
HOUSING AUTHORITY OF THE CITY OF AUSTIN

Public Housing Admissions and Continued Occupancy Policy

Housing and Community Development
Department

Approved by the HACA Board of Commissioners

11/18/2014

Revisions Approved by HACA Board of Commissioners

5/21/2015

12/17/2015

8/24/2016

12/15/2016

8/17/2017

- Not to engage in criminal activity that threatens the health, safety or right to peaceful enjoyment of other residents or staff and not to engage in drug-related criminal activity on or off the premises.
- To comply with necessary and reasonable rules and program requirements of HUD and the PHA.
- To comply with health and safety codes.

3-III.B. REQUIRED DENIAL OF ADMISSION [24 CFR 960.204]

PHAs are required to establish standards that prohibit admission of an applicant to the public housing program if they have engaged in certain criminal activity or if the PHA has reasonable cause to believe that a household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

Where the statute requires that the PHA prohibit admission for a prescribed period of time after some disqualifying behavior or event, the PHA may choose to continue that prohibition for a longer period of time [24 CFR 960.203(c)(3)(ii)].

HUD requires the PHA to deny assistance in the following cases:

- Any member of the household has been evicted from federally-assisted housing in the last 3 years for drug-related criminal activity. HUD permits but does not require the PHA to admit an otherwise-eligible family if the household member has completed a PHA-approved drug rehabilitation program or the circumstances which led to eviction no longer exist (e.g. the person involved in the criminal activity no longer lives in the household).

HACA Policy

HACA will apply its screening criteria on all applicant families, including families evicted from federally-assisted housing within the past 5 years for drug-related criminal activity. The PHA determines that any household member is currently engaged in the use of illegal drugs. *Drug* means a controlled substance as defined in section 102 of the Controlled Substances Act [21 U.S.C. 802]. *Currently engaged in the illegal use of a drug* means a person has engaged in the behavior recently enough to justify a reasonable belief that there is continuing illegal drug use by a household member [24 CFR 960.205(b)(1)].

Currently engaged in is defined as any use of illegal drugs during the previous six months.

- The PHA has reasonable cause to believe that any household member's current use or pattern of use of illegal drugs, or current abuse or pattern of abuse of alcohol, may threaten the health, safety or right to peaceful enjoyment of the premises by other residents.

HACA Policy

In determining reasonable cause, HACA will consider all credible evidence, including but not limited to, any record of convictions, arrests or evictions of household members related to the use of illegal drugs or the abuse of alcohol. A conviction will be given more weight than an arrest. HACA may, at its discretion, also consider evidence from

treatment providers or community-based organizations providing services to household members.

- Any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine on the premises of federally assisted housing.

HACA Policy

If any household member has ever been convicted of drug-related criminal activity for the production or manufacture of methamphetamine in any location, not just federally assisted housing, the family will be denied admission. For the purposes of this document, federally assisted housing is defined as any housing in which a resident's housing is subsidized or the housing provider receives subsidy, either directly or indirectly, from a federal agency or federal housing program (including, but not limited to Public Housing, the Housing Choice Voucher program, Project Based Rental Assistance, and others).

- Any household member is subject to a lifetime registration requirement under a state sex offender registration program.

HACA Policy

If any household member is currently registered as a sex offender under any State registration requirement, regardless of whether it is for lifetime or not, the family will be denied admission.

3-III.C. OTHER PERMITTED REASONS FOR DENIAL OF ADMISSION

HUD permits, but does not require the PHA to deny admission for the reasons discussed in this section.

HACA Policy

Preliminary Eligibility Criteria

All applications will be screened for preliminary eligibility before they are added to the HACA public housing waiting list. If an applicant is found to be preliminarily ineligible, their application will not be added to the program's waiting list. The following criteria shall be used to determine preliminary ineligibility:

- HACA shall prohibit admission to the public housing program of an applicant for five years from the date of eviction or termination if a household or family member has been evicted or terminated from federally assisted housing for drug-related criminal activity.
- If the household or family vacated in lieu of eviction from a HACA property due to a household or family member engaging in drug-related criminal activity within 5 years from the date of application, HACA will prohibit the admission to the public housing program if the following criteria have been met:
 - HACA has documentation confirming the household or family member engaged in the drug-related criminal activity (e.g. criminal records, including but not limited to, probable cause affidavits, court records, police reports, criminal background report, and / or other official documents); and

- HACA has documentation confirming that it started the eviction process with the family (e.g. issuance of a 30 day notice or termination lease letter, issuance of a 3 day notice to vacate letter, notice of intent to vacate in lieu of eviction signed by tenant, filing a forcible detainer lawsuit against the family and / or other records); and
 - The offender that is identified in the documentation is still listed as a member of the household or family on the new application.
- An applicant is deemed preliminarily ineligible and shall be rejected and not placed on the HACA waiting list if they were the head of household, spouse or cohead at the time of past residency at HACA and owes a move-out balance or debt to HACA which is not barred by a statute of limitations. There is a four-year statute of limitation, which ends the latter of:
 - Four years from the date the debt became delinquent, or
 - Four years from the date the final payment would have been due if a repayment agreement was signed by the former tenant.
- An applicant is deemed preliminarily ineligible and shall be rejected and not placed on the HACA waiting list if they were terminated or evicted for any reason other than drug-related activity from either program within a two-year period from date of new application. Abandonment of unit in the housing choice voucher program is considered a termination; abandonment of unit in the conventional public housing program is considered an eviction. This restriction applies only to the former head of household and/or spouse or co-head.
- If the family vacated in lieu of eviction from any HACA property for any reason other than drug-related criminal activity within the two years from the date of application, HACA will prohibit admission to the public housing program if the following criteria have been met:
 - HACA has documentation supporting the grounds for termination that would have led to the eviction of the household or family (e.g. criminal records including, but not limited to, probable cause affidavits, court records, police reports, criminal background reports, etc.; other records, including but not limited to Elite notes, photographs, resident ledgers, complaint records, HACA incident reports, prior tenant file documentation, etc; and / or other official documents); and
 - HACA has documentation confirming that it started the eviction process with the family (e.g. issuance of a 30 day notice of termination letter, issuance of a 3 day notice to vacate letter, notice of intent to vacate in lieu of eviction signed by tenant, filing a forcible detainer lawsuit against the family, and / or other records); and
 - The family member or members identified in that documentation are still listed as members of the family on the new application.
- An applicant is deemed preliminarily ineligible and shall be rejected if applying for the housing choice voucher program if they have been issued a voucher within one year from the date of application, whether or not the voucher was utilized. Expiration of an unused voucher is not cause for preliminary ineligibility for the public housing program.

