**Procedure for HCV and PBV Termination of Assistance**

**Policy Review**

1. All terminations shall be supported by a preponderance of concrete evidence to include written documentation and shall exclude hearsay or verbal statements. The notice of program termination will contain sufficient information to give the client notice of the reason(s) for termination so that the client can adequately prepare a defense, notice of his/her right to an informal hearing, and notice of the requirements and procedures for requesting an informal hearing.
2. If the client is still living in a unit with a Housing Assistance Payments (HAP) Contract and the Landlord of the assisted unit complies with Housing Quality Standards, HAP will continue until completion of the informal hearing process.
3. The Hearing Officer’s decision on an informal hearing is final.
4. PHA does not recognize implied waivers. The fact that PHA has not elected to take adverse action on a known infraction does not preclude PHA from taking adverse action at a later date.
5. Double jeopardy does not apply.

**Initiate Process**

1. The PHA staff recommending a participant/client for termination will prepare the client file to ensure that the termination is supported by concrete written evidence.
2. “Concrete, written evidence” is evidence other than verbal statements, unless recorded. If some type of recording (audio, visual, etc.) is to be used as supporting evidence, then the identities of the parties involved must be readily ascertained. If photographs are to be used as supporting evidence, then they must be taken during the relevant timeframe and they must visually show a connection to the assisted unit, etc., e.g., a photograph of an air conditioner is insufficient to connect such air conditioner to the assisted unit in question.

**Notice of Program Termination**

1. Staff recommending a client for termination will complete a Notice of Program Termination, checking the boxes on the notice the reason(s) for termination and filling in detailed information where applicable. When the termination is for criminal activity, the letter shall specify the date the crime occurred, the criminal charge and the name of the individual who has been charged/convicted.
2. Only the most current notice of program termination will be used.
3. Staff recommending a client for termination will print out 3 copies of the completed notice of program termination and make 2 copies of the evidence supporting termination.
4. Staff recommending a client for termination will place 1 copy of the supporting documents/evidence in the client file, in proper stacking order. Staff will put together a termination packet, which shall contain (a) a copy of the documents supporting termination and (b) a copy of the notice of program termination, with the notice of program termination in front. This staff member will place this packet (clipped together) in the file and forward the file to the PHA Executive Director for review and approval.
5. The PHA Executive Director will review the proposed termination and supporting documents to determine if a termination is warranted under applicable regulations (at **24 CFR 982.551, 24 CFR 982.552, and 24 CFR 982.553**) and under PHA policies.
6. After reviewing the file and supporting documents, the PHA Executive Director will determine if termination can be supported by a preponderance of the evidence. If he/she determines that a termination can be supported by a preponderance of the evidence, then he/she will sign the termination approval form, place a copy of the termination approval form in the file, and return the file to the staff in #1 above.
7. The notice of program termination sent to the client and the notice of program termination sent to the Landlord shall not pre-date the date on the termination approval form. If necessary, the letters should be reprinted to reflect the correct date.
8. The date printed/written on the notice of program termination will be the date on which the notice is actually mailed (forwarded or taken to the United States Postal Service).
9. The date (at the top) of the notice of termination to the client should be the same as the date of the notice of termination to the Landlord.
10. The effective date of termination on the notice of program termination will be the last day of the month (30th or 31st) after the month that the notice of program termination is mailed out.
11. Staff will scan and/or attach a copy of the notice of termination in the client’s electronic file.
12. Staff will then sign into the software system and notate in the note pad the facts regarding the termination, the date that the termination notice was sent, and the effective date of termination.
13. Once the PHA Executive Director approves a proposed termination, HAP will continue until the effective date of termination, unless the client is no longer in the assisted unit or the Landlord is violating Housing Quality Standards.

