

Informal Hearing Procedures for Housing Choice Voucher (HCV) Program

Hearing Procedures

The Housing Authority of the City of Lumberton (HACL) and the Housing Choice Voucher (HCV) participants shall adhere to the following procedures:

1. Discovery

The family will be given the opportunity to examine before the hearing any HACL documents that are directly relevant to the hearing. The family will be allowed to copy any such document at the family's expense. If the HACL does not make the document(s) available for examination on request of the family, the HACL may not rely on the document at the hearing.

The HACL will be given the opportunity to examine, at the HACL's offices before the hearing, any family documents that are directly relevant to the hearing. The HACL will be allowed to copy any such document at the HACL's expense. If the family does not make the document(s) available for examination on request of the HACL, the family may not rely on the document at the hearing.

Note: The term document includes, but is not limited to, writings, photographs, emails, audio recordings, and records and regulations.

2. Representation of the Family

The family has the right to be represented or assisted by an attorney or any other person. The family will bear the expense of such representation.

3. Hearing Officer

The hearing will be conducted by any person or persons designated by the HACL, other than a person who made or approved the decision under review or a subordinate of this person.

The person who conducts the hearing will regulate the conduct of the hearing in accordance with the HACL hearing procedures. Notwithstanding actual employees of the HACL, the Hearing Officer will be an impartial third party who has no other contract obligations with the Housing Authority of the City of Lumberton (HACL) or is otherwise engaged for services by the HACL that would potentially pose a conflict of interest to the hearing officer's duties on behalf of the HACL.

4. Conduct of Hearing

The HACL and the family must have the opportunity to present evidence and may question any witnesses. In hearings arising out of a proposed voucher termination, the HACL has the initial burden of persuasion and must initially present sufficient evidence to establish the alleged violation of program rules. Once the HACL makes its showing, the burden shifts to the family to produce evidence to contradict the violation or show relevant mitigating circumstances.

Factual determination made at an informal hearing shall be based on a preponderance of the evidence presented at the hearing. This means that, in order for either party to prevail, the hearing officer must be persuaded by the evidence, which includes witness testimony, that the facts presented by that party are more probably true than not true.

5. Evidence

All witnesses shall be asked to swear or affirm that the information they are about to provide is true.

All relevant evidence may be considered without regard to admissibility under the rules of evidence applicable to judicial proceedings.

6. Record of Hearing

The record of the hearing shall include the documentary evidence presented at the hearing and the recording or transcript of the proceedings (if a recording or transcript was used).

The record shall be closed at the conclusion of the hearing unless the hearing officer determines that it should remain open for a specified period of time for the receipt of additional documentary evidence. Any documentary evidence provided to the hearing officer after the hearing shall also be provided to the other party.

There will be a recording of the hearing in order to preserve the record. Copies of the recording will be made available to the family at a cost of \$5.00. The family may also bring, at their own expense, a recording device or court reporter, provided that the family notify the HACL of their intent to do so and make a copy of the recording or transcript available to the HACL.

7. Issuance of Decision

The hearing officer must issue a written decision within 14 calendar days from the date of the hearing, (or the date the record is closed, if later). The decision must be based on the record and must state briefly the reasons for the decision. Factual determinations relating to the individual circumstances of the family shall be based on a preponderance of the evidence presented at the hearing.

8. Effect of the Decision

The HACL is not bound by a hearing decision:

Concerning a matter for which the HACL is not required to provide an opportunity for an informal hearing under this Section, or that otherwise exceeds the authority of the person conducting the hearing under the HACL hearing procedures. Contrary to HUD regulations or requirements, or otherwise contrary to Federal, State, or local law, if the HACL determines that it is not bound by a hearing decision, the HACL will notify the family within 14 calendar days of the determination, and of the reasons for the determination.

9. Considering Circumstances

In deciding whether to terminate assistance because of action or inaction by members of the family, the Housing Authority may consider all of the circumstances in each case, including the seriousness of the case, the extent of participation or culpability of individual family members, and the effects of denial or termination of assistance on other family members who were not

assistance or uphold the appeal and permit continued participation in the subsidy program. If the Housing Authority seeks to terminate assistance because of illegal use, or possession for personal use, of a controlled substance, or pattern of abuse of alcohol, such use or possession or pattern of abuse must have occurred within one year before the date that the Housing Authority provides notice to the family of the Housing Authority determination to deny or terminate assistance. In determining whether to terminate assistance for these reasons the HACL will consider evidence of whether the household member:

- Has successfully completed a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol;

- Has otherwise been rehabilitated successfully and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol; or

- Is participating in a supervised drug or alcohol rehabilitation program and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol.

The participant family may request that the HACL provide for an informal hearing after the family has notification of the INS decision on appeal, or in lieu of request of appeal to the INS. This request must be made by the participant family within 30 days of receipt of the Notice of Denial or Termination of Assistance, or within 30 days of receipt of the INS appeal decision.

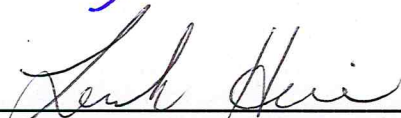
For the participant families, the Informal Hearing Process above will be utilized with the exception that the participant family will have up to 30 days of receipt of the Notice of Denial or Termination of Assistance, or of the INS appeal decision.

10. Appeal of Hearing Officer's Decision

In the event a participant wishes to appeal the hearing officer's decision, they must submit a written request for Administrative Review by the Executive Director or his designee along with all supporting documentation. The Administrative Review will not include another hearing. The decision of the Executive Director will be final.



Ms. Vanessa Dunn, Director of Housing Services



Mr. Lemark Harris, Interim Executive Director

INFORMAL HEARING REQUEST FORM

A REQUEST FOR AN INFORMAL HEARING MUST BE MADE IN WRITING AND DELIVERED TO HACL EITHER IN PERSON OR BY FIRST CLASS MAIL, BY THE CLOSE OF BUSINESS DAY, NO LATER THAN 10 BUSINESS DAYS FROM THE DATE OF HACL'S DECISION OR NOTICE TO TERMINATE ASSISTANCE.

Participant's Name: _____ Date: _____ Time: _____ am/pm
Address: _____ Telephone: _____
_____ Alternate Telephone: _____
_____ E-Mail Address: _____

Reason(s) why you disagree with the termination decision: (Please attach additional sheets if necessary): _____

Please check the time that is most convenient for you: _____ AM _____ PM

****Please supply any evidence to support your request for reconsideration.**

**** Please Note: If the family includes a person with disabilities, the HACL's decision concerning termination is subject to consideration of reasonable accommodation.**

Participant's Signature

Please address this notice and any attachments to:
Samantha Emanuel, Administrative Assistant
613 King Street
Lumberton, NC 28358
910-671-8200
semanuel@lumbertonhousing.com

DO NOT WRITE BELOW THIS LINE

FOR HACL'S USE ONLY

Date Request Received: _____ Scheduled Date & Time of Hearing: _____

Date Informed of Hearing: _____ () Written () Oral

↑ Termination Action Upheld ↑ Conference Agreement Signed

↑ Termination Decision Reconsidered ↑ No Additional Action

↑ Additional Information Requested

↑ Other _____

Date Informed of Disposition: _____ () Hand Delivered () Mailed

Housing Authority Representative

Title

Date