- An applicant is deemed preliminarily ineligible and shall be rejected and not placed on the HACA waiting list if currently housed in this same program and listed as the head of household or co-head of household.
- For the purpose of providing a housing opportunity to as many applicants as possible, 12 months should elapse before an applicant is preliminarily eligible to reapply for the same program they have just moved out of. This shall include voluntary ~~withdrawals~~ move outs from the conventional public housing program.
- An applicant is deemed preliminarily ineligible and shall be rejected if applying for the same program for which they have already been denied admissions due to criminal history or derogatory rental history, unreported income or fraud within a 12-month period. The applicant will not be eligible to request an informal review of this rejection due to the fact that the applicant was offered an informal review when they were initially denied admissions for criminal history and/or derogatory rental history. Twelve months should elapse from the date of denial or date of the hearing decision whichever is later.
- An applicant is deemed preliminarily ineligible and shall be rejected if applying for the conventional public housing program and has rejected a public housing unit offer from HACA within the last 12 months from the date of the last housing offer.
- A family is deemed evicted if a lease termination/violation letter had been sent to the family alleging a breach of the lease based upon drug-related criminal activity, criminal activity, non-payment of rent or other breach and the family has voluntarily vacated, or if a judgment for eviction is rendered, or if the family vacated due to the oral threatened termination of the lease.
- HACA complies with all Fair Housing laws. Applicants have the right to request a Reasonable Accommodation. HACA will consider all Reasonable Accommodation requests under the Fair Housing Act and Section 504 of the American Disabilities Act. Information related to the Fair Housing Act, Section 504 and Requests for Reasonable Accommodation will be included in the denial letters.
- If the basis for the denial relates to family violence, the applicant may qualify for an exception under the VAWA Amendments. Information related to VAWA will be included in the denial letters.

Criminal Activity [24 CFR 960.203 (c)]

Under the Public Housing Assessment System (PHAS), PHAs that have adopted policies, implemented procedures and can document that they successfully screen out and deny admission to certain applicants with unfavorable criminal histories receive points.

The PHA is responsible for screening family behavior and suitability for tenancy. In doing so, the PHA may consider an applicant's history of criminal activity involving crimes of physical violence to persons or property and other criminal acts that would adversely affect the health, safety or welfare of other tenants.

HACA Policy

3-III.F. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The Violence against Women Act of 2013 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking [24 CFR 5.2005 (b)]. This section describes how HACA will comply with this prohibition.

Notification

VAWA 2013 expanded notification requirements to include the obligation for PHAs to provide applicants who are denied assistance with a notice of rights and the form HUD-~~50066~~5382 at the time the applicant is denied.

HACA Policy

HACA acknowledges that a victim of domestic violence, dating violence, sexual assault, or stalking may have an unfavorable history (e.g., a poor credit history, a record of previous damage to an apartment, a prior arrest record) that would warrant denial under HACA's policies. Therefore, if HACA makes a determination to deny admission to an applicant family, HACA will include in its notice of denial information about the protection against denial provided by VAWA in accordance with section ~~4617~~-VII.C of this ACOP, a notice of VAWA rights as well as including and a copy of the form HUD-~~50066~~5382. HACA will request that an applicant wishing to claim this protection provide notice within 14 business days from the date of receipt from HACA of the notice of denial. HACA may extend the 14 business day period upon request from the individual.

Documentation

Victim Documentation [24 CFR 5.2007]

HACA Policy

If an applicant claims the protection that VAWA provides the victims of domestic violence, dating violence, sexual assault, or stalking regarding the denial of admissions, HACA will request in writing that the applicant provide documentation supporting the claim in accordance with section ~~4617~~-VII.D of this ACOP.

Perpetrator Documentation

HACA Policy

If the perpetrator of the abuse is a member of the applicant family, the applicant must provide additional documentation consisting of one of the following:

- A signed statement (1) requesting that the perpetrator be removed from the application and (2) certifying that the perpetrator will not be permitted to visit or to stay as a guest in the public housing unit.
- Documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation or treatment. The documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is

qualifies for. The availability of units also may affect the order in which families are selected from the waiting list.

The PHA must maintain a clear record of all information required to verify that the family is selected from the waiting list according to the PHA's selection policies [24 CFR 960.206(e)(2)]. The PHA's policies must be posted any place where the PHA receives applications. The PHA must provide a copy of its tenant selection policies upon request to any applicant or tenant. The PHA may charge the family for providing a copy of its tenant selection policies [24 CFR 960.202(c)(2)].

HACA Policy

When an applicant or resident family requests a copy of HACA's tenant selection policies, HACA will provide copies to them free of charge.

4-III.B. SELECTION METHOD

PHAs must describe the method for selecting applicant families from the waiting list, including the system of admission preferences that the PHA will use.

Local Preferences [24 CFR 960.206]

PHAs are permitted to establish local preferences and to give priority to serving families that meet those criteria. HUD specifically authorizes and places restrictions on certain types of local preferences. HUD also permits the PHA to establish other local preferences, at its discretion. Any local preferences established must be consistent with the PHA plan and the consolidated plan, and must be based on local housing needs and priorities that can be documented by generally accepted data sources [24 CFR 960.206(a)].

HACA Policy

Eligible applicants shall be offered a dwelling unit based on the date and time of application, after taking into consideration the size of the unit and, if applicable, the appropriate local preference.

For purposes of establishing priority, applicants involuntarily displaced because of HACA action involving rehabilitation, demolition or other disposition of dwelling units will receive priority over all other local preference, and then other local preferences are weighted equally and each applicant family can be granted a maximum of one local preference at one time.

In addition to local preferences, HACA has designated some properties as mixed population developments. These properties are reserved for elderly and / or disabled families.

- The following mixed population developments will be reserved for elderly and/or disabled families:

○ Lakeside Apartments

○ Salina Apartments

HACA will use the following local preferences on each of its public housing site-based waiting lists:

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- Involuntarily Displaced by HACA Action: Current HACA public housing families involuntarily displaced because of HACA action involving rehabilitation, demolition or other disposition of dwelling units will receive highest priority. This priority will apply to all public housing waiting lists and HACA's Housing Choice Voucher program waiting list. (Note: This preference applies to HACA's housing choice voucher waiting list only.)

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- Elderly Preference: Families in which the head of household, spouse or co-head are age 62 or older are eligible for the Elderly preference.
- Disability Preference: Families in which the head of household, spouse or co-head meet HUD's definition of disability are eligible for the Disability preference. HACA will give preference to elderly or disabled families.

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The following mixed population developments will be reserved for elderly and/or disabled families:

- Lakeside Apartments
- Northloop Apartments
- Gaston Place Apartments
- Salina Apartments

Should the applicant become eligible for housing, and a unit is unavailable within a mixed population development OR the elderly and/or disabled family contains a dependent who is not elderly, disabled or is a minor, the applicant will then be offered a unit within a family site, consistent with HACA occupancy standards.

- Involuntarily Displaced Preference: Families displaced as a result of natural disaster or government action ~~shall be given~~ are eligible for the Involuntarily Displaced preference. The following documentation will be used to verify displacement status:
 - Certification from a unit of government concerning displacement due to natural disaster; or
 - Certification from a unit of government concerning displacement due to code enforcement or public improvement/development or displacement by inaccessibility of a unit.

The displacement must have occurred within six months of requesting the involuntary displacement preference.

