

RESOLUTION 18-34

TO ADOPT FINAL REGULATIONS IMPLEMENTING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

Summary

The purpose of this memorandum is to adopt final regulations governing the District of Columbia Housing Authority's ("DCHA") implementation of the Violence Against Women Act (VAWA) to the Board of Commissioners for approval for adoption. Key changes to the current regulations include specifying "sexual assault" as a crime covered by VAWA; enhancing confidentiality provisions; providing notice of VAWA protections to residents, applicants deemed ineligible, and participating families; clarifying documentation requirements for VAWA protections; clarifying VAWA emergency transfer request requirements; and clarifying VAWA protections for victims of domestic violence, dating violence, sexual assault, or stalking.

RESOLUTION 18-34

TO ADOPT FINAL REGULATIONS IMPLEMENTING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

WHEREAS, District of Columbia Housing Authority (“DCHA”) is required to comply with provisions of the Violence Against Women Act (“VAWA”), as amended by the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4);

WHEREAS, DCHA seeks to comply with the Department of Housing and Urban Development’s mandate to provide protections for victims of domestic violence, dating violence, sexual assault, and stalking; and

WHEREAS, on March 30, 2018, DCHA published Proposed VAWA regulations in the District of Columbia Register to solicit public comment;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Commissioners of District of Columbia Housing Authority hereby authorizes the Executive Director to adopt amendments to Title 14 of the District of Columbia Municipal Regulations as final regulations to implement the Violence Against Women Act.

ADOPTED, by the Board of Commissioners and signed in open session in authentication of this passage on this 14th day of November 2018.

ATTEST:

APPROVED:

Tyrone Garrett
Executive Director/Secretary

Neil Albert
Chairman

APPROVED TO FORM AND LEGAL SUFFICIENCY:

Kenneth S. Slaughter
General Counsel

THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF PROPOSED RULEMAKING

Violence Against Women Act

The Board of Commissioners of the District of Columbia Housing Authority (DCHA) hereby gives notice, pursuant to the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code § 6-203 (2012 Repl.)), of its intent to adopt the following proposed amendments to Chapter 49 (Purpose and Scope of Housing Choice Voucher Program Administrative Plan), Chapter 53 (Recertifications, Housing Quality Standard Inspections, and Family Moves), Chapter 55 (Portability), Chapter 59 (Definitions), Chapter 60 (Low Rent Housing: General Provisions), Chapter 61 (Public Housing: Admission and Recertification), Chapter 64 (Low Rent Housing: Public Housing Transfer Policy) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The purpose of the proposed amendments is to implement changes to the Violence Against Women Reauthorization Act of 2013 (P.L. 113-4) and HUD's implementation of this law.

Chapter 49, PURPOSE AND SCOPE OF HOUSING CHOICE VOUCHER PROGRAM ADMINISTRATIVE PLAN, of Title 14 DCMR, HOUSING, is amended as follows:

Section 4907 is amended to read as follows:

4907 PROTECTIONS FOR APPLICANTS AND PARTICIPANTS UNDER THE VIOLENCE AGAINST WOMEN ACT

4907.1 In certain circumstances, as further explained below, applicants or participants may be afforded additional protections from HCVP requirements and policies under the Violence Against Women Act (VAWA). DCHA shall comply with the terms of VAWA in administration of the HCVP. VAWA protections are for victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. DCHA shall not discriminate against VAWA victims on the basis of any protected categories pursuant to 24 C.F.R. 5.105(a) including race, color, national origin, religion, sex, familial status, disability, or age.

4907.2 Applicants seeking admission to the Housing Choice Voucher Program (HCVP) or to a Project-Based Voucher unit shall not be denied admission on the basis of, or as a direct result of, the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for admission, assistance, participation, or occupancy.

