

**RESOLUTION 20-11**

**TO ADOPT FINAL REGULATIONS AMENDING VIOLENCE AGAINST WOMEN ACT  
REGULATIONS (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

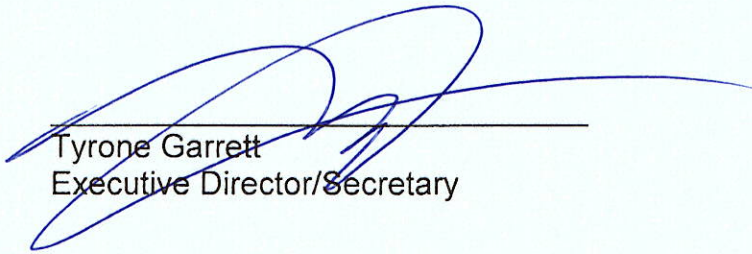
WHEREAS, on March 27, 2020, DCHA published proposed amendments to the VAWA regulations in the District of Columbia Register to solicit public comment.

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 amend the Violence Against Women Act.

ADOPTED, by the Board of Commissioners and signed in open session in authentication of this passage on this 10th day of June, 2020.


ATTEST:

APPROVED:



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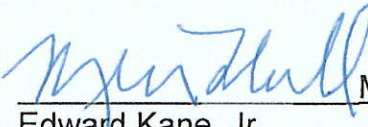
Tyrone Garrett  
Executive Director/Secretary



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Neil Albert  
Chairman

APPROVED TO FORM AND LEGAL SUFFICIENCY:



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Mary Grace Folwell for  
Edward Kane, Jr.  
Deputy General Counsel

# THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

## NOTICE OF FINAL RULEMAKING

### **Violence Against Women Act**

The Board of Commissioners of the District of Columbia Housing Authority (DCHA), 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 (2018 Repl.)), hereby gives notice of its intent to adopt the following 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 61 (Public Housing: Admission and Recertification), Chapter 89 (Informal Hearing Procedures for Applicants and Participants of the Housing Choice Voucher and Moderate Rehabilitation Programs) of Title 14 (Housing) of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to implement changes to the Violence Against Women Reauthorization Act of 2013 (Pub. 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, PROTECTIONS FOR APPLICANTS AND PARTICIPANTS UNDER THE VIOLENCE AGAINST WOMEN ACT, is amended as follows:**

**Subsection 4907.4 is amended as follows:**

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 domestic violence, dating violence, sexual assault, or stalking and the victim is part of the assisted Family, the perpetrator may not be considered a remaining Family member or an eligible Family member.

**Subsection 4907.6 is amended as follows:**

4907.6

- (a) Pursuant to federal regulations, the denial of continued HCVP assistance to a Family member who engages in criminal acts related to domestic violence, dating violence, sexual assault, or stalking against members of the assisted Family shall be considered a form of termination of the individual Family member. DCHA shall follow the procedures described in Chapters 58 and 89 of this title of the DCMR when terminating assistance to such an individual, unless the individual is absent or expected to be absent pursuant to paragraph (b) of this subsection.
- (b) If the Family member who engages in criminal acts related to domestic violence, dating violence, sexual assault, or stalking against another Family member is absent, or expected to be absent due to court order or incarceration, from the assisted unit for more than one hundred and twenty (120) consecutive days, DCHA shall remove that Family member and the individual shall no longer be considered part of the family composition.

- (c) An absent family member removed from the family composition pursuant to paragraph (b) of this subsection shall also be denied continued HCVP assistance. DCHA shall follow the same procedures as described in Chapters 58 and 89 of this title of the DCMR when terminating of the participation of the removed absent family member.

**Subsection 4907.11 is amended as follows:**

4907.11 If a Family or Family member participant who has been the victim of domestic violence, dating violence, stalking, or sexual assault 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 of domestic violence, dating violence, stalking, or sexual assault. The portability regulations outlined in Chapter 55 of this title shall apply.