HACA is piloting an additional local preference in connection with the Jobs Plus program. As part of this pilot project, HACA will add an Upward Mobility preference for applicants on the waiting lists for Chalmers Courts and Booker T Washington Terraces. This preference will be weighted equally to the local preferences listed above.

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- Upward Mobility Preference: Families in which the head of household, spouse, co-head or any other adult family member (does not include live-in aides or other non-family household members) who meet at least one of the following eligibility criteria are eligible for the Upward Mobility preference.

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- Employed: To meet this criteria, the family member must be working at least 20 hours per week.

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- o GED Student: To meet this criteria, the family member must be regularly attending a GED program that meets the standards of the Texas Education Agency or the equivalent in another state; and making progress toward earning their GED; or have completed a GED program within the last 12 months.
- o Higher Education Student: To meet this criteria, the family member must be enrolled in an institution of higher education (as defined by HUD) and taking at least 6 credit hours; or have graduated from an institution of higher education within the last 12 months.
- o Job Training Participant: To meet this criteria, the family member must be participating in a formal job training program designed to lead to a higher level of proficiency or to obtain employment; or have graduated from a job training program within the last 12 months.

The pilot project will last for the duration of the Jobs Plus grant program and will be evaluated for possible continuation at these properties and possible expansion to other HACA properties.

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Income Targeting Requirement [24 CFR 960.202(b)]

HUD requires that extremely low-income (ELI) families make up at least 40% of the families admitted to public housing during the PHA’s fiscal year. ELI families are those with annual incomes at or below the federal poverty level or 30% of the area median income, whichever number is higher (*Federal Register* notice 6/25/14). To ensure this requirement is met, the PHA may skip non-ELI families on the waiting list in order to select an ELI family.

If a PHA also operates a housing choice voucher (HCV) program, admissions of extremely low-income families to the PHA’s HCV program during a PHA fiscal year that exceed the 75% minimum target requirement for the voucher program, shall be credited against the PHA’s basic targeting requirement in the public housing program for the same fiscal year. However, under these circumstances the fiscal year credit to the public housing program must not exceed the lower of: (1) ten percent of public housing waiting list admissions during the PHA fiscal year; (2) ten percent of waiting list admissions to the PHA’s housing choice voucher program during the PHA fiscal year; or (3) the number of qualifying low-income families who commence occupancy during the fiscal year of PHA public housing units located in census tracts with a poverty rate of 30 percent or more. For this purpose, qualifying low-income family means a low-income family other than an extremely low-income family.

HACA Policy

HACA will monitor progress in meeting the ELI requirement throughout the fiscal year. ELI families will be selected ahead of other eligible families on an as-needed basis to ensure that the income targeting requirement is met.

Mixed Population Developments [24 CFR 960.407]

A mixed population development is a public housing development or portion of a development that was reserved for elderly families and disabled families at its inception (and has retained that character) or the PHA at some point after its inception obtained HUD approval to give preference in tenant selection for all units in the development (or portion of a development) to elderly and disabled families [24 CFR 960.102]. Elderly family means a family whose head, spouse, cohead, or sole member is a person who is at least 62 years of age. Disabled family

- Documents that must be provided at the interview to document the legal identity of household members, including information about what constitutes acceptable documentation.
- Documents that must be provided at the interview to document eligibility for a preference, if applicable.
- Other documents and information that should be brought to the interview.

4-III.D. THE APPLICATION INTERVIEW

HUD recommends that the PHA obtain the information and documentation needed to make an eligibility determination through a private interview. Being invited to attend an interview does not constitute admission to the program.

Assistance cannot be provided to the family until all SSN documentation requirements are met. However, if the PHA determines that an applicant family is otherwise eligible to participate in the program, the family may retain its place on the waiting list for a period of time determined by the PHA [Notice PIH 201210].

Reasonable accommodation must be made for persons with disabilities who are unable to attend an interview due to their disability [24 CFR 8.4(a) and 24 CFR 100.204(a)].

HACA Policy

Families selected from the waiting list are required to participate in an eligibility interview.

The head of household and the spouse/cohead will be strongly encouraged to attend the interview together. However, either the head of household or the spouse/cohead may attend the interview on behalf of the family. Verification of information pertaining to adult members of the household not present at the interview will not begin until signed release forms are returned to HACA.

The interview will be conducted only if the head of household or spouse/cohead provides appropriate documentation of legal identity (Chapter 7 provides a discussion of proper documentation of legal identity). If the family representative does not provide the required documentation, the appointment may be rescheduled when the proper documents have been obtained.

Pending disclosure and documentation of social security numbers, HACA will allow the family to retain its place on the waiting list for 90 days. If not all household members have disclosed their SSNs at the next time a unit becomes available, HACA will offer a unit to the next eligible applicant family on the waiting list.

If the family is claiming a waiting list preference, the family must provide documentation to verify their eligibility for a preference (see Chapter 7). If the family is verified as eligible for the preference, HACA will proceed with the interview. If HACA determines the family is not eligible for the preference, the interview will not proceed and the family will be placed back on the waiting list according to the date and time of their application.

The family must provide the information necessary to establish the family's eligibility, including suitability, and to determine the appropriate amount of rent the family will pay. The family must also complete required forms, provide required signatures and submit

required documentation. If any materials are missing, HACA will provide the family with a written list of items that must be submitted.

Any required documents or information that the family is unable to provide at the interview must be provided within 7 calendar days of the interview (Chapter 7 provides details about longer submission deadlines for particular items, including documentation of Social Security numbers and eligible noncitizen status). If the family is unable to obtain the information or materials within the required time frame, the family may request an extension. If the required documents and information are not provided within the required time frame (plus any extensions), the family will be sent a notice of denial (see Chapter 3).

An advocate, interpreter or other assistant may assist the family with the application and the interview process.

Interviews will be conducted in English. For limited English proficient (LEP) applicants, HACA will provide translation services in accordance with HACA's LEP plan.

If the family is unable to attend a scheduled interview, the family should contact HACA in advance of the interview to schedule a new appointment. In all circumstances, if a family fails to attend a scheduled interview, without prior HACA approval, their application will be made inactive based on the family's failure to supply information needed to determine eligibility. The notice of rejection will state that failure to request a rescheduled appointment within 15 calendar days of the missed appointment date will be interpreted to mean that the family is no longer interested and their application will remain inactive. Due to the high volume of applicants on the waiting list, applicant families will only be allowed a maximum of ~~two~~ one rescheduled appointments (for a total of ~~three~~ two scheduled appointments), unless HACA receives documentation verifying that illness, disability, family death or hospitalization did not allow for attendance.

4-III.E. FINAL ELIGIBILITY DETERMINATION [24 CFR 960.208]

The PHA must verify all information provided by the family (see Chapter 7). Based on verified information related to the eligibility requirements, including PHA suitability standards, the PHA must make a final determination of eligibility (see Chapter 3).

When a determination is made that a family is eligible and satisfies all requirements for admission, including tenant selection criteria, the applicant must be notified of the approximate date of occupancy insofar as that date can be reasonably determined [24 CFR 960.208(b)].

