or regulations that the agency believes the determination violates. Any such request may be made by the head of an agency only, or by a person acting in such capacity, but not by any subordinate officer of such agency.

(3) A copy of a request for Director review submitted under this paragraph shall be provided simultaneously by the submitter to each party to the appeal.

(b) *Notification of parties.* The Director promptly shall notify all parties of receipt of a request for review.

(c) *Responses to request for Director review.* Other parties to an appeal may submit written responses to a request for Director review within 5 business days from the date of receipt of a copy of the request for review.

(d) *Determination of Director.* (1) The Director will conduct a review of the determination of the Hearing Officer using the agency record, the hearing record, the request for review, any responses submitted under paragraph (c) of this section, and such other arguments or information as may be accepted by the Director, in order to determine whether the decision of the Hearing Officer is supported by substantial evidence. Based on such re-

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view, the Director will issue a final determination notice that upholds, reverses, or modifies the determination of the Hearing Officer. The Director's determination upon review of a Hearing Officer's decision shall be considered to be the final determination under this part and shall not be appealable. However, if the Director determines that the hearing record is inadequate or that new evidence has been submitted, the Director may remand all or a portion of the determination to the Hearing Officer for further proceedings to complete the hearing record or, at the option of the Director, to hold a new hearing.

(2) The Director will complete the review and either issue a final determination or remand the determination not later than—

(i) 10 business days after receipt of the request for review, in the case of a request by the head of an agency; or

(ii) 30 business days after receipt of the request for review, in the case of a request by an appellant.

(3) In any case or any category of cases, the Director may delegate his or her authority to conduct a review under this section to any Deputy or Assistant Directors of the Division. In any case in which such review is conducted by a Deputy or Assistant Director under authority delegated by the Director, the Deputy or Assistant Director's determination shall be considered to be the determination of the Director under this part and shall be final and not appealable.

(e) *Equitable relief.* In reaching a decision on an appeal, the Director shall have the authority to grant equitable relief under this part in the same manner and to the same extent as such authority is provided an agency under applicable laws and regulations.

§ 11.10 Basis for determinations.

(a) In making a determination, the Hearing Officers and the Director are not bound by previous findings of facts on which the agency's adverse decision was based.

(b) In making a determination on the appeal, Hearing Officers and the Director shall ensure that the decision is