

NEW YORK STATE OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE
OFFICE OF ADMINISTRATIVE HEARINGS

TO: All Administrative Law Judges
and Professional Staff

DATE: October 30, 1997

FROM: Sharon Silversmith 

SUBJECT: 18 NYCRR 358.3.7 and 358-
4.2: Provision of
Documents for Fair
Hearings

Attached for your information is a copy of amendments to Part 358 which
filed October 29, 1997 and are effective November 19, 1997.

NOTE: These amendments cannot be implemented in New York City until we
receive relief from the order in Rivera v. Bane.

The amendments eliminate provisions which required districts to provide
appellants with documents the district will present at a fair hearing or
which the appellant needs for a fair hearing within three business days of
the request. Instead, the new standard is that the documents have to be
provided within a reasonable period of time.

If the district fails to comply with these provisions the hearing
officer may adjourn the case, allow a brief recess for the appellant to
review the documents, preclude the introduction of the documents where the
delay would be prejudicial to the appellant, or take other appropriate
action to ensure that the appellant is not harmed by the agency's failure.