HACA Policy

HACA will notify a family in writing of their eligibility within 10 business days of the determination and will provide the approximate date of occupancy insofar as that date can be reasonably determined.

The PHA must promptly notify any family determined to be ineligible for admission of the basis for such determination, and must provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination [24 CFR 960.208(a)].

HACA Policy

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Chapter 8

LEASING AND INSPECTIONS

[24 CFR 5, Subpart G; 24 CFR 966, Subpart A]

INTRODUCTION

Public housing leases are the basis of the legal relationship between the PHA and the tenant. All units must be occupied pursuant to a dwelling lease agreement that complies with HUD's regulations.

HUD rules also require the PHA to inspect each dwelling unit prior to move-in, at move-out and annually during occupancy. In addition, the PHA may require additional inspections in accordance with PHA policy.

This chapter is divided into two parts as follows:

Part I: Leasing. This part describes pre-leasing activities and HACA's policies pertaining to lease execution, modification and payments under the lease.

Part II: Inspections. This part describes HACA's policies for inspecting dwelling units.

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PART I: LEASING

8-I.A. OVERVIEW

An eligible family may occupy a public housing dwelling unit under the terms of a lease. The lease must meet all regulatory requirements, and must also comply with applicable state and local laws and codes.

The term of the lease must be for a period of 12 months. The lease must be renewed automatically for another 12-month term, except that the PHA may not renew the lease if the family has violated the community service requirement [24 CFR 966.4(a)(2)].

Part I of this chapter contains regulatory information, when applicable, as well as the PHA's policies governing leasing issues.

8-I.B. PRE-OCCUPANCY ORIENTATION

HACA Policy

Upon being determined eligible for public housing, the head of household and co-head/spouse will be required to attend and successfully complete a pre-occupancy orientation meeting prior to being housed. No applicant will be admitted to HACA housing before attending the pre-occupancy training. In the event that an applicant fails to attend the orientation, no housing offer will be made.

An orientation meeting may be rescheduled in order to provide a reasonable accommodation for a verified disability upon request or if the applicant has an emergency that is supported by written documentation presented to HACA.

Upon successful completion of the pre-occupancy orientation, the family will be eligible to receive a unit offer pursuant to HACA's unit offer policies described in Chapter 5.

Orientation Agenda

HACA Policy

The orientation meeting shall at a minimum provide the following general information to the applicants:

- A copy of HACA's Zero Tolerance Policy
- A copy of HUD Fact Sheet "How Your Rent is Determined"
- A copy of HACA "Things To Remember" fact sheet
- A copy of "Is Fraud Worth It?" (form HUD-1141-OIG), which explains the types of actions a family must avoid and the penalties for program abuse
- A copy of "What You Should Know about EIV," a guide to the Enterprise Income Verification (EIV) system published by HUD as an attachment to Notice PIH 2010-19
- ~~Information about the protections afforded by the Violence against Women Act of 2013 (VAWA) to victims of domestic violence, dating violence, sexual assault, or stalking (see section 16 VII.C)~~ A copy of the VAWA Notice of Occupancy Rights (See section 17 VII.C)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking

Topics to be discussed will include:

- Applicable deposits and other charges
- Review and explanation of lease provisions
- Unit maintenance and work orders
- HACA's reporting requirements
- Explanation of occupancy forms
- Community service requirements
- Family choice of rent
- VAWA protections
- HACA's Rental Integrity and Fraud Prevention Program

8-I.C. EXECUTION OF LEASE

The lease must be executed by the tenant and the PHA, except for automatic renewals of a lease [24 CFR 966.4(a)(3)].

A lease is executed at the time of admission for all new residents. A new lease is also executed at the time of transfer from one PHA unit to another.

The lease must state the composition of the household as approved by the PHA (family members and any PHA-approved live-in aide) [24 CFR 966.4(a)(1)(v)]. See Section 8-I.D. for policies regarding changes in family composition during the lease term.

HACA Policy

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Chapter 12

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TRANSFER POLICY

INTRODUCTION

This chapter explains the HACA's transfer policy, based on HUD regulations, HUD guidance and HACA policy decisions.

This chapter describes HUD regulations and HACA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures and payment of transfer costs.

Part II: HACA Required Transfers. This part describes types of transfers that may be required by the PHA, notice requirements and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

The PHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

The PHA must have specific policies in place to deal with acceptable transfer requests.

PART I: EMERGENCY TRANSFERS

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12-I.A. OVERVIEW

HUD categorizes certain situations that require emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the PHA.

In the case of a genuine emergency, it may be unlikely that the PHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, the PHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, the PHA must offer standard alternative accommodations,

if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

HACA Policy

The following ~~is~~are considered ~~an~~ emergency circumstances~~s~~ warranting an immediate transfer of the tenant or family:

- Maintenance conditions in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours. Examples of such unit or building conditions would include: a gas leak, toxic contamination, serious water leaks, etc.
- A verified incident of domestic violence, dating violence, sexual assault, or stalking. For instances of domestic violence, dating violence, sexual assault, or stalking, the threat may be established through documentation outlined in section 17-VII.D

HACA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. HACA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. If an internal transfer to a safe unit is not immediately available, HACA will assist the resident in seeking an external emergency transfer within HACA's PBRA and HCV programs.

HACA has adopted an emergency transfer plan, which is included as Exhibit 17-3 to this plan.

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12-I.C. EMERGENCY TRANSFER PROCEDURES

HACA Policy

If the transfer is necessary because of maintenance conditions not caused by the resident and beyond the resident's control, and an appropriate unit is not immediately available, HACA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location. If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, HACA will transfer the resident to the first available and appropriate unit after the temporary relocation. Emergency transfers are mandatory for the tenant.

Notwithstanding anything to the contrary contained within this chapter, when a transfer is approved and if in HACA's sole determination it is deemed that the immediate transfer is necessary to protect life and/or property, the transfer may occur prior to the completion of the procedures set forth in this chapter.

12-I.D. COSTS OF TRANSFER

HACA Policy

domestic violence, dating violence, sexual assault, or stalking and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

12-III.D. SECURITY DEPOSITS

HACA Policy

All transfers will be treated as move-outs since the account will be closed at the original unit and a new account opened and a Dwelling Lease Agreement signed for the new unit. No transfer of deposit will be made since it will be used to offset any move-out damages and the balance, if any, will be credited to the resident's dwelling account. In addition to pro-rated rent, the resident will be required to pay in advance the required security deposit at the new development. The receiving property will be responsible for setting up maintenance or other repayment agreements if necessary.

12-III.E. COST OF TRANSFER

The PHA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident's disability [Notice PIH 2006-13].

HACA Policy

The resident will bear all of the costs of transfer s/he requests. However, in cases of documented financial hardship, HACA will consider assuming the transfer costs only when the transfer is done as a reasonable accommodation.

12-III.F. HANDLING OF REQUESTS

HACA Policy

Transfers may only be requested by the head of household by filling out a Request for Transfer Form and such form must be submitted to the Public Housing Manager, with any supporting documentation as to the reason for the request. The Request Form allows the resident to choose whether they prefer to transfer only within their current Public Housing property, only to a different HACA Public Housing property, or to the first available unit at any site (including their current site). The request must be signed and dated by the head of household.

