

Housing Catalyst

Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Emergency Transfers

Housing Catalyst (HC) 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 Act (VAWA),¹ HC 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.² The ability of HC to honor such a 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 under which program the victim is currently receiving assistance. 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 upon a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that HC complies with VAWA.

¹ 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.

² 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.

Eligibility for Emergency Transfers

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.

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

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify HC's administrative office at 1715 West Mountain Avenue, Fort Collins, CO 80521 of the need for transfer documentation. HC will provide reasonable accommodations to this policy for individuals with disabilities.

Requesting Documentation

HC will provide the tenant with notification that a request in writing is necessary to start this process. The documentation required:

- a. Form HUD-5382; or
- b. A document:
 - 1.) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a 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:

- 2) Signed by the applicant or tenant; and
 - 3) Specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under the VAWA Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; *(definition below) or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency (may include a police report), court, or administrative agency; or
- d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

****§ 5.2003 Definitions.**

The definitions of *PHA*, *HUD*, *household*, and *other person under the tenant's control* are defined in [subpart A](#) of this part. As used in this subpart L:

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, with respect to an individual, means:

- (1) 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
- (2) Any individual, **tenant**, or lawful occupant living in the **household** of that individual.

Dating violence means 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:
 - (i) The length of the relationship;
 - (ii) The type of relationship; and
 - (iii) 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.

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

Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

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

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

Time to Submit Documentation;

HC will require submission of documentation within 14 business days after the date that the individual is sent the written request for documentation. However, the PHA may extend this period at its discretion. During the 14 business day period and any granted extensions of that time, no adverse actions, such as eviction or termination, will be taken against the individual requesting VAWA protection. For example, PHAs must not schedule an eviction, grievance hearing, informal review, or informal hearing to take place during this period. In determining whether to extend the 14 business day period, PHAs and owners are encouraged to consider factors that may contribute to the victim's inability to provide the documentation in a timely manner. These factors may include, but are not limited to: cognitive limitations, disabilities, limited English proficiency, absence from the unit due to hospitalization or time in an emergency shelter, administrative delays in obtaining police or court records, the danger of further violence, and the victim's need to address health or safety issues. Housing Catalyst must also grant reasonable accommodations for persons with disabilities. Please also note that because of these factors, the PHA or owner might not be contacted by the victim with a request to extend the 14 business day period until after the 14 business day period has passed.

Acknowledging Receipt of Documentation; Failure to Provide Documentation in a Timely Manner:

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the PHA is encouraged to acknowledge receipt of the documentation in a timely manner. If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after being sent the written request for that documentation, or within the designated extension period, nothing in the VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a. Deny admission by the applicant or tenant to the housing or program;
- b. Deny assistance under the covered housing program to the applicant or tenant;
- c. Terminate the participation of the tenant in the covered housing program; or
- d. Evict the tenant, or a lawful occupant that commits a violation of a lease.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings. If the PHA denies VAWA protections, it must still follow its established procedures for grievance hearings, informal hearings, or informal reviews.

Confidentiality

HC will keep confidential information that the tenant submits in requesting an emergency transfer and/or information about the emergency transfer, unless the tenant gives HC written

permission to release the information, 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. (An exception to this situation may be the Project-Based Voucher property manager or Public Housing property manager as the process may require the addition of the tenant to the current waiting list for transfers as a priority). 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. See the Notice of Occupancy Rights under the Violence against Women Act for All Tenants for more information about HC's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Emergency Transfer Timing and Availability

HC cannot guarantee that a transfer request will be approved, or how long it will take to process a transfer request. HC will act as quickly as possible to assist the tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit subject to program availability.

For the tenant-based Housing Choice Voucher Program: A tenant who is in good standing with both HC and their current property owner, and with proper documentation (see documentation requirements above), will be issued a voucher to enable them to search for another unit. The tenant will be responsible for notifying their current property owner of their need to move and must enter into a written agreement to leave the unit with the property owner. At the request of the tenant, HC will assist them in their communication with their current property owner on their need to move from their unit as quickly as possible.

For the Public Housing and Project-Based Voucher Programs: If another Public Housing or Project-Based Voucher unit is available for which the tenant qualifies, the tenant will be presented with an offer to 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 unit is available, the transferring tenant must agree to abide by the terms and conditions that govern occupancy in the new unit. HC may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

Participants receiving project based rental assistance or tenant based rental assistance no longer are required to give notice to Housing Catalyst prior to leaving the assisted unit if they are leaving because a member of the family is the victim of a VAWA crime and the move is needed to protect the health and safety of a family member. (24 CFR 983.261)

If HC does not currently have a safe or available unit in either the Public Housing or Project-Based Voucher program for which a tenant who needs an emergency transfer is eligible for, the tenant will be given priority for the next appropriate available unit within their specific program. HC will assist the tenant or participant in identifying other housing providers who may have safe and available units to which they could move. At the tenant or participant's request, HC will also assist them in contacting the local organizations assisting victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Once a transfer has been completed in either the Project-Based Voucher program or the Public Housing program, the person(s) that committed the act(s) of domestic violence, dating violence,

sexual assault, or stalking against the tenant may not be approved to be added to the household in the future. The victim may appeal this provision through the appropriate appeal process for their program. In addition, the perpetrator may not be allowed on the premises of the new property at the discretion of the property owner.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved, 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, 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-resource-center>.

Attachment: Local organizations assisting victims of domestic violence, dating violence, sexual assault, or stalking.

Crossroads Safe house
Fort Collins, CO (Serving Larimer County)
Crisis: 888.541.7233 *

Admin: 970.530.2353
Colorado Coalition Against Domestic Violence Member Program

Alternatives to Violence

Loveland, CO 80537 (Serving southern Larimer County)
Crisis: 970-278-2083
Admin: 970-669-5150

A Woman's Place

Greeley, CO (Serving Weld County)
Crisis: 970.356.4226 * or 866.356.4226
Admin: 970.351.0476
Colorado Coalition Against Domestic Violence Member Program

Estes Valley Victim Advocates

Estes Park, CO (Serving Larimer County)
Crisis: 970.577.9781
Admin: Same as Crisis Line
Colorado Coalition against Domestic Violence Member Program

Record Retention: Housing Catalyst must keep a record of all emergency transfers requested under this plan and the outcomes of said requests. This documentation must be retained for a period of three years.