

Chapter 12

TRANSFER POLICY

INTRODUCTION

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

This chapter describes HUD regulations and PHA 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: PHA 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

12-I.A. OVERVIEW

HUD categorizes certain actions as 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 reached.

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)].

VAWA requires the PHA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, stalking, or human trafficking.

CDA Policy

The following is considered an emergency circumstance 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 include that the resident's unit has been damaged by fire, flood, or other causes of such a degree that the unit is not habitable, provided that, although the damage was a result of carelessness or negligence of the resident or a member of the resident's household, the resident has, in writing, accepted the responsibility for such damage and has agreed to make restitution to the CDA for the expense of repairing such damage.

A verified incident of domestic violence, dating violence, sexual assault, stalking, or human trafficking. For instances of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the threat may be established through documentation outlined in section 16-VII.D. In order to request the emergency transfer, the requestor must submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP), although, the CDA may waive this requirement in order to expedite the transfer process.

The CDA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, stalking, or human trafficking. If approved, the CDA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The CDA defines

immediately available as a vacant unit, that is ready for move-in within a reasonable period of time, not to exceed 90 days.

The CDA has adopted an emergency transfer plan, which is included as Exhibit 16-3 to this plan.

~~In accordance with the Violence Against Women Act (VAWA), the CDA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. The ability of the CDA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the CDA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.~~

~~A tenant 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, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant 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. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements for a VAWA emergency transfer~~

12-I.C. EMERGENCY TRANSFER PROCEDURES

CDA Policy

Any condition that would produce an emergency work order would qualify a family for an emergency transfer if the repairs cannot be made within 24-hours.

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, the CDA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location ~~assist the family in finding a temporary location~~. The family is entitled to alternative accommodations even if the tenant, household member, guest, or other covered person is responsible for the damage that caused the hazard or if the family is in the process of being evicted. ~~Such an emergency transfer is mandatory for the tenant.~~

If the conditions that required the transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, the CDA will transfer the resident to the first available and appropriate unit after the temporary relocation.

Emergency transfers that arise due to maintenance conditions are mandatory for the tenant.

If the emergency transfer is necessary to protect a victim of domestic violence, dating violence, sexual assault, stalking, or human trafficking, the CDA will follow procedures outlined in Exhibit 16-4.

~~A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, requesting an emergency transfer must expressly request the transfer by notifying the CDA's property management office and submitting a written request for a VAWA transfer to an identified location. The CDA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency VAWA transfer should include either:~~

- ~~1. A statement expressing that the tenant reasonable believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under the CDA's housing program; OR~~
- ~~2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.~~

~~The CDA will keep confidential any information that the tenant submits in requesting an emergency VAWA transfer, and information about the emergency transfer, unless the tenant gives the CDA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant.~~

~~The CDA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The CDA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The CDA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.~~

~~If the CDA has no safe and available units for which a tenant who needs an emergency is eligible, the CDA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the CDA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking (e.g. D.A.I.S.)~~

~~Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe. See Chapter 16, Part VII Violence Against Women Act (VAWA), Exhibit 16-1, for additional resources.~~

12-I.D. COSTS OF TRANSFER

CDA Policy

The resident, except when the transfer is due to the need of the CDA, will pay all moving costs related to the transfer.

The CDA will bear the reasonable costs of temporarily accommodating the tenant and of long-term transfers, if any, due to CDA caused emergency conditions (e.g. CDA maintenance conditions).

The reasonable cost of transfers includes the cost of packing, moving, and unloading.

The CDA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, the CDA will collect information from companies in the community that provide these services.

The CDA will reimburse the family for eligible out-of-pocket moving expenses up to the CDA's established moving allowance.

The resident will be required to pay a new deposit and upon acceptance of a unit will be informed of the manner in which it is to be paid.

PART II: PHA REQUIRED TRANSFERS

12-II.A. OVERVIEW

HUD regulations regarding transfers are minimal, leaving it up to the PHA to develop reasonable transfer policies.

The PHA may require that a resident transfer to another unit under some circumstances. For example, the PHA may require a resident to transfer to make an accessible unit available to a disabled family. The PHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, a PHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by the PHA is an adverse action, and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

12-II.B. TYPES OF PHA REQUIRED TRANSFERS

CDA Policy

The types of transfers that may be required by the CDA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the CDA are mandatory for the resident and non-compliance by the resident may result in lease termination.

Transfers to Make an Accessible Unit Available

When a family is initially given an accessible unit, but does not require the accessible features, the PHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

CDA Policy

When a non-accessible unit becomes available, the CDA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The CDA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

The resident, transferring out of the accessible unit, will pay all moving costs related to the transfer.

Occupancy Standards Transfers

The PHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to PHA policy [24 CFR 960.257(a)(4)]. On some occasions, the PHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

CDA Policy

The CDA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

Overcrowded: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.

Over-housed: the family no longer qualifies for the bedroom size in which they are living based on the CDA's occupancy standards as described in Section 5-I.B.

The CDA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on the CDA's occupancy standards, when the CDA determines there is a need for the transfer.

The CDA may elect not to transfer an over-housed family in order to prevent vacancies.