In cases involving reasonable accommodation transfers, HACA will encourage the resident to make the request in writing using a Reasonable Accommodation Request Form. However, HACA will consider the transfer request any time the resident indicates that an accommodation is needed whether or not a formal written request is submitted.

The request will be date stamped upon receipt and reviewed by the Public Housing Manager and a recommendation will be noted as to whether the transfer should be approved or denied. The Public Housing Manager will forward the request to the Admissions department for processing no later than 2 business days from date of receipt. The Admissions department will respond by approving the transfer and putting the family on the transfer list, by denying the transfer or by requiring more information or documentation from the family.

consider accommodations that can reasonably be expected to address the behavior that is the basis of the proposed lease termination. See Chapter 2 for a discussion of reasonable accommodation.

Nondiscrimination Limitation [24 CFR 966.4(l)(5)(vii)(F)]

HACA's eviction actions must be consistent with fair housing and equal opportunity provisions of 24 CFR 5.105.

14-III.F. TERMINATIONS RELATED TO DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

This section addresses the protections against termination of tenancy that the Violence against Women Act of 2013 (VAWA) provides for public housing residents who are victims of domestic violence, dating violence, sexual assault, or stalking. For general VAWA requirements and PHA policies pertaining to notification, documentation, and confidentiality, see section 16-VII of this ACOP, where definitions of key VAWA terms are also located.

VAWA Protections against Termination [24 CFR 5.2005(c)]

VAWA provides that "criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of tenancy of, occupancy rights of, or assistance to the victim, if the tenant or affiliated individual of the tenant is the victim." [24 CFR 5.2005(c)(2)].

VAWA further provides that incidents of actual or threatened domestic violence, dating violence or stalking may not be construed either as serious or repeated violations of the lease by the victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence [24 CFR 5.2005(c)(1)].

Limits on VAWA Protections [24 CFR 5.2005(d) and (e)]

While VAWA prohibits a PHA from using domestic violence, dating violence, sexual assault, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, or stalking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit the PHA's authority to terminate the tenancy of any tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if the tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm [24 CFR 5.2005(d)(2) and (e)]. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include:

- The duration of the risk
- The nature and severity of the potential harm

- The likelihood that the potential harm will occur
- The length of time before the potential harm would occur [24 CFR 5.2005(e)]

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat" [24 CFR 5.2005(d)(3)].

HACA Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, HACA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking
- Whether the threat is a physical danger beyond a speculative threat
- Whether the threat is likely to happen within a short period of time
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat

If the tenant wishes to contest HACA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

Documentation of Abuse [24 CFR 5.2007]

HACA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, HACA will request that the individual provide documentation supporting the claim in accordance with the policies in section 167-VII.D of this ACOP.

HACA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases HACA will document the waiver in the individual's file.

Terminating or Evicting a Perpetrator of Domestic Violence Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, terminate occupancy rights, or terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is a tenant or lawful occupant." [24 CFR 5.2009(a)]. Moreover, HUD regulations impose on the PHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking [24 CFR 966.4(e)(9)].

Specific lease language affirming the PHA's authority to bifurcate a lease is not necessary and the authority supersedes any local, state or federal law to the contrary. However, if the PHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by HUD or by applicable local, state or federal law for eviction, lease termination or termination of assistance. This means that the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family [3/16/07 *Federal Register* notice on the applicability of VAWA to HUD programs].

HACA Policy

HACA will bifurcate a family's lease and terminate the tenancy of a family member if HACA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, HACA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-~~50066~~5382) or other documentation of abuse submitted to HACA by the victim in accordance with this section and section 167-VII.D.

HACA will also consider the factors in section 134.III.E. Upon such consideration, HACA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If HACA does bifurcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, HACA must provide any remaining tenant a chance to establish eligibility for the unit. If the remaining tenant cannot do so, HACA must provide the tenant reasonable time to find new housing or to establish eligibility for another housing program covered by VAWA 2013

PART IV: NOTIFICATION REQUIREMENTS, EVICTION PROCEDURES AND RECORD KEEPING

Field Code Changed

134-IV.A. OVERVIEW

HUD regulations specify the requirements for the notice that must be provided prior to lease termination. This part discusses those requirements and the specific requirements that precede and follow termination for certain criminal activities which are addressed in the regulations. This part also discusses specific requirements pertaining to the actual eviction of families and record keeping.

14-IV.B. CONDUCTING CRIMINAL RECORDS CHECKS [24 CFR 5.903(e)(ii) and 24 CFR 960.259]

HUD authorizes PHAs to conduct criminal records checks on public housing residents for lease enforcement and eviction. PHA policy determines when the PHA will conduct such checks.

HACA Policy

HACA will obtain public criminal records when it has come to the attention of HACA, either from local law enforcement or by other means that an individual has engaged in the destruction of property, engaged in violent activity against another person or has

14-IV.C. DISCLOSURE OF CRIMINAL RECORDS TO FAMILY [24 CFR 5.903(f), 24 CFR 5.905(d) and 24 CFR 966.4(l)(5)(iv)]

In conducting criminal records checks, if the PHA uses the authority of 24 CFR 5.903 and 5.905 to obtain such information, certain protections must be afforded the tenant before any adverse action is taken. In such cases if the PHA obtains criminal records information from a state or local agency showing that a household member has been convicted of a crime, or is subject to a sex offender registration requirement, relevant to lease enforcement or eviction, the PHA must notify the household of the proposed action and must provide the subject of the record and the tenant a copy of such information, and an opportunity to dispute the accuracy and relevance of the information before an eviction or lease enforcement action is taken.

HACA Policy

HACA does not conduct criminal records checks during occupancy. HACA utilizes public information to enforce the lease provisions.

14-IV.D. LEASE TERMINATION NOTICE [24 CFR 966.4(l)(3)]

Form, Delivery, and Content of the Notice

Notices of lease termination must be in writing. The notice must state the specific grounds for termination, the date the termination will take place, the resident's right to reply to the termination notice and their right to examine PHA documents directly relevant to the termination or eviction. If the PHA does not make the documents available for examination upon request by the tenant, the PHA may not proceed with the eviction [24 CFR 966.4(m)].

When the PHA is required to offer the resident an opportunity for a grievance hearing, the notice must also inform the resident of their right to request a hearing in accordance with the PHA's grievance procedure. In these cases, the tenancy shall not terminate until the time for the tenant to request a grievance hearing has expired and the grievance procedure has been completed.

When the PHA is not required to offer the resident an opportunity for a grievance hearing because HUD has made a due process determination and the lease termination is for criminal activity that threatens health, safety or right to peaceful enjoyment or for drug-related criminal activity, the notice of lease termination must state that the tenant is not entitled to a grievance hearing on the termination. It must specify the judicial eviction procedure to be used by the PHA for eviction of the tenant, and state that HUD has determined that the eviction procedure provides the opportunity for a hearing in court that contains the basic elements of due process as defined in HUD regulations. The notice must also state whether the eviction is for a criminal activity that threatens the health, safety or right to peaceful enjoyment of the premises of other residents or employees of the PHA, or for a drug-related criminal activity on or off the premises.