4907.3 Family or Family member participant shall not be terminated from the Housing Choice Voucher Program (HCVP) or to a Project-Based Voucher unit on the basis

of, or as a direct result of, the fact that the family member participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

- 4907.4 If a member of the assisted Family is removed from the family composition due to that member of the assisted Family being the perpetrator in criminal acts of physical violence against one or more other Family members or other people and the victim is part of the assisted Family, the perpetrator may not be considered a remaining Family member or an eligible Family member.
- 4907.5 In making its decision as to who retains assistance, DCHA shall consider all credible evidence, including, but not limited to, documentation submitted to DCHA pursuant to § 4907.12.
- 4907.6 Pursuant to federal regulations, the denial of continued HCVP assistance to a Family member who engages in criminal acts of violence against Family members or others shall be considered a form of termination of the individual Family member. Should DCHA choose to exercise this authority, it shall follow the same procedures as described in chapters 58 and 89 of this title of the DCMR when terminating assistance to such an individual as it would when terminating the assistance of an entire Family.
- 4907.7 Pursuant to federal regulations, criminal activity directly related to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a participant's household or any guest or other person under the participant's control, shall not be cause for termination of tenancy, occupancy rights of, or assistance to the victim, if the participant or immediate family member of the participant is the victim.
- 4907.8 Notwithstanding § 4907.7, DCHA may terminate assistance to a participant for violating a program obligation not premised on an act of domestic violence, dating violence, sexual assault, or stalking, provided that DCHA, provided that DCHA does not subject such a participant to a more demanding standard than other participants in making the determination to terminate assistance to the participant.
- 4907.9 A victim of domestic violence, sexual violence, dating violence, or stalking who is absent for more than one hundred twenty (120) days may still be considered a Family member based on documentation that the victim is expected to return to the Family in a reasonable time if the victim provides to DCHA documentation that meets the requirements of § 4907.12.
- 4907.10 If a Family or Family member participant has been a victim of domestic violence, dating violence, sexual assault, or stalking by an individual, the participant may port to another PHA jurisdiction in violation of the lease as explained in chapter 55 of this title of the DCMR so long as the Family has complied with all other obligations of the HCVP.

4907.11 If a Family or Family member participant who has been the victim of domestic violence, dating violence, stalking, sexual assault, or an intrafamily offense moves in violation of the lease, DCHA shall not terminate assistance or deny a Family's request to move under portability if the move was related to the act.

4907.12 A Family may document an incident or incidents of domestic violence, dating violence, sexual assault, or stalking as follows:

- (a) The HUD-approved certification form;
- (b) A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking (i.e., police reports, protective orders, and restraining orders); or
- (c) Documentation (i) signed by the victim and (ii) signed by an employee, agent, or volunteer of a victim service provider, or an attorney, or mental health or medical provider from whom the victim has sought assistance in the situation who attests under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.

4907.13 Any information submitted to DCHA under this section, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be maintained in strict confidence by DCHA.

- (a) DCHA shall not allow any individual administering assistance on behalf of the HCVP or any persons within their employ (e.g., contractors) or any employee of DCHA to have access to confidential information unless explicitly authorized by DCHA for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.
- (b) DCHA shall not enter confidential information submitted to DCHA pursuant to this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:
 - (i) Requested or consented to in writing by the individual in a time-limited release;
 - (ii) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
 - (iii) Otherwise required by applicable law.

- 4907.14 If DCHA receives conflicting HUD-approved certification forms documenting domestic violence, dating violence, sexual assault, or stalking from two or more members of a household, each petitioning for VAWA protections under this section and each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. If a household member does not submit third-party documentation, or only submits third-party documentation that contains conflicting information, DCHA may deny the VAWA request. DCHA shall determine which household members shall continue to be assisted in accordance with § 5317.6. DCHA shall provide written notice to participants with the opportunity for an informal hearing in accordance with § 8902.
- 4907.15 If a Family or Family member participant who has been a victim of domestic violence, dating violence, sexual assault, or stalking by an individual requests an emergency transfer voucher pursuant to § 5333 or 5501 of this title, the family or family member participant must submit the request in writing. A family or family member participant may submit a DCHA or HUD-approved emergency transfer voucher form, or provide a written statement that includes either:
- (a) A statement expressing and certifying that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit assisted under the HCVP; or
 - (b) A statement certifying that the participant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the participant's request for an emergency transfer voucher.
- 4907.16 If a family or family member participant requests an emergency transfer voucher under the protections of VAWA, DCHA will request in writing that the family or family member participant provide at least one (1) form of documentation specified in § 4907.12.
- 4907.17 Participants must provide the documentation required under § 4907.16 within fourteen (14) business days of receiving the written request for documentation. If DCHA receives documentation containing information that conflicts with existing information already available to DCHA, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. If DCHA receives conflicting documentation of domestic violence, dating violence, sexual assault, or stalking from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, § 4907.14 shall apply.
- 4907.18 For families residing in Partnership Program units, also called Project-Based

