

requested the deposition shall arrange for a transcript to be made of the proceedings and shall upon request, and at his expense, furnish all other parties with copies of the transcript.

(l) *Official notice.* Official notice may be taken of a public document, or part thereof, such as a statute, official report, decision, opinion or published scientific date issued by any agency of the Federal Government or a State or local government and such document or data may be entered on the record without further proof of authenticity. Official notice may also be taken of such matters as may be judicially noticed in the courts of the United States, or any other matter of established fact within the general knowledge of ACTION. If the decision of the presiding officer rests on official notice of a material fact not appearing in evidence, a party shall on timely request be afforded an opportunity to show the contrary.

(m) *Proposed findings and conclusions.* After the hearing has concluded, but before the presiding officer makes his decision, he shall afford each participant a reasonable opportunity to submit proposed findings of fact and conclusions. After considering each proposed finding or conclusion the presiding officer shall state in his decision whether he has accepted or rejected them in accordance with the provisions of § 1206.1-8(a).

§ 1206.1-8 Decisions and notices regarding termination.

(a) Each decision of a presiding officer shall set forth his findings of fact, and conclusions, and shall state whether he has accepted or rejected each proposed finding of fact and conclusion submitted by the parties, pursuant to § 1206.1-7(m). Findings of fact shall be based only upon evidence submitted to the presiding officer and matters of which official notice has been taken. The decision shall also specify the requirement or requirements with which it is found that the recipient has failed to comply.

(b) The decision of the presiding officer may provide for continued suspension or termination of assistance to the recipient in whole or in part, and may contain such terms, conditions, and other provisions as are consistent with

and will effectuate the purposes of the Act.

(c) If the hearing is held by an independent hearing examiner rather than by the responsible ACTION official, he shall make an initial decision, and a copy of this initial decision shall be mailed to all parties. Any party may, within 20 days of the mailing of such initial decision, or such longer period of time as the presiding officer specifies, file with the responsible ACTION official his written exceptions to the initial decision and any supporting brief or statement. Upon the filing of such exceptions, the responsible ACTION official shall, within 20 days of the mailing of the exceptions, review the initial decision and issue his own written decision thereof, including the reasons therefore. The decision of the responsible ACTION official may increase, modify, approve, vacate, remit, or mitigate any sanction imposed in the initial decision or may remand the matter to the presiding officer for further hearing or consideration.

(d) Whenever a hearing is waived, a decision shall be made by the responsible ACTION official and a written copy of the final decision of the responsible ACTION official shall be given to the recipient.

(e) The recipient may request the Director to review a final decision by the responsible ACTION official which provides for the termination of assistance. Such a request must be made in writing within 15 days after the recipient has been notified of the decision in question and must state in detail the reasons for seeking the review. In the event the recipient requests such a review, the Director or his designee shall consider the reasons stated by the recipient for seeking the review and shall approve, modify, vacate or mitigate any sanction imposed by the responsible ACTION official or remand the matter to the responsible ACTION official for further hearing or consideration. The decision of the responsible ACTION official will be given great weight by the Director or his designee during the review. During the course of his review the Director or his designee may, but is not required to, hold a hearing or allow the filing of briefs and arguments. Pending the decision of the

Direct or his designee assistance shall remain suspended under the terms and conditions specified by the responsible ACTION official, unless the responsible ACTION official or the Director or his designee otherwise determines. Every reasonable effort shall be made to complete the review by the Director or his designee within 30 days of receipt by the Director of the recipient's request. The Director or his designee may however extend this period of time if he determines that additional time is necessary for an adequate review.

§ 1206.1-9 Right to counsel; travel expenses.

In all proceedings under this subpart, whether formal or informal, the recipient and ACTION shall have the right to be represented by counsel or other authorized representatives. If the recipient and any agency which has a right to participate in an informal meeting pursuant to §1206.1-4 or a termination hearing pursuant to §1206.1-7 do not have an attorney acting in that capacity as a regular member of the staff of the organization or a retainer arrangement with an attorney, the Boards of Directors of such recipient and agency will be authorized to designate an attorney to represent their organizations at any such show cause proceeding or termination hearing and to transfer sufficient funds from the Federal grant monies they have received for the project to pay the fees, travel, and per diem expenses of such attorney. The fees for such attorney shall be the reasonable and customary fees for an attorney practicing in the locality of the attorney. However, such fees shall not exceed \$100 per day without the prior express written approval of ACTION. Travel and per diem expenses may be paid to such attorney only in accordance with the policies set forth in the Standard Government Travel Regulations and in §§1206.3-1 and 1206.3-6 of this chapter. The Boards of Directors of the recipient or any agency which has a right to participate in an informal meeting pursuant to §1206.1-4 or a termination hearing pursuant to §1206.1-7 will also be authorized to designate two persons in addition to an attorney whose travel and per diem expenses to attend the meeting or hear-

ing may be paid from Federal grant or contract monies. Such travel and per diem expenses shall conform to the policies set forth in the Standard Government Travel Regulations and in §§1206.3-1 and 1206.3-6 of this chapter.

§ 1206.1-10 Modification of procedures by consent.

The responsible ACTION official or the presiding officer of a termination hearing may alter, eliminate or modify any of the provisions of this subpart with the consent of the recipient and, in the case of a termination hearing, with the consent of all agencies that have a right to participate in the hearing pursuant to §1206.1-5(e). Such consent must be in writing or be recorded in the hearing transcript.

§ 1206.1-11 Other remedies.

The procedures established by this subpart shall not preclude ACTION from pursuing any other remedies authorized by law.

Subpart B—Denial of Application for Refunding

SOURCE: 47 FR 5719, Feb. 8, 1982, unless otherwise noted.

§ 1206.2-1 Applicability of this subpart.

This subpart applies to grantees and contractors receiving financial assistance and to sponsors who receive volunteers under the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4951 *et seq.* The procedures in this subpart do not apply to review of applications for the following:

- (a) University Year for ACTION projects which have received federal funds for five years;
- (b) Mini-grants;
- (c) Other projects for which specific time limits with respect to federal assistance are established in the original notice of grant award or other document providing assistance, where the specified time limit has been reached; and
- (d) VISTA project extensions of less than six months.