HACA Policy

HACA will attempt to deliver notices of lease termination directly to the tenant or an adult member of the household. If such attempt fails, the notice will be sent by first-class mail the same day.

All notices of lease termination will include information about the protection against termination provided by VAWA for victims of domestic violence, dating violence, sexual assault, or stalking (see section 167-VII-C). The PHA will also include a copy of the form HUD-500665382 and a notice of VAWA rights to accompany the termination notice. Any family member who claims that the cause for termination involves (a) criminal acts of physical violence against family members or others or (b) incidents of

domestic violence, dating violence, sexual assault, or stalking of which a family member is the victim will be given the opportunity to provide documentation in accordance with the policies in Sections 1~~34~~-III.F and 1~~67~~-VII.D.

Timing of the Notice [24 CFR 966.4(l)(3)(i)]

The PHA must give written notice of lease termination of:

- 14 calendar days in the case of failure to pay rent.
- A reasonable period of time considering the seriousness of the situation (but not to exceed 30 calendar days).

If the health or safety of other residents, PHA employees or persons residing in the immediate vicinity of the premises is threatened.

If any member of the household has engaged in any drug-related criminal activity or violent criminal activity.

If any member of the household has been convicted of a felony.

- 30 calendar days in any other case, except that if a state or local law allows a shorter notice period, such shorter period shall apply.

HACA Policy

HACA will give written notice of 14 calendar days for nonpayment of rent. For all other lease terminations HACA will give 30 days' written notice or, if state or local law allows less than 30 days, such shorter notice will be given. For lease terminations involving drug-related criminal activity or physically violent criminal activity, HACA may give 3 days' written notice.

The Notice to Vacate, if necessary, will be issued upon expiration of the notice of lease termination.

Notice of Nonrenewal Due to Community Service Noncompliance [24 CFR 966.4(l)(2)(ii)(D), 24 CFR 960.603(b) and 24 CFR 960.607(b)]

When the PHA finds that a family is in noncompliance with the community service requirement, the tenant and any other noncompliant resident must be notified in writing of this determination. Notices of noncompliance will be issued in accordance with the requirements and policies in Section 11-I.E.

HACA Policy

If after receiving a notice of initial noncompliance the family does not request a grievance hearing, or does not take either corrective action required by the notice within the required timeframe, a termination notice will be issued in accordance with the policies above.

If a family agreed to cure initial noncompliance by signing an agreement, and is still in noncompliance after being provided the 12-month opportunity to cure, the family will be issued a notice of lease termination due to continued noncompliance. The notice will be sent in accordance with the policies in Section 11-I.E. and will serve as the notice of termination of tenancy.

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

8, “Leasing and Inspections” (section 8-I.B); Chapter 12, “Transfer Policy” (sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (sections 13-III.F and 13-IV.D).

17-VII.B. DEFINITIONS [24 CFR 5.2003]

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that individual stands in the position or place of a parent; or
 - Any individual, tenant or lawful occupant living in the household of that individual
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person’s acts under the domestic or family violence laws of the jurisdiction.
- The term *sexual assault* means:
 - Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
 - To follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or
 - To place under surveillance with the intent to kill, injure, harass, or intimidate another person; and
 - In the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (1) that person, (2) a member of the immediate family of that person, or (3) the spouse or intimate partner of that person.

17-VII.C. NOTIFICATION [24 CFR 5.2005(a)]

Notification to Public

The PHA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are aware their rights under VAWA.

HACA Policy

HACA will post the following information regarding VAWA in its offices and on its web site. It will also make the information readily available to anyone who requests it.

- A notice of occupancy rights under VAWA to housing choice voucher program applicants and participants who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (Form HUD-5380, see Exhibit 17-1)
- A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation (see Exhibit 17-2)
- A copy of the PHA's emergency transfer plan (Exhibit 17-3)
- A copy of HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383 (Exhibit 17-4)
- ~~• A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, sexual assault, or stalking (see sample notice in Exhibit 16-1).~~
- ~~• The definitions of domestic violence, dating violence, sexual assault, and stalking provided in VAWA (included in Exhibit 16-1).~~
- ~~• An explanation of the documentation that HACA may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1).~~
- ~~• A copy of form HUD-50066, Certification of Domestic Violence, Dating Violence or Stalking.~~
- ~~• A statement of HACA's obligation to keep confidential any information that it receives from a victim unless (a) HACA has the victim's written permission to release the information, (b) it needs to use the information in an eviction proceeding, or (c) it is compelled by law to release the information (included in Exhibit 16-1).~~
- The National Domestic Violence Hot Line: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY) (included in Exhibit 16-1).
- Contact information for local victim advocacy groups or service providers.

Notification to Applicants and Tenants [24 CFR 5.2005(a)(1)]

PHAs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The PHA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-~~50066~~5382) at each of these three junctures.

HACA Policy

HACA will provide all applicants with information about VAWA at the time they request an application for housing assistance. HACA will also include such information in all notices of denial of assistance (see section 3-III.F).

HACA will provide all tenants with information about VAWA at the time of admission (see section 8-I.B) and at annual reexamination. HACA will also include such information in all lease termination notices (see section 134-IV.D).

The VAWA information provided to applicants and participants will consist of the notices in Exhibit 177-1 and 17-2.

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~~The VAWA information provided to applicants and tenants will consist of the notice in Exhibit 16-1 and a copy of form HUD-50066, Certification of Domestic Violence, Dating Violence, and Stalking.~~

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

HACA Policy

Whenever HACA has reason to suspect that providing information about VAWA to a public housing tenant might place a victim of domestic violence at risk, it will attempt to deliver the information by hand directly to the victim.

17-VII.D. DOCUMENTATION [24 CFR 5.2007]

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. [24 CFR 5.2007(a)]

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation [24 CFR 5.2007(b)]:

1. A completed and signed HUD-approved certification form (HUD-~~50066~~5382, Certification of Domestic Violence, Dating Violence, or Stalking), which must include the name of the perpetrator only if the name of the perpetrator is safe to provide and is known to the victim
2. A federal, state, tribal, territorial, or local police report or court record
3. Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; or a medical professional. Acceptable documentation also includes a record of an administrative agency, and documentation from a mental health professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation [VAWA final rule].

HACA Policy

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline. HACA may, in its discretion, extend the deadline for 10 business days. Any extension granted by HACA will be in writing.

Conflicting Documentation [24 CFR 5.2007(e)]

In cases where the PHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

HACA Policy

If presented with conflicting certification documents (two or more forms HUD-~~50066~~5382) from members of the same household, HACA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 CFR 5.2007(b)(2) or (3) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation [24 CFR 5.2007(d)]

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse in accordance with 24 CFR 5.2007(b).

