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

To: All Administrative Law Judges

DATE: October 30, 1997

and Professional Staff

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.

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