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## **EMERGENCY TRANSFER PLAN FOR VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

### **EMERGENCY TRANSFERS**

The Lenoir Housing Authority (hereinafter referred as PHA) is concerned about the safety of its tenants, and such concern extends to tenants who are victims of domestic violence, dating violence, sexual assault, or stalking. In accordance with the Violence Against Women Reauthorization Act of 2013 (VAWA), the PHA 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.

For the purposes of the Violence Against Women Reauthorization Act of 2013, the term "tenant" shall refer to an assisted family and the members of the household on their lease, but does not include guests or unreported members of a household.

The ability to request a transfer is available regardless of race, color, national origin, religion, familial status, marital status, disability, age, sex, actual or perceived sexual orientation, or gender identity.

The ability of the PHA to honor such requests 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 upon whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

This Plan identifies tenants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants on safety and security. This Plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD).

### **ELIGIBILITY FOR EMERGENCY TRANSFER**

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:

1. The tenant expressly requests the emergency transfer (Form HUD-5383, Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking); and
2. The tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit; or
3. 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 in this section.

## **EMERGENCY TRANSFER REQUEST DOCUMENTATION**

To request an emergency transfer, the tenant shall notify the PHA's management office and submit a written request (Form HUD-5383, Emergency Transfer Request) for a transfer to a safe location.

The tenant's written request for an emergency transfer should include either:

1. A statement expressing that the tenant reasonably 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 PHA's 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 PHA will request, in writing, that the tenant submit any one of the following as documentation of domestic violence, dating violence, sexual assault, or stalking. It is at the discretion of the tenant as to which one of the following forms of documentation to submit.:

- The Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation (Form HUD-5382); or
- A document:
  - Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or mental health professional (collectively "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
  - Signed by the tenant; and
  - That specifies, under penalty of perjury, that the professional believes in the occurrence of an incident of domestic violence, dating violence, sexual assault, or stalking that is the grounds for protection and remedies and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking; or
- A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- At the discretion of the PHA a statement or other evidence provided by the tenant.

The PHA will provide reasonable accommodations to this Plan for individuals with disabilities.

## CONFIDENTIALITY

The PHA 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, unless the victim gives the PHA 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 public housing or the Housing Choice Voucher program.

The PHA will not allow any individual administering assistance on behalf of the PHA, in the employ of the PHA, or any person contracted by the PHA to have access to confidential information unless it is explicitly necessary for these individuals to have access to the information under applicable Federal, State, or local law.

The PHA will not enter the VAWA confidential information into any shared database or disclose the information to any other entity or individual except to the extent that the disclosure is:

- Requested or consented to in writing by the individual in a time-limited release;
- Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- Otherwise required by applicable law.

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.

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

## EMERGENCY TRANSFER TIMING AND AVAILABILITY

The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. However, the PHA will 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. A safe unit is a unit the victim of domestic violence, dating violence, sexual assault, or stalking believes to be safe. The PHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

The tenant may qualify for either an internal emergency transfer or external emergency transfer.

- Internal Emergency Transfer: Is the relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.
  - The PHA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available.

- The PHA will take the following actions to assist a tenant in making an internal emergency transfer under VAWA when a safe unit is not immediately available:
  - Public Housing to Public Housing: If the victim is receiving low rent public housing assistance, the PHA will move the tenant from one public housing unit to another public housing unit, which is owned by the PHA.
  - Section 8/HCV: If the victim is receiving Section 8/HCV tenant-based rental assistance, the PHA will expedite the administrative processes and not deny the tenant's portability option to move to a safe unit located in outside the PHA's jurisdiction.

The PHA will not restrict the timing or numbers of moves, including portability, when the victim or member of the family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking and the move is needed to protect the health safety of the victim or family members.