**Subsection 4907.12 is amended as follows:**

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 that is—
  - (1) Signed by the victim;
  - (2) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or mental health or medical provider (collectively, “professional”) from whom the victim has sought assistance in the situation; and
  - (3) Attested, under penalty of perjury, that the professional believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.
- (d) DCHA will notify the household member seeking relief under VAWA of the member’s status under § 4907.1 within fourteen (14) business days of receiving documentation as explained in paragraphs (a) through (c) of this subsection. Notice will be provided by first-class mail to the address of record or an alternative address or email address, if one is provided, and by phone, if a phone number is provided.

**Subsection 4907.14 is amended as follows:**

4907.14

- (a) If DCHA receives conflicting documentation submitted pursuant to § 4907.12 from two (2) or more members of a household, each petitioning for VAWA protections under this section and each claiming to be a victim and naming one (1) 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.
- (b) DCHA will determine which household members shall continue to be assisted in accordance with §§ 4907.21 and 5317.6. DCHA shall provide written notice to the household member(s) who will not retain assistance with the opportunity for an informal hearing in accordance with § 8908.

**Subsection 4907.15 is amended as follows:**

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, under penalty of perjury, 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, under penalty of perjury, that the participant was a sexual assault victim and that the sexual assault occurred on the premises during the ninety (90)-calendar-day period preceding the participant's request for an emergency transfer voucher.

**Subsection 4907.17 is amended as follows:**

4907.17

- (a) 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. Third-party documentation must be provided within thirty (30) calendar days of the date of the request for the third-party documentation.
- (b) If DCHA receives conflicting documentation of domestic violence, dating violence, sexual assault, or stalking from two 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.
- (c) DCHA will administratively withdraw a family or family members' request pursuant to § 4907.16 if documentation is not provided as explained in paragraph

(a) of this subsection.

- (d) DCHA will notify the household member seeking relief under VAWA of the member' status under § 4907.1 within fourteen (14) business days of receiving documentation as explained in paragraphs (a) through (c) of this subsection. Notice will be provided by first-class mail to the address of record or an alternative address or email address, if one is provided, and by phone, if a phone number is provided.

**A new Subsection 4907.21 is created to read as follows:**

4907.21 Conflicting Allegations Panel.

- (a) If DCHA receives conflicting documents submitted pursuant to § 4907.12 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 shall convene a conflicting allegations panel within five (5) business days to recommend which Family member should 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 recommendation on who retains assistance, the conflicting allegations panel shall attempt to notify both adult family members involved in the alleged incident by first-class mail to the address of record 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 recommendation;
  - (3) After making its recommendation using the factors as enumerated in § 5317.6, the documentation provided pursuant to §§ 4907.12 and 4907.14, and any additional relevant information provided (including, but not limited to, police report(s), protective orders, restraining orders, photographs, video footage, any past history of abuse, or evidence of who is the primary aggressor), DCHA shall notify both adults in writing within five (5) business days 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.
- (b) The Conflicting Allegations Panel will consist of three members, two (2) HCVP staff members, designated by the HCVP Director, and a victim service provider employee or agent.

**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 is amended as follows:**

5317.6 If a Family receiving assistance breaks up into two (2) otherwise eligible families as a result of divorce, legal 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 who will continue to receive the assistance, DCHA shall consider the following:
  - (1) Any incidents of domestic violence, dating violence, sexual assault, or stalking, or an intrafamily offense, in which case, DCHA shall ensure that the victim retains assistance;
  - (2) The interest of minor children; or
  - (3) The interest of an ill, elderly, or disabled Family member.

**[§ 5317.6(c) is moved to create a new § 4907.21.]**

**Subsection 5317.7 is amended as follows:**

5317.7 DCHA shall not determine that both families shall continue to be assisted unless an exception is required under §§ 8908.6(c) or 8908.7 in accordance with VAWA, or other applicable laws.

**Subsection 5317.8 is amended as follows:**

5317.8 If the Head of Household has been determined to be permanently absent due to a medical reason, death, incarceration, or being the perpetrator in criminal acts of domestic violence, dating violence, sexual assault, or stalking, DCHA may permit a remaining adult family member to become Head of Household if the remaining Family is comprised of one or more of the following persons:

- (a) Minor children;
- (b) Elderly;
- (c) Disabled; or
- (d) A victim of domestic violence, dating violence, sexual assault, or stalking.