HACA Policy

If HACA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, or stalking, HACA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation [24 CFR 5.2007(c)]

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

17-VILE. CONFIDENTIALITY [24 CFR 5.2007(b)(4)]

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database, (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and (3) may not provide the information to any other entity or individual, except to the

extent that the disclosure is (a) requested or consented to by the individual in writing, (b) required for use in an eviction proceeding, or (c) otherwise required by applicable law.

HACA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, HACA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

**EXHIBIT 17-1: SAMPLE NOTICE ~~TO PUBLIC HOUSING APPLICANTS AND~~
TENANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA) ~~OF~~
OCCUPANCY RIGHTS UNDER VAWA**

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation. The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that [insert name of program or rental assistance] is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA."

Protections for Applicants

If you otherwise qualify for assistance under HUD's Public Housing Program you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Residents

If you are receiving assistance under HUD's Public Housing Program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under HUD's Section 8 Program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

Removing the Abuser or Perpetrator from the Household

Management may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If management chooses to remove the abuser or perpetrator, management may not take away the rights of eligible residents to the unit or otherwise punish the remaining residents. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, management must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, management must follow Federal, State, and local eviction procedures. In order to divide a lease, management may, but is not required to, ask you for

documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, management may permit you to move to another unit, subject to the availability of other units, and still keep your assistance.

In order to approve a request, management may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking.

If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA. The criteria are:

- (1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation, as described in the documentation section below.
- (2) You expressly request the emergency transfer. Your housing provider may choose to require that you submit a form, or may accept another written or oral request.
- (3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar day period before you expressly request the transfer.

Management will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

Management's emergency transfer plan provides further information on emergency transfers, and management must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

Management can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from management must be in writing, and management must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. Management may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to management as documentation. It is your choice which of the following to submit if management asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by management with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.
- Any other statement or evidence that management has agreed to accept. If you fail or refuse to provide one of these documents within the 14 business days, management does not have to provide you with the protections contained in this notice.

If management receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), management has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, management does not have to provide you with the protections contained in this notice.

Confidentiality

Management must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

Management must not allow any individual administering assistance or other services on behalf of management (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

Management must not enter your information into any shared database or disclose your information to any other entity or individual. Management, however, may disclose the information provided if:

- You give written permission to management to release the information on a time limited basis.
- Management needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires management or your landlord to release the information.

VAWA does not limit management's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, management cannot hold residents who have been victims of domestic violence, dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to residents who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if management can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- (1) Would occur within an immediate time frame, and
- (2) Could result in death or serious bodily harm to other residents or those who work on the property.

If management can demonstrate the above, management should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with HUD's Multifamily/FHEO Office – Ft. Worth Regional Office.

For Additional Information

For Additional Information

- You may view a copy of HUD's final VAWA rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.
- Additionally, management must make a copy of HUD's VAWA regulations available to you if you ask to see them.
- For questions regarding VAWA, please contact property management.
- For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of

Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

This sample notice was adapted from a notice prepared by the National Housing Law Project.

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, or stalking. The name of the law is the Violence against Women Act, or "VAWA." This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program solely because you are a victim of domestic violence, dating violence, sexual assault, or stalking.

If you are the victim of domestic violence, dating violence, sexual assault, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a member of your household or a guest can't be the reason for evicting you if you were the victim of the abuse.

Reasons You Can Be Evicted

The housing authority can still evict you if the housing authority can show there is an *actual* and *imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants' rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

Proving That You Are a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

The housing authority can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, sexual assault, or stalking. It must give you at least 14 business days (i.e. Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

- ~~Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence. You are only required to provide the name of the abuser if it is safe to provide and you know their name.~~
- ~~Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”~~
- ~~Provide a police or court record, such as a protective order.~~

~~If you fail to provide one of these documents within the required time, the housing authority may evict you.~~

Confidentiality

The housing authority must keep confidential any information you provide about the violence against you, unless:

- ~~You give written permission to the housing authority to release the information.~~
- ~~The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.~~
- ~~A law requires the housing authority to release the information.~~

~~If release of the information would put your safety at risk, you should inform the housing authority.~~

VAWA and Other Laws

~~VAWA does not limit the housing authority’s duty to honor court orders about access to or control of a public housing unit. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.~~

~~VAWA does not replace any federal, state, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking.~~

For Additional Information

~~If you have any questions regarding VAWA, please contact _____ at _____.~~

~~For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).~~

Definitions

For purposes of determining whether a public housing applicant or tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines ***domestic violence*** to include felony or misdemeanor crimes of violence committed by any of the following:

- A current or former spouse of the victim
- A person with whom the victim shares a child in common
- A person who is cohabitating with or has cohabitated with the victim as a spouse
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies
- Any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines ***dating violence*** as violence committed by a person (1) who is or has been in a social relationship of a romantic or intimate nature with the victim AND (2) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- The length of the relationship
- The type of relationship
- The frequency of interaction between the persons involved in the relationship

VAWA defines ***sexual assault*** as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

VAWA defines ***stalking*** as (A)(i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person OR (ii) to place under surveillance with the intent to kill, injure, harass, or intimidate another person AND (B) in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person, or (iii) the spouse or intimate partner of that person.

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**EXHIBIT 17-2: Form HUD-5382 CERTIFICATION OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT OR STALKING**

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

(1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.

(2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or

(3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's): _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____

Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

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EXHIBIT 17-3: HACA EMERGENCY TRANSFER MOVE PLAN

Emergency Transfer Move Plan

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for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Emergency Transfers

The Housing Authority of the City of Austin (HACA) is concerned about the safety of its residents and program participants in the Housing Choice Voucher (HCV) program, Public Housing (PH) program and the Project Based Rental Assistance (PBRA) program. Such concern extends to residents who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Act (VAWA),² HACA allows residents who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer move from the resident's current unit to another unit within HACA's three programs mentioned above. The ability to request a transfer move is available regardless of sex, gender identity, or sexual orientation.³

The ability of HACA to honor such requests for residents currently receiving assistance, however, may depend upon two things:

- a preliminary determination that the resident is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and
- whether HACA has another dwelling unit that is available and is safe to offer the resident for temporary or permanent occupancy.

This plan identifies residents who are eligible for an emergency transfer move, the documentation needed to request an emergency transfer move, confidentiality protections, how an emergency transfer move may occur, and tips for residents on safety and security. This plan is based on a model emergency transfer move plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees the HCV, PH and PBRA programs.

Eligibility for Emergency Transfers

² Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

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³ Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

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A resident of HACA's HCV, PH or PBRA program who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer move:

- if the resident reasonably believes that there is a threat of imminent harm from further violence if the resident remains within the same unit; or
- in the case of sexual assault, the resident may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer move.

A resident requesting an emergency transfer move must expressly request the transfer move in accordance with the procedures described in this plan.

Residents who are not in good standing may still request an emergency transfer move if they meet the eligibility requirements in this section.

Emergency Transfer Move Request Documentation

To request an emergency transfer move, the resident must do the following:

HCV Resident: The resident shall notify his / her eligibility specialist and submit a written request for a transfer move to another unit. The eligibility specialist will provide the resident with an Emergency Transfer Move Request form. HACA will provide reasonable accommodations to this policy to allow individuals with disabilities to submit the request in an accessible manner.