- Tenant-Based to Project-Based Voucher: If the victim is receiving tenant-based rental assistance, and is eligible for project-based voucher assistance, the tenant will be given priority to receive project-based voucher assistance over individuals on the project-based voucher assistance waiting list.
- Project-Based Voucher to Tenant-Based: If the victim makes a request for an emergency transfer and has lived in the project-based voucher unit for one year or more, the PHA will give the victim priority to receive the next available opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If the victim has lived in the project-based voucher unit for one year or more and a tenant-based voucher is not immediately available, the PHA may offer to allow the victim to move to another project-based voucher unit at the same site or to a project-based voucher unit at another site under the PHA, if the victim believes the unit to be safe.

If the victim has lived in the project-based voucher unit for less than one year or the victim seeks to move sooner than a tenant-based voucher will be available, the PHA will give the family priority to receive the next available opportunity for tenant-based assistance or allow the victim to move to another project-based voucher unit at the same site or to a project-based voucher unit at another site under the PHA, if the victim believes the unit to be safe.

- External Emergency Transfer: Is the relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is, the tenant must undergo an application process in order to reside in the new unit.
  - The PHA will take the following actions to assist a tenant in making an external emergency transfer under VAWA when a safe unit is not immediately available:

- Public Housing to Tenant-Based: If the victim is receiving low rent public housing assistance, and is eligible for tenant-based rental assistance, the tenant will be given priority to receive tenant-based rental assistance over individuals on the tenant-based rental assistance waiting list.
- Public Housing to Project-Based Voucher: If the victim is receiving low rent public housing assistance, and is eligible for project-based voucher rental assistance, the tenant will be given priority to receive project-based voucher rental assistance over individuals on the project-based voucher rental assistance waiting list.
- Tenant-Based to Public Housing: If the victim is receiving tenant-based rental assistance, and is eligible for low rent public housing assistance, the tenant will be given priority to receive low rent public housing assistance over individuals on the low rent public housing assistance waiting list and over current public housing tenants seeking non-emergency transfers.

Project-Based Voucher to Public Housing: If the victim is receiving project-based voucher assistance, and is eligible for low rent public housing assistance, the tenant will be given priority to receive low rent public housing assistance over individuals on the low rent public housing waiting list and over current public housing tenants seeking non-emergency transfers.

- If the victim is receiving low rent public housing assistance, the PHA will enter into a Memoranda of Understanding (MOU) with another PHA to give priority to the eligible tenant to receive low rent public housing assistance over individuals on the other PHA's waiting list for low rent public housing assistance or over current public housing tenants seeking non-emergency transfers.
  - The PHA will seek and establish partnerships with private, governmental, and victim advocacy organizations which provide counseling, shelter, and/or services to victims of domestic violence, dating violence, sexual assault, or stalking.
  - The PHA will become familiar with other housing providers that provide both private market units or other government-assisted units, not solely HUD-assisted units, that can be used to assist victims of domestic violence, dating violence, sexual assault, or stalking to move quickly under a VAWA emergency transfer.
- The tenant may seek an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.

The PHA will give the highest priority to tenants requesting an emergency transfer under VAWA over the following categories of tenants seeking transfers due to:

- Emergency: Conditions in the tenant's unit, building, or at the site pose an immediate, verifiable threat to the life, health, or safety of the tenant or family members. Examples of such unit or building conditions include: a gas leak, no heat in the building during the winter, no water, toxic contamination, and serious water leaks.

- Reasonable Accommodation: These transfers are made when a tenant needs to move to a different unit as an accommodation to a tenant's disability. This kind of transfer may be requested for a variety of reasons, including but not limited to: the tenant needs to be moved to a ground floor unit because his/her disability prevents him/her from climbing stairs; the tenant needs a unit with certain physical features that cannot be provided in their current unit without undue financial and administrative burden to the PHA.
- Demolition, Disposition, Revitalization or Rehabilitation: These transfers permit the PHA to demolish, sell, or do major revitalization or rehabilitation work at a building or site.
- Occupancy Standards: These transfers are made when the tenant's family size has changed, and it is now too large or too small for the unit occupied. The PHA is required to make this transfer.
- Tenant-initiated: A tenant requests a unit transfer that is not out of necessity. The PHA may establish a policy to exclude such transfers from its policy.
- Incentive: These transfers to new or rehabilitated units can be made for tenants with excellent residency histories. These transfers are not required.
- Split Family Transfers: Not all PHAs make these transfers, which permit very large families that have two adults to split into two households and be transferred to two units. A split family transfer is a type of Occupancy Standards transfer.