**Section 5318, ABSENT FAMILY MEMBERS, is amended as follows:**

**Subsection 5318.5 is amended as follows:**

5318.5

- (a) If a Spouse is absent from the household assisted unit more than one hundred twenty (120) consecutive days, the Spouse shall continue to be considered a Family member and the Spouse's income shall be counted. The Spouse shall remain as part of the assisted household until DCHA receives verification is received documenting that the Spouse has left the household in a divorce action, legal separation, or through other verifiable third party documentation that documents that the Spouse has established a legal residency outside of the assisted household.
- (b) Pursuant to § 4907.6, a Spouse who is absent or expected to be absent from the household for more than one hundred twenty (120) consecutive days due to being the perpetrator in criminal acts of domestic violence, dating violence, sexual assault, or stalking, the Spouse shall not be considered a Family member and the Spouse's income will not be counted.

**Chapter 61, PUBLIC HOUSING: ADMISSION AND RECERTIFICATION is amended as follows:**

**Section 6127, PROTECTIONS FOR PUBLIC HOUSING APPLICANTS AND TENANTS UNDER THE VIOLENCE AGAINST WOMEN ACT, is amended as follows:**

**Subsection 6127.13 is amended as follows:**

6127.13 Conflicting Allegations.

- (a) If DCHA receives conflicting documentation of 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 require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. DCHA will review conflicting allegations through the process specified in § 6127.13(c).
- (b) 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.
- (c) Conflicting Allegations Panel. If DCHA receives conflicting documents submitted pursuant to § 6127.12 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 shall convene a conflicting allegations panel within five (5) business days to recommend which Family member's request will be granted in accordance with the Violence Against

Women Act (VAWA) and its implementing regulations, as explained in §§ 6127.1, and other applicable laws using the following guidelines:

- (1) Prior to making any recommendation on who retains assistance, the conflicting allegations panel shall attempt to notify both adult family members involved in the alleged incident by first-class mail to the address of record 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 recommendation;
  - (3) After making its recommendation using the factors as enumerated in § 6127.13(e), the documentation provided pursuant to § 6127.12, and any additional relevant information provided (including, but not limited to, police report(s), protective orders, restraining orders, photographs, video footage, any past history of abuse, or evidence of who is the primary aggressor), DCHA shall notify both adults in writing of its decision and the basis for the decision; and
  - (4) If DCHA denies the request, DCHA shall provide to the adult household member written notice and the opportunity to grieve in accordance with § 6301.
- (d) The Conflicting Allegations Panel will consist of three members, two (2) staff members from Property Management and Operations, designated by the Director of Property Management and Operations, and a victim service provider employee or agent.
- (e) The Conflicting Allegations Panel will consider the following to determine which VAWA request will be granted:
- (1) DCHA shall be bound to any decision of the courts, including but not limited to in cases of divorce, legal separation, or intrafamily offenses;
  - (2) In the case that there is no judicial decision relating to who will continue to receive the assistance, DCHA shall consider the following:
    - (1) Any incidents of domestic violence, dating violence, sexual assault, or stalking, or an intrafamily offense, in which case, DCHA shall ensure that the victim retains assistance;
    - (2) The interest of minor children; or
    - (3) The interest of an ill, elderly, or disabled Family member.

**Subsection 6127.16 is amended as follows:**



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 Subsection 6127.12.

**Subsection 6127.17 is amended as follows:**

6127.17 Tenants must provide the documentation required under Subsection 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, Subsection 6127.13 shall apply.

**Chapter 89, INFORMAL HEARING PROCEDURES FOR APPLICANTS AND PARTICIPANTS OF THE HOUSING CHOICE VOUCHER AND MODERATE REHABILITATION PROGRAMS, is amended as follows:**

**Section 8900, INTRODUCTION, is amended as follows:**

**A new Subsection 8900.7, is created and reads as follows:**

8900.7 The procedures and requirements for informal hearings pertaining to Violence Against Women Act and implementing regulations are contained in this Chapter.

