

evidence concerning, or otherwise relying upon, testimony relating to the information sought; or

(4) Strike any part of the pleadings or other submissions of the party failing to comply with the order.

(d) If a party fails to prosecute or defend an action brought under subpart A of this part, the hearing officer may dismiss the action or may issue an initial decision against the non-prosecuting or defending party.

(e) The hearing officer may refuse to consider any motion, request, response, brief, or other document that is not filed in a timely fashion.

§ 26.5 Disqualification of hearing officer.

(a) When a hearing officer believes there is a basis for disqualification in a particular proceeding, the hearing officer shall withdraw by notice on the record and shall notify the Secretary and the official initiating the action under appeal.

(b) Whenever any party believes that the hearing officer should be disqualified from presiding in a particular proceeding, the party may file a motion with the hearing officer requesting the hearing officer to withdraw from presiding over the proceedings. This motion shall be supported by affidavits setting forth the alleged grounds for disqualification.

(c) Upon the filing of a motion and affidavit, the hearing officer shall proceed no further in the case until the matter of disqualification is resolved.

(d) If the hearing officer does not withdraw, a written statement of his or her reasons shall be incorporated in the record and the hearing shall proceed, unless the decision is appealed in accordance with the procedures set forth in § 26.27.

REPRESENTATION OF THE PARTIES

§ 26.6 Department representative.

In each case heard before a hearing officer under this part, the Department shall be represented by attorneys from the Office of General Counsel.

§ 26.7 Respondent's representative.

The party against whom the administrative action is taken may be represented at hearing, as follows:

(a) Individuals may appear on their own behalf;

(b) A member of a partnership or joint venture may appear on behalf of the partnership or joint venture;

(c) A bona fide officer may appear on behalf of a corporation or association upon a showing of adequate authorization;

(d) An attorney who files a notice of appearance with the hearing officer may represent any party. For purposes of this paragraph, an attorney is defined as a member of the bar of a federal court or of the highest court of any state or territory of the United States; or

(e) An individual not included within paragraphs (a) through (d) of this section may represent the respondent upon an adequate showing, as determined by the hearing officer, that the individual possesses the legal, technical, or other qualifications necessary to advise and assist in the presentation of the case.

§ 26.8 Standards of practice.

Attorneys shall conform to the standards of professional and ethical conduct required of practitioners in the courts of the United States and by the bars of which the attorneys are members. Any attorney may be prohibited by the hearing officer from representing a party if the attorney is not qualified under § 26.7 or if such action is necessary to maintain order in or the integrity of the pending proceeding.

PLEADINGS AND MOTIONS

§ 26.9 Form and filing requirements.

(a) *Filing.* Unless otherwise provided by statute, rule, or regulation:

(1) Requests for hearings shall be filed with the Office of General Counsel's Docket Clerk, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. The OGC Docket Clerk shall assign the docket number and forward the case to HUD's Office of Appeals.