

and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the presiding officer. The presiding officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record.

(c) Each decision made after a hearing has been held shall be based on the hearing record, and written findings of fact and conclusions of law shall be made.

(d) If an applicant or recipient waives a hearing and submits written information or argument for the record in accordance with § 4.51(d), written findings of fact and conclusions of law shall be made.

[29 FR 19277, Dec. 31, 1964, as amended at 35 FR 11459, July 17, 1970; 38 FR 17928, July 5, 1973]

#### § 4.64 Consolidated or joint hearings.

In cases in which the same or related facts are asserted to constitute non-compliance with this subpart with respect to two or more programs to which this subpart applies or non-compliance with this subpart and the regulations of one or more other Federal departments or agencies issued under title VI of the Civil Rights Act of 1964, the Commission may, by agreement with such other departments or agencies, where applicable, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules of procedure not inconsistent with this subpart. Final decisions in such cases, insofar as programs subject to this subpart are concerned shall be made in accordance with § 4.72.

[29 FR 19277, Dec. 31, 1964, as amended at 40 FR 8778, Mar. 3, 1975]

#### DECISION AND NOTICE

#### § 4.71 Initial decision or certification.

The officer designated:

(a) To preside at a hearing, or,

(b) To make findings of fact and conclusions of law if an applicant or recipient waives a hearing and submits written information or argument for the record in accordance with § 4.51(d), shall render an initial decision on the record, or, if the Commission so directs, shall certify the entire record to the Commission for decision, together with a recommended decision on the record. A copy of such initial decision, or of such certification and recommended decision, shall be mailed to the applicant or recipient.

#### § 4.72 Exceptions and final decision.

(a) The applicant or recipient, within thirty (30) days of the mailing of an initial decision or a recommended decision, may file with the Commission his exceptions to such decision, with his reasons therefor.

(b) In the absence of exceptions to an initial decision, the Commission may, on its own motion within forty-five (45) days after the mailing of such initial decision, serve on the applicant or recipient a notice that the Commission will review the decision.

(c) Upon the filing of exceptions to an initial decision or of a notice of review, the Commission shall review such initial decision and issue its own decision on the record with its reasons therefor.

(d) In the absence of either exceptions to an initial decision or of a notice of review, such initial decision shall constitute the final decision of the Commission.

(e) Upon the filing of exceptions to a recommended decision, the Commission shall review such recommended decision and issue its own decision on the record with its reasons therefor.

(f) In the absence of exceptions to a recommended decision, the Commission shall review such recommended decision and issue its own decision on the record with its reasons therefor.

#### § 4.73 Rulings required.

Each decision of a presiding officer or the Commission shall set forth the rulings on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this subpart with which it is found that the applicant or recipient has failed to comply.