If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a safe 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.

If the PHA has no safe and available units for which a tenant who needs an emergency transfer is eligible, the PHA 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 PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this Plan.

If the tenant decides to remain in the current public housing unit until is able to secure a tenant-based voucher or another public housing unit which the tenant believes to be safe, the PHA may take steps to reduce the threat of further violence against the tenant by changing the tenant's locks, installing better lighting around the perimeter of the building, and/or reminding the tenant of their eligibility to be temporary absence from the unit in accordance with PHA policy.

If a tenant moved from the assisted unit during the lease term due to domestic violence, dating violence, sexual assault, or stalking, the tenant shall remain liable for the tenant rent until the PHA takes possession of the unit.

The PHA will not terminate tenant-based or project-based voucher assistance if the tenant, with or without prior notification to the PHA, moves out of a unit in violation of the lease, if the move occurs to protect the health or safety of the tenant or tenant family member who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking, and the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains in the same unit that the tenant is occupying, or if any family member has been the victim of sexual assault that occurred on the premises during the 90-calendar-day period preceding the family's request to move.

The PHA will not terminate the tenant's housing assistance if the tenant turns down a unit in which he/she believe to be unsafe. The PHA will not deny the tenant an emergency transfer if the perpetrator learned of the new unit location or another VAWA incident occurs.

## **SAFETY AND SECURITY OF TENANTS**

During processing of the emergency transfer request and the actual transfer the tenant is urged to take all reasonable precautions to be safe.

Tenants 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).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE (4673), or visit the online hotline at <https://ohl.rainn.org/online/>.

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-resorce-center>.

## **ATTACHMENT**

Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.

## **CHANGES IN LAWS AND REGULATIONS**

In the event an applicable law or regulation is modified or eliminated, or a new law or regulation is adopted, the revised law or regulation shall, to the extent inconsistent with this Plan, automatically supersede this Plan.

The PHA will revise this Plan periodically as approved by the PHA Board of Commissioners.

## DEFINITIONS

### 1937 Act

The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

### Actual and Imminent Threat

Refers to a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. 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, and the length of time before the potential harm would occur.

### Affiliated Individual

- A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
- Any individual, tenant, or lawful occupant living in the household of that individual.

### Applicant

A person or a family that has applied for housing assistance.

### Available Unit

A unit that is not occupied and is available to tenants per program requirements, eligibility, unit restrictions, and term limitations.

### Covered Housing Provider

Refers to the individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities. The program-specific regulations for the covered housing programs identify the individual or entity that carries out the duties and responsibilities of the covered housing provider as set forth in part 5, subpart L. For any of the covered housing programs, it is possible that there may be more than one covered housing provider; that is, depending upon the VAWA duty or responsibility to be performed by a covered housing provider, the covered housing provider may not always be the same individual or entity.

### Bifurcate

To divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed, and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

**Covered Housing Programs**

- Section 202 Supportive Housing for the Elderly (12 U.S.C. 1701q), with implementing regulations at 24 CFR part 891.
- Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. 8013), with implementing regulations at 24 CFR part 891.
- Housing Opportunities for Persons with AIDS (HOPWA) program (42 U.S.C. 12901 et seq.), with implementing regulations at 24 CFR part 574.
- HOME Investment Partnerships (HOME) program (42 U.S.C. 12741 et seq.), with implementing regulations at 24 CFR part 92.
- Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.), including the Emergency Solutions Grants program (with implementing regulations at 24 CFR part 576), the Continuum of Care program (with implementing regulations at 24 CFR part 578), and the Rural Housing Stability Assistance program (with regulations forthcoming).
- Multifamily rental housing under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)) with a below-market interest rate (BMIR) pursuant to section 221(d)(5), with implementing regulations at 24 CFR part 221.
- Multifamily rental housing under section 236 of the National Housing Act (12 U.S.C. 1715z-1), with implementing regulations at 24 CFR part 236.
- HUD programs assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); specifically, public housing under section 6 of the 1937 Act (42 U.S.C. 1437d) (with regulations at 24 CFR Chapter IX), tenant-based and project-based rental assistance under section 8 of the 1937 Act (42 U.S.C. 1437f) (with regulations at 24 CFR chapters VIII and IX), and the Section 8 Moderate Rehabilitation Single Room Occupancy (with implementing regulations at 24 CFR part 882, subpart H).
- The Housing Trust Fund (12 U.S.C. 4568) (with implementing regulations at 24 CFR part 93).