Voucher (“PBV”) units, the following provisions shall apply:

- (a) If a family or family member participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, makes a written emergency transfer request in the manner specified by § 4907.15 and provides documentation in the manner specified by § 4907.16 and §4907.17, DCHA may transfer the family to another Project-Based subsidized unit or another unit [in the Public Housing program] subject to availability and at DCHA’s discretion. Upon written request, the family may receive priority to receive the next available opportunity for continued tenant-based rental assistance.
- (b) Notwithstanding § 5333.2, a family or family member participant is not required to give advanced written notice, with a copy to DCHA, of intent to vacate the PBV unit if the family moved to protect the health or safety of the victim.

4907.19 For families residing in the Moderate Rehabilitation Program, as defined in § 4905.1, and Single Room Occupancy (SRO) housing facilities, as defined in § 1901.3, the following provisions shall apply:

- (a) If a family or family member participant who is a victim of domestic violence, dating violence, sexual assault, or stalking, makes a written emergency transfer request in the manner specified by § 4907.15 and provides documentation in the manner specified by § 4907.16 and §4907.17, DCHA may transfer the family to another Moderate Rehabilitation Program unit (for a family residing in a Moderate Rehabilitation Program unit) or SRO unit (for a family residing in a unit) subject to availability. If at the time of the transfer request there is no available Moderate Rehabilitation unit or SRO unit, DCHA may transfer the family to a Project-Based subsidized unit subject to availability and at DCHA’s discretion. If there is no available Project-Based subsidized unit, then upon written request and at DCHA’s discretion, the family may receive the opportunity for tenant-based rental assistance.
- (b) Notwithstanding § 5333.2, a family or family member participant is not required to give advanced written notice, with a copy to DCHA, of intent to vacate the Moderate Rehabilitation Program unit if the family moved to protect the health or safety of the victim.

4907.20 DCHA will provide to applicants deemed ineligible for the HCVP and participants in the HCVP the “Notice of Occupancy Rights under the Violence Against Women Act” and the HUD-approved certification form in accordance with HUD rules and regulations.

Chapter 53, RECERTIFICATIONS, HOUSING QUALITY STANDARD INSPECTIONS, AND FAMILY MOVES, is amended as follows:

Section 5317, REMOVING A HOUSEHOLD MEMBER, is amended as follows:

Subsection 5317.6(c) is amended to read as follows:

5317.6 If a Family receiving assistance breaks up into two (2) otherwise eligible families as a result of divorce, separation, or intrafamily offenses, then DCHA shall use the following procedures to determine which Family shall continue to be assisted:

- (a) DCHA shall be bound to any decision of the courts, including but not limited to in cases of divorce, legal separation, or intrafamily offenses, as to who shall continue to receive assistance;
- (b) In the case that there is no judicial decision relating to the assistance, DCHA shall consider the following:
 - (1) Any incidence of domestic violence, dating violence, sexual assault, or stalking, or an intrafamily offense, in which case, the victim of the violence or offense shall continue to receive assistance;
 - (2) The interest of minor children; or
 - (3) The interest of an ill, elderly, or disabled Family member; and;
- (c) If DCHA receives conflicting HUD-approved certification forms documenting domestic violence, dating violence, sexual assault, or stalking from two (2) or more members of a household, each claiming to be a victim and naming one (1) or more of the other petitioning household members as the perpetrator, DCHA may determine which Family member is entitled to remain in the voucher program by requiring third-party documentation to resolve the conflict in accordance with the Violence Against Women Act (VAWA) and its implementing regulations, as explained in §§ 4907.12 and 4907.14, and other applicable laws using the following guidelines:
 - (1) Prior to making any determination on who retains assistance, DCHA shall attempt to notify both adult family members involved in the alleged incident by first-class mail to the residence or an alternative address or email address, if one is provided, and by phone, if a phone number is provided, that only one (1) part of the family shall continue to receive assistance;
 - (2) The notice shall inform both adults of how DCHA will determine

who retains assistance, and what relevant information each adult can provide to assist DCHA in making its determination;

- (3) After making its determination using the factors as enumerated in § 5317.6 and documentation provided pursuant to §§ 4907.12 and 4907.14, DCHA shall notify both adults in writing of its decision and the basis for the decision; and
- (4) The adult family member who DCHA determines shall not continue to receive assistance shall be entitled to an informal hearing pursuant to chapter 89 of this title of the DCMR.

