

## Chapter 12

### TRANSFER POLICY

#### INTRODUCTION

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

This chapter describes HUD regulations and OHA 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: OHA Required Transfers. This part describes types of transfers that may be required by the OHA, 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 OHA 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 OHA must have specific policies in place to deal with acceptable transfer requests.

## **PART I: EMERGENCY TRANSFERS**

### **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)].

The VAWA 2013 final rule requires the PHA to adopt an emergency transfer plan for victims of domestic violence, dating violence, sexual assault, or stalking.

#### OHA Policy

The following are considered emergency circumstances 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; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

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 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 OHA may waive this requirement in order to expedite the transfer process.

The OHA will immediately process requests for transfers due to domestic violence, dating violence, sexual assault, or stalking. The OHA will allow a tenant to make an internal emergency transfer under VAWA when a safe unit is immediately available. The OHA defines immediately available as a vacant unit, that is ready for move-in within a reasonable period of time. If an internal transfer to a safe unit is not immediately available, the OHA will assist the resident in seeking an external emergency transfer either within or outside the OHA's programs.

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

### **12-I.C. EMERGENCY TRANSFER PROCEDURES**

#### OHA Policy

If the transfer is necessary because of the above listed conditions, and an appropriate unit is not immediately available, the OHA 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, the OHA 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, or stalking, the OHA will follow procedures outlined in Exhibit 16-4.

### **12-I.D. COSTS OF TRANSFER**

#### OHA Policy

The OHA will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions, unless the reason for the transfer is tenant or guest caused damage.

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

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

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

## **PART II: OHA 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 OHA REQUIRED TRANSFERS**

#### OHA Policy

The types of transfers that may be required by the OHA, 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 OHA are mandatory for the tenant.

#### **Transfers to Make an Accessible Unit Available**

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

#### OHA Policy

When a non-accessible unit becomes available, the OHA 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 OHA 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.

## 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)].

### OHA Policy

The OHA 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 OHA's occupancy standards as described in Section 5-I.B.

The OHA 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 OHA's occupancy standards, when the OHA determines there is a need for the transfer.

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

The OHA will not approve a larger bedroom size due to additions of family members other than by birth, adoption, marriage, or court-awarded custody. An exception may be granted if the family has submitted an "Appointment of Temporary Guardianship" to the OHA. The OHA will also require that the family has initiated legal proceedings for guardianship or legal custody. Any temporary guardianship that is expected to last six months or less will not be eligible for a transfer to a larger unit.

A family that is required to move because of family size will be advised by the OHA 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.

## **Demolition, Disposition, Revitalizations, or Rehabilitation 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].

### OHA Policy

The OHA 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 OHA'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 OHA 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 OHA may not take action on the transfer until the conclusion of the grievance process.

### **12-II.D. COST OF TRANSFER**

#### OHA Policy

The OHA will bear the reasonable costs of transfers that the OHA requires, except that residents will be required to bear the cost of occupancy standards transfers.

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

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

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

## **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 OHA.

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**

### OHA Policy

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

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

When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the OHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, or a hate crime.

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

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

When a family requests a larger bedroom size unit even though the family does not meet the OHA's definition of overcrowded, as long as the family meets the OHA's occupancy standards for the requested size unit

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

Transfers requested by the tenant are considered optional for the tenant.

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

### **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].

#### OHA Policy

Except where reasonable accommodation is being requested, the OHA will only consider transfer requests from residents that meet the following requirements:

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

Owe no back rent or other charges, or have a pattern of late payment

Have no housekeeping lease violations or history of damaging property

Can get utilities turned on in the name of the head of household (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.

Exceptions to the good record requirement may be made when it is to the OHA's advantage to make the transfer.

Exceptions will also be made when the OHA 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, and who provides documentation of abuse in accordance with section 16-VII.D of this ACOP. Tenants who are not in good standing may still request an emergency transfer under VAWA.

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 unless they have a change in family size or composition, or it is needed as a reasonable accommodation.

### **12-III.D. SECURITY DEPOSITS**

#### OHA Policy

When a family transfers from one unit to another, the OHA will either refund the Security Deposit less any amounts owed to the OHA, or the OHA will transfer their net security deposit to the new unit. The OHA will also transfer any balance owed by resident to the new unit.

### **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 2010-26].

#### OHA Policy

The resident will bear all of the costs of transfer s/he requests. However, the OHA will bear the transfer costs when the transfer is done as a reasonable accommodation.

## **12-III.F. HANDLING OF REQUESTS**

### OHA 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 OHA may, on a case by case basis, waive this requirement and accept a verbal request in order to expedite the transfer process. If the OHA accepts an individual's statement, the OHA will document acceptance of the statement in the individual's file in accordance with 16-VII.D. of this ACOP. Transfer requests under VAWA will be processed in accordance with the OHA's Emergency Transfer Plan (Exhibit 16-3). In case of a reasonable accommodation transfer, the OHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, the OHA 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 OHA 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, such as documentation of domestic violence, dating violence, sexual assault or stalking in accordance with section 16-VII.D of this ACOP.

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

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

## **PART IV: TRANSFER PROCESSING**

### **12-IV.A. OVERVIEW**

Generally, families who request a transfer should be placed on a transfer list and processed in a consistent and appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience inequitable treatment.

### **12-IV.B. TRANSFER LIST**

#### OHA Policy

The OHA will maintain a centralized 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 cannot be resolved by a temporary accommodation, and the resident requires a permanent transfer, the family 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 OHA-required transfers
7. Other tenant-requested transfers

Transfer preference to overcrowded families will be based on the largest number of occupants. For example, a family of six would have preference ahead of a family of four for a three-bedroom unit. In no instance will a family be allowed to reinstate former members or add new member/s and receive this preference, except as necessary due to birth of a new child, adoption, marriage, or court awarded custody (not temporary custody).

Within each other 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 Housing Director or his/her designee, the OHA 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 OHA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

## **12-IV.C. TRANSFER OFFER POLICY**

### OHA Policy

Residents will receive one offer of a transfer.

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

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

## **12-IV.D. GOOD CAUSE FOR UNIT REFUSAL**

### OHA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

Inaccessibility to source of employment, education, or job training, children's day care, or an educational program for children with disabilities, so that accepting the unit offer would require the adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.

The family demonstrates to the OHA's satisfaction that accepting the offer will place a family member's life, health or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, or stalking in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. Refusals due to location alone do not qualify for this good cause exemption.

A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.

The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to a later move to make the unit available for a family needing the accessible features.

The unit has lead-based paint and the family includes children under the age of six.

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

#### **12-IV.E. DECONCENTRATION**

##### OHA Policy

If subject to deconcentration requirements, the OHA 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 OHA'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**

##### OHA Policy

The reexamination date will not be changed.