

§ 1304.6

to participate in the hearing, it may request permission to do so from the Departmental Appeals Board.

(4) If the grant recipient fails to appear at the hearing, without good cause, the grant recipient will be deemed to have waived its right to a hearing and consented to have the Departmental Appeals Board make a decision based on the parties' written information and argument.

(5) A grant recipient may waive the hearing and submit written information and argument for the record, within a reasonable period of time to be fixed by the Departmental Appeals Board.

(6) The responsible HHS official may attempt, either personally or through a representative, to resolve the issues in dispute by informal means prior to the hearing.

(g) *Decision.* The Departmental Appeals Board's decision and any measure the responsible HHS official takes after the decision is fully binding upon the grant recipient and its delegate agencies, whether or not they actually participated in the hearing.

§ 1304.6 Appeal for prospective delegate agencies.

(a) *Appeal.* If a grant recipient denies, or fails to act on, a prospective delegate agency's funding application, the prospective delegate may appeal the grant recipient's decision or inaction.

(b) *Process for prospective delegates.* To appeal, a prospective delegate must:

(1) Submits the appeal, including a copy of the funding application, to the responsible HHS official within 30 days after it receives the grant recipient's decision; or within 30 days after the grant recipient has had 120 days to review but has not notified the applicant of a decision; and,

(2) Provide the grant recipient with a copy of the appeal at the same time the appeal is filed with the responsible HHS official.

(c) *Process for grant recipients.* When an appeal is filed with the responsible HHS official, the grant recipient must respond to the appeal and submit a copy of its response to the responsible HHS official and to the prospective delegate agency within 30 work days.

45 CFR Ch. XIII (10–1–24 Edition)

(d) *Decision.* (1) The responsible HHS official will sustain the grant recipient's decision, if the official determines the grant recipient did not act arbitrarily, capriciously, or otherwise contrary to law, regulation, or other applicable requirements.

(2) The responsible HHS official will render a written decision to each party within a reasonable timeframe. The official's decision is final and not subject to further appeal.

(3) If the responsible HHS official finds the grant recipient did act arbitrarily, capriciously, or otherwise contrary to law, regulation, or other applicable requirements, the grant recipient will be directed to reevaluate their applications.

§ 1304.7 Legal fees.

(a) An agency is not authorized to charge to its grant legal fees or other costs incurred to appeal terminations, reductions of funding, or denials of applications of refunding decisions.

(b) If a program prevails in a termination, reduction, or denial of refunding decision, the responsible HHS official may reimburse the agency for reasonable and customary legal fees, incurred during the appeal, if:

(1) The Departmental Appeals Board overturns the responsible HHS official's decision;

(2) The agency can prove it incurred fees during the appeal; and,

(3) The agency can prove the fees incurred are reasonable and customary.

Subpart B—Designation Renewal

§ 1304.10 Purpose and scope.

The purpose of this subpart is to set forth policies and procedures for the designation renewal of Head Start programs. It is intended that these programs be administered effectively and responsibly; that applicants to administer programs receive fair and equitable consideration; and that the legal rights of current Head Start grant recipients be fully protected. The Designation Renewal System is established in this part to determine whether Head Start agencies deliver high-quality services to meet the educational, health, nutritional, and social needs of the children and families they