

§ 15f.9 What will the Director do to settle my Section 741 Complaint Request when it is received?

The Director will review each Section 741 Complaint Request. If the Director finds that your complaint is an eligible complaint, the Director will: review all documents and evidence submitted by you; review all agency or CR files, if any exist, regarding the circumstances surrounding the alleged discrimination; review any damage claims; and seek any further clarification, if necessary, from either you or the agency. CR also may refer your eligible complaint for a formal investigation by the CR Program Investigation Division or by an outside contractor. Based on his or her review, the Director will either undertake negotiations with you to resolve the complaint; or inform you that CR will not settle the complaint and explain to you your options, including your right to request formal proceedings before an ALJ under subpart D of this part within 30 days of receipt of notice from the Director that CR will not settle the complaint. If the complaint is successfully resolved or settled, the Director will issue a final determination disposing of the matter. If you have received a notice that the Director will not settle the complaint prior to February 14, 2003, you have until 90 days after February 14, 2003 to request formal proceedings under subpart D of this part. Any request for formal proceedings received by USDA after the deadlines set forth in this section will not be accepted.

[68 FR 7412, Feb. 14, 2003]

§ 15f.10 What if I do not want the Director to review my Section 741 Complaint Request and I want to proceed directly to a hearing?

If you do not want the Director to review your Section 741 Complaint Request, you may request a hearing following the procedures below in subpart D. You may request a hearing at any time during informal review or negotiations with the Director, or at any time during USDA consideration of your Section 741 Complaint Request.

Subpart D—If I Request a Hearing, What Will Happen? How Will the Hearing Be Conducted?

§ 15f.11 Where must I file a hearing request and what happens to it?

If you desire a hearing, you must file a request for a hearing with the Docketing Clerk, citing the docket number assigned to your Section 741 Complaint Request. When the Docketing Clerk receives your request for a hearing, your Section 741 Complaint Request will be assigned to an ALJ. The Docketing Clerk will send a notice of your hearing request to OCR and the agency, notifying them of the docket number and the assigned ALJ. The Docketing Clerk also will send you a notice of receipt of the hearing request that will inform you of the name of the assigned ALJ.

§ 15f.12 Am I entitled to a hearing in all circumstances?

Under section 741, you have a right to a hearing as part of the process for USDA to render a final determination on your eligible complaint. However, if at any time the ALJ determines that your complaint is not an eligible complaint, he or she may dismiss your complaint with a final determination and USDA review of your complaint will then have been completed. You also are not entitled to a hearing if there are no material issues of fact in dispute between you and USDA. In other words, if the only dispute remaining is a question of law, you will not receive a hearing and the ALJ will make a final determination under § 15f.16.

§ 15f.13 What is the function of the ALJ and who may communicate with him?

(a) *What are the powers of the ALJ?*
The ALJ is responsible for conducting a hearing at your request on your Section 741 Complaint Request. He or she will have all powers prescribed in these rules and will make a proposed determination on your complaint. The proposed determination then will become the final determination after 35 days, unless the ASCR reviews the proposed determination.