- (d) If in accordance with VAWA, DCHA seeks to remove the head of household pursuant to §§5317.6 (a) or (b), DCHA will follow the guidelines enumerated in §5317.6(c)(1)-(4).

Section 5333, FAMILY MOVES, is amended as follow:

Subsection 5333.5 is amended to read as follows:

5333.5 Notwithstanding § 5333.4, Families who qualify for emergency transfer vouchers shall be issued a transfer voucher if one (1) or more of the following conditions apply:

- (a) The family has requested the emergency transfer voucher in writing or on a DCHA or HUD-approved transfer request form and demonstrated a need based on the VAWA protections as explained in § 4907;
- (b) DCHA has terminated the HAP contract with the Family's landlord;
- (c) The Owner has initiated eviction proceedings against the Family;
- (d) DCHA may grant an emergency transfer upon request from the OAG, DOJ, or USAO as a matter of safety; or for witness protection if the family is within the first year of their lease. Where feasible, DCHA shall seek the written authorization of the Landlord to release the family prior to making any decision about allowing the family to move to another unit, if the family is in the first year of their lease; or
- (e) If DCHA determines that the family voucher size is too large, and the family is not within the first year of tenancy.

Chapter 55, PORTABILITY, is amended as follows:

Section 5501, DENYING FAMILY REQUEST TO MOVE UNDER PORTABILITY, is amended as follows:

Subsection 5501.3 is amended to read as follows:

5501.3 If a Family requests portability under the protections of VAWA, DCHA shall request that the Family provide one (1) of the following documents:

- (a) The HUD-approved certification form;
- (b) Federal, state, tribal, territorial, or local police record, a court record, or administrative agency record that documents the incident of domestic violence, dating violence, sexual assault, or stalking; or
- (c) Documentation (i) signed by the victim and (ii) signed by an employee, agent, or volunteer of a victim service provider, an attorney, or mental health or medical provider from whom the victim has sought assistance in the situation who attests under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.

Chapter 59, DEFINITIONS, is amended as follows:

Section 5999 is amended to add the following definitions, with the definition of “stalking” being amended:

5999 DEFINITONS

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 District of Columbia, 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 District of Columbia.

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.

Imminent Threat – 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.

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:

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

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

Chapter 60, LOW RENT HOUSING: GENERAL PROVISIONS, is amended as follows:

Section 6099, DEFINITIONS, is amended by adding “For purposes of Chapters 60 - 64 of Title 14 of the District of Columbia Municipal Regulations, the following definitions shall apply:” **at the beginning of the section, and by adding the following definitions:**

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.

Bifurcate means 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.

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.

Safe unit refers to a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

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.).

Chapter 61, PUBLIC HOUSING: ADMISSION AND RECERTIFICATION, is amended by adding a new Section 6127:

6127 PROTECTIONS FOR PUBLIC HOUSING APPLICANTS AND TENANTS UNDER THE VIOLENCE AGAINST WOMEN ACT

- 6127.1 In certain circumstances, as further explained below, applicants or tenants may be afforded additional protections from DCHA requirements and policies under the Violence Against Women Act (“VAWA”). DCHA shall comply with the terms of VAWA in administration of public housing. VAWA protections are for victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. DCHA shall not discriminate against VAWA victims on the basis of any protected categories pursuant to 24 C.F.R. 5.105(a) including race, color, national origin, religion, sex, familial status, disability, or age.
- 6127.2 DCHA will provide to applicants deemed ineligible for admission to public housing and public housing tenants the “Notice of Occupancy Rights under the Violence Against Women Act” and the HUD-approved certification form in accordance with HUD rules and regulations.
- 6127.3 Applicants seeking admission to DCHA public housing units shall not be denied admission to public housing on the basis of or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for admission, assistance, participation, or occupancy.
- 6127.4 Pursuant to federal regulations, DCHA shall not terminate tenancy for tenants protected under VAWA on the basis of, or as a direct result of, the fact that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the tenant otherwise qualifies for admission, assistance, participation, or occupancy.
- 6127.5 Pursuant to federal regulations, DCHA shall not deny tenancy or occupancy rights on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if the criminal activity is engaged in by a

member of the household of the tenant or any guest or other person under the control of the tenant; and the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