PH and PBRA Residents: The resident shall notify the property manager and submit a written request for a transfer to the property manager. The property manager will provide the resident with an Emergency Transfer Request form. HACA will provide reasonable accommodations to this policy to allow individuals with disabilities to submit the request in an accessible manner.

The HCV, PH or PBRA resident's written request for an emergency transfer move should include either:

- A statement expressing that the resident reasonably believes that there is a threat of imminent harm from further violence if the resident were to remain in the same dwelling unit assisted under HACA's program; OR
- A statement that the resident was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the resident's request for an emergency transfer.

Confidentiality

HACA will keep confidential any information that the resident submits in requesting an emergency transfer move, and information about the emergency transfer move, unless:

- the resident gives HACA written permission to release the information on a time limited basis, or
- disclosure of the information is required by law; or
- disclosure is required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program.

This confidentiality includes keeping confidential the new location of the dwelling unit of the resident, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the resident. See the Notice of Occupancy Rights under the Violence Against Women Act For All Residents for more information about HACA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Move Timing and Availability

HACA cannot guarantee that a transfer move request will be approved or how long it will take to process a transfer move request. HACA will, however, act as quickly as possible to move a resident who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit.

Residents can request internal and external transfer moves. Internal transfer moves are moves within the same program. External transfer moves are moves that cross over to a different program. Residents can make these requests simultaneously to allow for the opportunity to move at the earliest possible time.

HCV Residents: Upon receipt of the Transfer Move Request and verification of being a victim of domestic violence, dating violence, sexual assault, or stalking, the eligibility specialist will provide the resident with a Recision form to be completed by the resident and their current landlord. The eligibility specialist will assist the resident with both internal and external move options:

- *Internal Transfer Move Options:* The resident will be given a voucher which can be used to locate a new unit within HACA's voucher jurisdiction where the family feels safe. The family can also use the portability feature of the voucher and move to the jurisdiction of any other Public Housing Authority that administers the HCV program.

- External Transfer Move Options: The resident will be given the opportunity to place their name on the waiting list for any of HACA's 18 PH and PBRA properties where the family feels safe, even if the waiting list for that property is closed. This placement on the waiting list is done with a preference that will move the family to the top of the list. HACA's Admissions Department will streamline the eligibility determination process to assist the family with moving as quickly as possible.

PH and PBRA Residents: Upon receipt of the Transfer Move Request and verification of being a victim of domestic violence, dating violence, sexual assault, or stalking, the property manager will assist the resident with both internal and external move options:

- Internal Transfer Move Options: The resident will be given the opportunity to place their name on the waiting list for any of HACA's 18 PH and PBRA properties where the family is eligible and would feel safe, even if the waiting list for that property is closed. This placement on the waiting list is done with a preference that will move the family to the top of the list. If a resident reasonably believes a proposed internal transfer would not be safe, the resident may reject the transfer offer and request a transfer to a different unit.
- External Transfer Move Options: When voucher funding is available, the resident may request to be placed on the voucher waiting list with an emergency preference, even if the list is closed. With a voucher the family can locate a new unit within HACA's voucher jurisdiction where the family feels safe. The family can also use the portability feature of the voucher and move to the jurisdiction of any other Public Housing Authority that administers the HCV program. HACA's Admissions Department will streamline the eligibility determination process to assist the family with moving as quickly as possible.

If a unit is available, the transferred resident must agree to abide by the terms and conditions that govern occupancy in the unit and program to which the resident has been transferred. HACA may be unable to transfer a resident to a particular unit if the resident has not or cannot establish eligibility for that unit.

If HACA has no safe and available units for which a resident who needs an emergency transfer move is eligible, HACA will assist the resident by referring them to local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Safety and Security of Residents

Pending processing of the transfer move and the actual transfer move, if it is approved and occurs, the resident is urged to take all reasonable precautions to be safe.

Residents who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Residents who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Residents who are or have been victims of stalking may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

Attachment: Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking include the following (list may not be exhaustive):

- **Safe Place**

24/7 Hotline: (512) 267-SAFE (7233)

- **The Salvation Army Shelter for Women and Children**

4523 Tannehill Ln
Austin, TX 78721
(512) 933-0600

- **Casa Marianella**

Posada Esperanza
821 Gunter St
Austin, TX 78702
(512) 928-8862

- **Asian Family Support Services of Austin**

Hotline: 1-877-281-8371
Local: (512) 651-3743

- **Travis County Health and Human Services Community Centers**

<u>Palm Square</u>	<u>Del Valle</u>	<u>Post Road</u>
<u>100 N IH 35 Suite 2000</u>	<u>3518 FM 973 S</u>	<u>2201 Post Rd Suite101</u>
<u>Austin, TX 78701</u>	<u>Del Valle, TX 78617</u>	<u>Austin, TX 78704</u>
<u>(512) 854-4120</u>	<u>(512) 854-1520</u>	<u>(512) 854-9130</u>
<u>Manor</u>	<u>Pflugerville</u>	<u>Oak Hill</u>
<u>600 W Carrie Manor St</u>	<u>15822 Foothill Farm Loop</u>	<u>8656 W Hwy 71</u>
<u>Manor, TX 78653</u>	<u>Pflugerville, TX 78660</u>	<u>Oak Hill, TX 78735</u>
<u>(512) 854-1550</u>	<u>(512) 854-1530</u>	<u>(512) 854-2130</u>

- **City of Austin Neighborhood Centers**

<u>Blackland</u>	<u>East Austin</u>	<u>Montopolis</u>
<u>2005 Salina St</u>	<u>211 Comal St</u>	<u>1416 Montopolis Dr</u>
<u>Austin, TX 78722</u>	<u>Austin, TX 78702</u>	<u>Austin, TX 78741</u>
<u>(512) 972-5790</u>	<u>(512) 972-6650</u>	<u>(512) 972-6650</u>
<u>Rosewood-Zaragoza</u>	<u>South Austin</u>	
<u>2800 Webberville Rd</u>	<u>2508 Durwood St</u>	
<u>Austin, TX 78702</u>	<u>Austin, TX 78704</u>	
<u>(512) 972-6740</u>	<u>(512) 972-6840</u>	

EXHIBIT 17-4: HUD MODEL EMERGENCY TRANSFER REQUEST

EMERGENCY TRANSFER **U.S. Department of Housing** OMB Approval No. 2577-0286

REQUEST FOR CERTAIN **and Urban Development** Exp. 06/30/2017

VICTIMS OF DOMESTIC

VIOLENCE, DATING VIOLENCE,

SEXUAL ASSAULT, OR STALKING

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking. If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is

safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's) _____

3. Name(s) of other family member(s) listed on the lease: _____

4. Name(s) of other family member(s) who would transfer with the victim: _____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim: _____

7. Name of the accused perpetrator (if known and can be safely disclosed): _____

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11.

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

12. If voluntarily provided, list any third-party documentation you are providing along with this notice:

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature

Signed on (Date)