**Dating Violence**

- 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; and
  - The frequency of interaction between the persons involved in the relationship.

**Domestic Violence**

Includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner 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 or intimate partner,

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 "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

### **External Emergency Transfer**

An emergency relocation of a tenant to another unit where the tenant would be categorized as a new applicant; that is, the tenant must undergo an application process in order to reside in the new unit.

### **Fair Housing Act**

Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 U.S.C. 3601 et seq.).

### **Family**

Includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital status:

A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or

A group of persons residing together, and such group includes, but is not limited to:

- A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
- An elderly family;
- A near-elderly family;
- A disabled family;
- A displaced family; and
- The remaining member of a tenant family.

### **Gender Identity**

The gender with which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person's perceived gender identity. Perceived gender identity means the gender with which a person is perceived to identify based on that person's appearance, behavior, expression, other gender-related characteristics, or sex assigned to the individual at birth or identified in documents.

### **Guest**

A person temporarily staying in the unit with the consent of a tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant.

**Household**

The family and PHA-approved live-in aide and/or foster children/adults.

**HUD**

The Department of Housing and Urban Development

**Internal Emergency Transfer**

An emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; that is, the tenant may reside in the new unit without having to undergo an application process.

**Live-In Aide**

A person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- Is determined to be essential to the care and well-being of the persons;
- Is not obligated for the support of the persons; and
- Would not be living in the unit except to provide the necessary supportive services.

**Other Person under the Tenant's Control**

The person, although not staying as a guest (as defined in this section) in the unit, is, or was at the time of the activity in question, on the premises (as premises is defined in this section) because of an invitation from the tenant or other member of the household who has express or implied authority to so consent on behalf of the tenant. Absent evidence to the contrary, a person temporarily and infrequently on the premises solely for legitimate commercial purposes is not under the tenant's control.

**Premises**

The building, complex, or development in which the public or assisted housing dwelling unit is located, including common areas and grounds.

**Public Housing**

Housing assisted under the 1937 Act, other than under Section 8. "Public housing" includes dwelling units in a mixed-finance project that are assisted by a PHA with capital or operating assistance.

**Public Housing Agency (PHA)**

Any State, county, municipality, or other governmental entity or public body, or agency or instrumentality of these entities, that is authorized to engage or assist in the development or operation of low-income housing under the 1937 Act.

**Perpetrator**

Perpetrator means a person who commits an act of domestic violence, dating violence, sexual assault, or stalking against a victim.

**Reasonable Belief of Imminent Harm**

It does not matter when the initial act occurred if the current belief of the victim of a threat of imminent harm is reasonable.

**Responsible Entity**

For the public housing program and the Section 8 HCV (tenant-based assistance) program, responsible entity means the PHA administering the program under an Annual Contributions Contract with HUD.

**Safe Unit**

A unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

**Satisfactory Immigration Status**

An immigration status which does not make the individual ineligible for financial assistance.

**Sexual Assault**

Any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

**Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for the person's individual safety or the safety of others; or
- Suffer substantial emotional distress.

**Sexual Orientation**

One's emotional or physical attraction to the same and/or opposite sex (e.g., homosexuality, heterosexuality, or bisexuality).

**Tenant**

An assisted family and the members of the household on their lease, but does not include guests or unreported members of a household. A live-in aide or caregiver is not a tenant, unless otherwise provided by program regulations, and cannot invoke VAWA protections.

**VAWA**

The Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

**VAWA Crimes**

Domestic violence, dating violence, sexual assault, or stalking.