- 6127.6 Pursuant to federal regulations, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as a serious or repeated lease violation by the victim or threatened victim of such incidents; or good cause for terminating the tenancy or occupancy rights of the victim or threatened victim of such incidents.
- 6127.7 Notwithstanding Sections 6127.4, 6127.5, and 6127.6, DCHA may terminate tenancy for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking, provided that DCHA does not subject such a tenant to a more demanding standard than other tenants in making the determination whether to evict or terminate the tenancy.
- 6127.8 Notwithstanding Sections 6127.4, 6127.5, and 6127.6, DCHA may terminate tenancy if DCHA demonstrates that an actual and imminent threat to other tenants, employees, or others providing service to a public housing property would be present if a tenant or lawful occupant is not evicted.
- 6127.9 Prior to terminating tenancy under Section 6127.8, DCHA shall consider other actions that may be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat.
- 6127.10 DCHA shall comply with a court order addressing rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking
- 6127.11 Tenants or applicants seeking VAWA protections shall provide to DCHA documentation of domestic violence, dating violence, sexual assault, or stalking.
- 6127.12 A tenant or applicant may document an incident or incidences of domestic violence, dating violence, or stalking as follows:
- (a) The HUD-approved certification form;
 - (b) A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking (i.e., police reports, protective orders, and restraining orders); or

- (c) Documentation (i) signed by the victim and (ii) signed by an employee, agent, or volunteer of a victim service provider, or an attorney, or mental health or medical provider from whom the victim has sought assistance in the situation who attests under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.

6127.13 If DCHA receives conflicting certification documents of domestic violence, dating violence, sexual assault, or stalking from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, DCHA may require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. If a household member does not submit third-party documentation, or only submits third-party documentation that contains conflicting information, DCHA may deny the VAWA request. DCHA shall provide to tenants written notice and the opportunity to grieve in accordance with § 6301.

6127.14 A tenant who has been a victim of domestic violence, dating violence, sexual assault, or stalking may request an emergency VAWA transfer pursuant to Section 6402 and Sections 6127.14 through 6127.18 of this title, if:

- (a) 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 DCHA's program; or
- (b) 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 VAWA transfer.

6127.15 A tenant requesting an emergency VAWA transfer pursuant to § 6127.14, must submit a written request to transfer. A tenant may submit a DCHA or HUD-approved emergency VAWA transfer form, or provide a written statement that includes either:

- (a) A statement expressing and certifying 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 DCHA's program; or
- (b) A statement certifying 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 VAWA transfer.

- 6127.16 If a tenant requests an emergency VAWA transfer under the protections of VAWA, DCHA will request in writing that the tenant provide documentation in accordance with Section 6127.13.
- 6127.17 Tenants must provide the documentation required under Section 6127.12 within fourteen (14) business days of receiving the written request for documentation. If DCHA receives conflicting documentation of domestic violence, dating violence, sexual assault, or stalking from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, Section 6127.12 shall apply.
- 6127.18 Notwithstanding Section 6403, a tenant is not required to give advanced written notice of intent to vacate the unit if the family moved to protect the health or safety of the victim.
- 6127.19 DCHA may bifurcate a lease, or remove a person from a lease in order to evict, remove, or terminate occupancy rights to any lessee or household member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant. A lease bifurcation shall be carried out in accordance with federal and local law for termination of tenancy and eviction, and in accordance with HUD requirements.
- 6127.20 If DCHA exercises the option to bifurcate a lease, DCHA will execute a new lease with the victim in accordance with federal and local requirements. If the evicted household member was the eligible tenant, the remaining tenant(s) or lawful occupant(s) that was not already eligible shall be given a period of thirty (30) calendar days from the date of bifurcation of the lease to:
- (a) Establish eligibility for the DCHA public housing program; or
 - (b) Find alternative housing.
- If the remaining tenant or lawful occupant(s) fails to establish eligibility or find alternative housing, DCHA will pursue eviction through court process in accordance with local law.
- 6127.21 Any information submitted to DCHA under this section, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be maintained in strict confidence by DCHA.
- (a) DCHA shall not allow any individual managing properties on behalf of DCHA or any persons within their employ (e.g., contractors) or any employee of DCHA to have access to confidential information unless explicitly authorized by DCHA for reasons that specifically call for these

individuals to have access to this information under applicable Federal, State, or local law.

