

LOCAL COMMISSIONERS MEMORANDUM

Transmittal No: 89 LCM-215

Date: November 29, 1989

Division: Legal Affairs

TO: Local District Commissioners

SUBJECT: Fair Hearings: Social Services District Obligation to Provide Appellants with Copies of Documents which the District Intends to Present into Evidence at a Fair Hearing and to Provide Copies of other Documents which are Necessary for the Appellant to Prepare for a Fair Hearing

ATTACHMENTS: There are no attachments to this LCM.

There is some concern about compliance by social services districts with the requirement of 18 NYCRR Part 358 relating to the obligation to provide the appellant and the appellant's authorized representative with copies of documents which the district intends to present at a fair hearing or with documents which the appellant or the representative have requested for the purpose of preparing for a fair hearing.

I. Provision of Documents to be Presented at the Fair Hearing

Section 358-4.2(c) provides that upon oral or written request, including request by telephone, social services districts must provide the appellant and the appellant's authorized representative with copies of the documents to be presented at the fair hearing. Such documents must be provided without charge and must be provided to the appellant and the appellant's representative by mail if the appellant or the appellant's representative requests that such documents be mailed.

Copies provided under this provision must be provided within the time-frames set forth in section 358-3.7 which are described below.

II. Provision of Documents for Fair Hearing Preparation

Section 358-4.2(d) provides that upon oral or written request, including a request by telephone, the social services agency must provide the appellant and the appellant's authorized representative with copies of any documents from the appellant's case file which the appellant or the appellant's representative requests for the purposes of preparing for a fair hearing.

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Such documents must be provided without charge and must be provided to the appellant and the appellant's representative by mail if the appellant or the appellant's representative requests that such documents be mailed.

Such copies must be provided within the time-frames set forth in section 358-3.7 which are described below.

Time-frames for Compliance for Requests for Documents

Appellants and their representatives have the right to be provided with copies of documents which the social services district intends to present at the hearing in support of its determination and documents which the appellant needs to prepare for the hearing within three business days of the request for such documents. However, if the request for copies is made less than five business days before the hearing, the district must provide the appellant and the appellant's representative with the copies within three business days of the request or at the time of the hearing, whichever is earlier. If more than five business days prior to the hearing the appellant or the appellant's representative has requested that the documents be mailed to them, such documents must be mailed within three business days of the request for such documents.

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