

CHAPTER 6. CORRECTIVE ACTIONS AND SANCTIONS

6-1. CORRECTIVE ACTIONS.

- A. Civil Rights Compliance and Enforcement Program. It is the responsibility of the Office of Fair Housing and Equal Opportunity to ensure that all HUD programs are designed and implemented to afford an equal opportunity for all eligible persons to participate in and benefit from them.

Compliance with civil rights laws is determined by the conduct of systematic compliance reviews and the investigation of complaints. This responsibility has been delegated to the FHEO staff in each Regional Office unless otherwise directed by the Assistant Secretary for FHEO.

- B. Civil Rights Monitoring and Programmatic Review. As stated in Chapter 3, FHEO POD FOD offices are not authorized, in the monitoring process, to make a determination that a PHA has discriminated or is in compliance or non-compliance with a civil rights law. However, FHEO Field Offices and Program Operations Divisions make findings regarding programmatic issues. Some examples include:

The PHA:

1. does not implement a civil rights-related aspect of a management plan;
2. fails to maintain or submit racial/ethnic data as required by HUD; or

6-2. PROGRAM SANCTIONS. Problems related to equal opportunity or civil rights requirements revealed as a result of an occupancy audit must be brought to the attention of the Regional Director of FHEO, the Director, Program Operations Division, and, the Director, FHEO, Division in Category "A" offices.

If an occupancy audit, management review, or FHEO monitoring, the PHA refuses or is unable to comply with the request for corrective action, the FHEO Director may recommend programmatic sanctions. The Legal Counsel and Director, Housing Management Division, must be consulted. Final recommendations must be forwarded to the Field Office Manager. Sanctions could include:

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- A. Withholding modernization/CIAP funding;
 - B. Disapproval of new public housing development applications;

- C. Legal action based on the terms of the Annual Contributions Contract; or
- D. Withholding funding for Section 8 programs.
- E. Paragraphs 11-15, Handbook 7485.1 REV-3, provide additional sanctions.

The Assistant Secretary for FHEO must be notified of all cases where the Office Manager takes action without resolving FHEO field Office recommendations regarding deficient performance of the PHA concerning a civil rights-related program requirement.

6-3 CIVIL RIGHTS CERTIFICATIONS. Each time FHEO monitors a PHA, staff should document its determination regarding acceptability of the PHA's civil rights certifications. When recommending that one or more certifications not be accepted, FHEO must document clearly the reasons for that determination.

A challenge by HUD to the PHA's certifications must be based upon evidence that is supportable by facts and data which verify monitoring findings. A challenge to the PHA's certifications may also be based upon evidence to include:

- court finding/orders under an applicable civil rights law;
- data from performance reviews and audits; and
- outstanding unresolved preliminary findings of noncompliance with civil rights requirements, including the PHA's failure to carry out the provisions of an approved civil rights compliance agreement.

Prior to making a determination not to accept a civil rights certification, FHEO Field Office Staff must carry out all of the following actions:

- A. Contact the Regional Office of FHEO, Compliance Division, for information regarding the status of complaints and compliance review findings, if any;

- B. Obtain concurrence of the Regional Directors of FHEO and Housing regarding any action to question PHA certifications;
- C. Consult with Field Office staff, as appropriate; and
- D. Obtain concurrence of Headquarters.

6-4. CIVIL RIGHTS COMPLAINTS

The Administrative Plan or EOHP established for management of Section 8 programs and the management procedures for PHA LIPH programs should incorporate requirements for handling civil rights complaints.

A. Monitoring Requirements:

EOHP, Objective IV (Section 8 Programs only) Services and assistance to families alleging they have encountered discrimination.

FHEO shall monitor to ensure that effective processes are in place for registering discrimination complaints. The PHA must provide effective assistance to certificate and housing voucher holders who allege that illegal discrimination is preventing them from leasing suitable units (24 CFR 882.204 and 24 CFR 887.59).

B. Methods of administration (MOA): All PHAs should include procedures for:

1. posting a notice that complaints of discrimination may be filed with the PHA or HUD Regional Office. The notice should include addresses for complaints, as well as a statement that filing a complaint with the PHA will not prevent the subsequent filing of a complaint with HUD. The notices must be posted in a conspicuous place in all PHA facilities which are open to the public;
2. posting with the above notice a copy of the regulation under which complaints may be submitted to HUD. The PHA shall refer all civil rights complaints to HUD.
3. recording in writing any allegation of discrimination brought to the attention of its staff (with the name, address, and telephone number of the person making the allegation) and

forwarding such information promptly to the appropriate HUD Regional Office for its review; the PHA shall keep on hand and provide HUD 903 and 903A complaint forms for this purpose but shall accept allegations in any form, including those made orally;

4. receipt by the PHA of complaints from or on behalf of any person who believes he or she has encountered discrimination by the PHA or its

staff;

5. keeping a record of each complaint, including the date of the complaint, by whom made, investigation and hearing (if any), and evaluation;
6. providing a written notice to the complainant of action taken.

C. Prohibition Against Intimidation. The PHA's methods of administration must clearly provide a prohibition against intimidatory or retaliatory action or threat thereof by the local authority or its staff against any applicant or tenant because of participation in civil rights activities or for having asserted any right under a civil rights law, HUD regulations, or requirements pursuant thereto.