- (b) DCHA shall not enter confidential information submitted to DCHA pursuant to this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:
 - (i) Requested or consented to in writing by the individual in a time-limited release;
 - (ii) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
 - (iii) Otherwise required by applicable law.

Chapter 64, LOW RENT HOUSING: PUBLIC HOUSING TRANSFER POLICY, is amended as follows:

Section 6400, TRANSFER POLICY, is amended as follows:

Subsection 6400.3 is amended to read as follows:

6400.3 Residents will receive one offer of a transfer. Refusal of that offer without good cause will result in lease termination for mandatory transfers or the removal of the household from the transfer list for tenant requested transfers. The good cause standard applicable to new admissions shall apply to transfers. Good cause may include refusal of a unit that does not meet the VAWA “safe unit” standard based on the incident of domestic violence, dating violence, sexual assault, and stalking as defined in Section 6099.

Section 6402, TRANSFER REQUEST BY TENANT, is amended as follows:

Subsections 6402.16 and 6402.18 are amended to read as follows:

6402.16 If a tenant refuses a transfer initiated at his/her own request, to the property of his/her own choice, the tenant’s name shall be removed from the transfer list and DCHA shall send the tenant a notice of such action. If a tenant did not identify a property, he/she may be offered up to two locations. If the tenant refuses the first, his/her name may be returned to the transfer waiting list to await the availability of another unit. If the tenant rejects the second assignment, his/her name will be removed from the transfer waiting list and DCHA shall send the tenant a notice of such action. This section shall not apply to emergency VAWA transfer units that do not meet the “safe unit” standard based on the incident of domestic violence, dating violence, sexual assault, and stalking as defined in Section 6099.

6402.18 The following conditions shall dictate DCHA's priority for its transfer of tenants who request transfers to another dwelling unit. Tenants who are approved for transfers under this section will be transferred based on the hierarchy set forth below and on the date that the "Tenant Request for Transfer" was acknowledged by the DCHA:

- (a) First priority will be given to situations of a life threatening medical or public safety nature, including emergency VAWA transfers. These situations may include serious medical conditions, crimes, domestic violence, dating violence, sexual assault, stalking, hate crimes, or other situations which endanger a tenant or household member's life from something other than the condition of the unit or the building. These life-threatening conditions must be documented and verified. Emergency VAWA transfers must be documented in accordance with § 5501.3.
- (b) Second Priority shall be given to tenants with verified disabilities who require dwelling units with accessible features or as a reasonable accommodation. These transfers would include transferring residents to accessible or adaptable dwelling units or sites where conditions are documented to be more favorable for their disabilities than the unit or site from which they are seeking to transfer.
- (c) Third Priority shall be given to tenant households that are over or under housed. These transfers would permit tenants to reside in dwelling units of the correct size for household members listed on their lease or those recognized by the DCHA as a result of its recertification process. To determine whether a dwelling unit is too small or too large, DCHA shall use the occupancy standards outlined at chapter 61 of this Title. If DCHA approves a tenant's request for transfer, the household must transfer as one unit. The DCHA will not split families.
- (d) Fourth Priority shall be given to issues of convenience as described by tenants requesting transfers.

Interested persons are encouraged to submit comments regarding this Proposed Rulemaking to DCHA's Office of General Counsel. Copies of this Proposed Rulemaking can be obtained at www.dcregs.gov, or by contacting Edward Kane, at the Office of the General Counsel, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599 or via telephone at (202) 535-2835. All communications on this subject matter must refer to the above referenced title and must include the phrase "Comment to Proposed Rulemaking" in the subject line. There are two methods of submitting Public Comments:

1. Submission of comments by mail: Comments may be submitted by mail to the Office of the General Counsel, Attn: Edward Kane, 1133 North Capitol Street, NE, Suite 210, Washington, DC 20002-7599.

2. Electronic Submission of comments: Comments may be submitted electronically by submitting comments to Edward Kane at: PublicationComments@dchousing.org.
3. No facsimile will be accepted.

Comments on this Proposed Rulemaking should be submitted no later than thirty (30) days after publication of this notice in the *D.C. Register*.