**Minimal Evidence**

1. The following are the basic concrete evidence required for termination: Note that notices to clients with disabilities must be in the format requested by the client.
2. Termination for failure to provide requested information by the specified due date: Final notice letter(s) specifying both the information requested and the due date
3. Termination for failure to attend a scheduled appointment for interim reexamination: the notice of appointment. The notice must contain the correct date and the correct last known mailing address.
4. Termination for failure to attend 2 scheduled appointments for annual reexamination: the first notice of appointment letter and the second/final notice of appointment letter. The notices must contain the correct dates and the correct last known mailing address.
5. Termination for unreported income: Printout from EIV or other third party written verification for the relevant timeframe
6. Termination for having a registered sex offender in assisted household: Printout of the registry information/requirement
7. Termination for failed criminal background check (CBC): Completed CBC form and printout of the result of the background search, including the outcome of all cases during the relevant timeframe. The term “completed” means the document contains all required signatures and all required information. A deferred adjudication in a case is a form of judgment and can be used. Pending charges, cases, and/or arrest records/police records will be used so long as the arrest records have sufficient back-up[[1]](#footnote-1). After the informal hearing, the result(s) of the CBC (the report/s) will be removed from the file and shredded. The CBC Form (not the actual police department report) will be kept in the client file.
8. Termination for fraud or misrepresentation of material facts: Concrete evidence (written) of the information previously provided by the client and the newly discovered evidence
9. Termination for engaging in abusive behavior toward a PHA staff member: A recording (e.g., voice message) of the alleged behavior, witnesses to the alleged behavior, or written evidence (e.g., a letter or an email from the client) other than notes of the alleged behavior
10. Termination for eviction: HAP contract, applicable lease agreement, and the original and/or final amended petition filed in court and the court judgment. The reason(s) for termination as checked on the termination notice must be the same as the reason(s) specified on the last amended eviction petition. The judgment alone is insufficient because it does not contain the allegation(s) for the eviction suit.
11. Termination due to a record of a previous termination from another Public Housing Authority (PHA): Written evidence of the prior termination
12. Termination when no member of the assisted family is a U.S. Citizen or an eligible immigrant: Documentation of such non-citizenship or eligible immigrant status
13. Termination for failure to reimburse PHA or another PHA for amounts owed while a participant: Documents showing participation on the program when the debt was incurred and evidence of non-payment to PHA/other PHA
14. Termination for failed inspections (violation of HQS): Inspection report and notice of each inspection, sent to both the Landlord and to the client. The notices must match the inspection dates and must contain the correct address.
15. Termination for over-income and paying full HAP for 180 days: Notice to client of over-income and effective date that client would begin to pay the full amount of contract rent and evidence of non-payment of HAP for 180 days or more due to over-income
16. Termination for absence from the assisted unit for more than 30 days: HAP Contract, applicable lease agreement, and inspection report showing that the unit was vacant during the relevant time frame
17. Termination for failure to find suitable housing before voucher expired: Expired voucher. The voucher term/dates must be correctly calculated. PHA suspends the voucher term while the RFTA is being processed (these days do not count against the day voucher term).
18. Termination for moving without notice/authorization: HAP Contract, applicable lease agreement, and inspection report showing vacant unit
19. Termination for unauthorized occupant: HAP Contract, applicable lease agreement, written evidence (other than the statement of a person who is not the client) for each alleged unauthorized occupant (such as address information from the United States Postal Service; current, unexpired TDL or State ID during relevant timeframe; and mail addressed to alleged unauthorized occupant at the address of the assisted unit, and client’s written statement)
20. Termination for vacant unit: HAP Contract, applicable lease agreement, inspection report showing vacant unit, and written statement from Landlord/management company specifying the date that the unit became vacant.
21. The staff recommending a client for termination will gather all supporting documentation for placement in the file.

**Appeal / Informal Hearing**

A client may appeal a termination decision by requesting an informal hearing, in writing

1. Ten (10) business days after the notice of termination is sent, PHA Executive Director or designated staff shall check the Informal Hearing Log saved by the Hearing Officer in the Common file to determine if a) the client requested an informal hearing and b) if the request was timely made.
2. If the request for an informal hearing was timely made, then PHA Executive Director or designated staff shall arrange to attend the Informal Hearing to present the evidence, or arrange for a designee to attend the Informal Hearing and present the evidence.
3. If a client timely submits a request for an informal hearing, HAP will continue until “completion of the informal hearing process.” “Completion of the hearing process” refers to the end of the month in which the hearing decision letter from the Hearing Officer is sent.
4. For example, if the Hearing Officer sends a decision letter on the 10th of October, HAP continues to the end of October.
5. If the request for an informal hearing was not timely made, staff shall initiate an EOP, with the effective date specified on the notice of termination.
6. Staff recommending a participant/client for termination is responsible for tracking the progress of the participant’s program standing and status from the date of the proposed termination to the date of completion of the hearing process.
7. If the termination was upheld, HAP will cease at the end of that month. Staff will then make notes in the software regarding the results of the informal hearing and process an End of Participation.
8. If a termination is overturned (reversed or withdrawn), the client shall be reinstated, and HAP will resume without a break. Staff should not EOP or place the account on hold (unless the client is no longer in the assisted unit or the Landlord is in violation of HQS) until the decision has been made to ensure that payments are made timely during the informal hearing process.

**Post-Informal Hearing Decision: Re-Consideration**

The Hearing Officer’s decision is final. However, where newly discovered evidence that was not available to the client at the time of the hearing is discovered, a reconsideration may be granted.

1. For a re-consideration of the Hearing Officer’s determination, all of the following 3 elements must be present: (1) the written request for re-consideration must be submitted within 30 calendar days of the date of the Informal Hearing; (2) the evidence for re-consideration must be clearly newly-discovered and relevant; and (3) the evidence for re-consideration must not have been readily available or known to the client prior to or at the time of the Informal Hearing.
2. The request for re-consideration shall be made in writing and directed to the PHA Executive Director or designated staff who shall, after conferring with the Hearing Officer, determine if the request for reconsideration warrants a review of the Informal Hearing determination.
3. The “reconsideration” described in Paragraph 1 and 2 above shall be limited to a review of the information/evidence presented at the Informal Hearing and any clearly new evidence submitted by client as referenced in Paragraph 1 above.
4. After reviewing the information presented at the Informal Hearing and the clearly new evidence pursuant to Paragraph 1 above, the PHA Executive Director or designated staff and the Hearing Officer shall meet to discuss the findings.
5. Within seven (7) calendar days from the date of the meeting referenced in Paragraph 4 above, the PHA Executive Director or designated staff shall prepare a written decision as to whether the Hearing Officer’s original determination should be affirmed or reversed, and the reasons for the affirmation or reversal. A copy of such determination should be sent to the Hearing Officer, the Administrative Counsel, and the client’s file.
6. There will be no other review after the determination

1. See procedure on Criminal History Checks with Open Arrests [↑](#footnote-ref-1)