A family that is required to move because of family size will be advised by the CDA that a transfer is necessary and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

If a family that is required to move refuses the offered unit, the CDA will evaluate the reason for the refusal and determine if it is one of good cause. If the CDA determines that there is no good cause, the CDA will begin lease termination proceedings.

Demolition, Disposition, Revitalizations, or Rehabilitation, Including Rental Assistance Demonstration (RAD) Conversions Transfers

These transfers permit the PHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

CDA Policy

The CDA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The CDA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A PHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, the PHA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

CDA Policy

The CDA will only bear the costs of transfers in association with demolition, disposition, revitalization, or rehabilitation.

PART III: TRANSFERS REQUESTED BY TENANTS

12-III.A. OVERVIEW

HUD provides the PHA with discretion to consider transfer requests from tenants. The only requests that the PHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the PHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the PHA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

CDA Policy

The types of requests for transfers that the CDA will consider are limited to requests for transfers to alleviate a serious or life-threatening medical condition, transfers due to a reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the CDA's occupancy standards, and transfers to a location closer to employment, education, or daycare. No other transfer requests will be considered by the CDA.

The CDA will consider the following as high priority transfer requests:

- Emergency
- When a family requests a transfer as a reasonable accommodation. Examples of a reasonable accommodation transfer include, but are not limited to, a transfer to a first-floor unit for a person with mobility impairment, or a transfer to a unit with accessible features
- Underhoused or overcrowded
- Family above the Established Income Range (EIR) moving into a development below the EIR, or vice versa. An EIR transfer will be executed when the first family on the transfer list above the EIR is needed to move into a development below the EIR, or vice versa

The CDA will consider the following as regular priority transfer requests:

To live in housing designated for the elderly under the CDA's allocation plan

To live closer to a required medical treatment center

When the head of household or spouse is employed 25 miles or more from the public housing unit, has no reliable transportation and public transportation is not adequate

When it is to the CDA's advantage (e.g. redevelopment activity, caretaking or other programmatic efforts)

12-III.C. ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the PHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

CDA Policy

Except where reasonable accommodation is being requested, the CDA will only consider transfer requests from residents that are in good standing, including, but not limited to meeting the following requirements:

Have no negative rental history, including delinquency in rent or other charges, currently owe back rent, other charges, or a debt to the CDA, have a pattern of late payment, or have housekeeping lease violations

Have no history of disturbances or of damaging property

Have not engaged in criminal activity that threatens the health and safety of residents and staff

Have not had utilities turned off (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection, as well as annual CDA and mandatory HUD Physical Inspection specifications.

Exceptions to the good record requirement may be made when it is to the CDA's advantage to make the transfer. Exceptions will also be made when the CDA determines that a transfer is necessary to protect the health or safety of a resident who is a victim of domestic violence, dating violence, sexual assault, ~~or~~ stalking, or human trafficking, and who provides a written request (see section 12-I.-C. EMERGENCY TRANSFER PROCEDURES.)

If a family requested to be placed on the transfer 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 the transfer is needed as a reasonable accommodation.

The CDA will not grant a transfer request solely to accommodate neighbors who "cannot get along."

12-III.D. SECURITY DEPOSITS

CDA Policy

When a family transfers from one unit to another, the CDA will transfer the family's security deposit to the new unit. The resident will be billed for any maintenance or others charges due for the "old" unit.

The resident must pay the difference of the security deposit if transferring to a unit with a

higher security deposit.

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].

CDA Policy

The resident will bear all of the costs of transfer s/he requests.

12-III.F. HANDLING OF REQUESTS

CDA Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In order to request the emergency transfer under VAWA, the resident will be required to submit an emergency transfer request form (HUD-5383) (Exhibit 16-4 of this ACOP).

The CDA may, on a case-by-case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the CDA accepts an individual's statement, the CDA will document acceptance of the statement in the individual's file in accordance with 16-VII.D. of this ACOP.

In case of a reasonable accommodation transfer, the CDA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the CDA 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 CDA 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.

If the family does not meet the "good standing" requirements under Section 12-III.C., the manager will address the problem and, until resolved, the request for transfer will be denied.

The CDA will respond within ten (10) business days of the submission of the family's request. If the CDA denies the request for transfer, the family will be informed of its grievance rights.

PART IV: TRANSFER PROCESSING

12-IV.A. OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

12-IV.B. TRANSFER LIST

CDA Policy

The CDA will maintain a transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case-by-case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions, VAWA)
2. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other PHA-required transfers
7. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, the CDA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow the CDA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

12-IV.C. TRANSFER OFFER POLICY

CDA Policy

Residents will receive one offer of a transfer.

When the transfer is required by the CDA, refusal of that offer without good cause will result in lease termination.

When the transfer has been requested by the resident, refusal of that offer without good cause will result in the removal of the household from the transfer list and the family must wait six months to reapply for another transfer.

12-IV.D. GOOD CAUSE FOR UNIT REFUSAL

CDA Policy

The CDA will require documentation of good cause for unit refusals.

12-IV.E. DECONCENTRATION

CDA Policy

If subject to deconcentration requirements, the CDA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve the CDA's deconcentration goals. A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.

12-IV.F. REEXAMINATION POLICIES FOR TRANSFERS

CDA Policy

The reexamination date will be changed to coincide with the developments annual reexamination schedule.