**Section 8902, DCHA DETERMINATIONS SUBJECT TO INFORMAL HEARING, is amended as follows:**

**Subsection 8902.3 is amended as follows:**

8902.3 Except as provided in Section 8908 of this chapter, DCHA shall give the family or applicant written notice of determinations within thirty days (30) days of any determination that is subject to the provisions of Subsection 8902.1. Notices under § 8902.1(j) shall be sent by both certified and regular mail. All notices shall include:

- (a) The proposed action or decision of DCHA;
- (b) The date the proposed action or decisions will take place;
- (c) The basis for DCHA's decision;
- (d) The procedures for requesting an informal hearing if the family or applicant disputes the action or decision; and
- (e) The time limit for requesting the informal hearing; and

- (f) The form by which families or applicants can request an informal hearing.

**A new Section 8908, INFORMAL HEARING PROCEDURES RELATED TO THE VIOLENCE AGAINST WOMEN ACT, is created and reads as follows:**

8908.1 This section supersedes any contradicting section in this chapter.

8908.2 Recommendation for Termination.

- (a) DCHA shall issue a Recommendation for Termination to the family member alleged to have committed an act of domestic violence, dating violence, sexual assault, or stalking after determining such act has occurred.
- (b) DCHA shall mail the recommendation for termination by—
  - (1) Certified or registered mail; and
  - (2) First class mail.
- (c) All notices shall include:
  - (1) The proposed action or decision of DCHA;
  - (2) The date the proposed action or decisions will take place;
  - (3) The basis for DCHA’s decision; and
  - (4) The procedures for an informal hearing if the family disputes the action or decision.

8908.3 Informal Hearing and Notice.

- (a) DCHA shall issue a notice of an informal hearing within five (5) business days of the issuance of the recommendation for termination.
- (b) The date of the informal hearing will be not more than ten (10) business days after the date of issuance of the informal hearing notice;
- (c) The Informal hearing notice shall contain—
  - (1) The date and time of the informal hearing;

- (2) The location of the hearing;
  - (3) The participant's right to bring evidence, witnesses, and legal or other representation at the participant's expense;
  - (4) The right to view, or have their counsel or other representative view, in accordance to the restrictions provided in Subsection 4907.13 of this title and subject to a timely request under Subsection 8903.4; and
  - (5) The notice that the participant must provide the Office of the General Counsel copies of any documents or evidence the participant intends to use at the Hearing at least three (3) business days prior to the scheduled hearing.
- (d) DCHA shall mail the Informal Hearing Notice and a copy of the recommendation for termination by—
- (1) Certified or registered mail; and
  - (2) First class mail.

8908.4 Request for an Extension.

- (a) Either party may request only one (1) extension to reschedule an Informal Hearing.
- (b) Extensions shall be granted for no more than five (5) business days from the hearing date that the party is seeking to reschedule.
- (c) No extension shall be granted beyond thirty (30) business days from the date of the notice recommending termination.

8908.5 Informal Hearing Procedures.

- (a) Except as provided in paragraphs (b) and (c) of this subsection, the informal hearing procedures of Section 8904 of this title shall apply.
- (b) The informal hearing shall concern only the issues for which the participant or applicant received a notice in conformance with Subsection 8908.3.

8908.6 Proposed and Final Decisions.

- (a) The hearing officer shall, within five (5) business days of the hearing, make a proposed decision in accordance with Subsections 8905.1 and 8905.2 of this chapter.
- (b) The proposed decision shall be sent by expedited mail to the participant.
- (c) The proposed decision will become final on the fifth (5th) day following the postmark of the proposed decision unless one of the parties has submitted a written request to the Executive Director requesting the Executive Director to

reconsider the proposed decision before issuing a final decision and stating the basis for such review.

8908.7 Final Decisions by the Executive Director.

- (a) The Executive Director shall render a final written decision within five (5) days of receipt of the request for a final decision pursuant to Subsection 8908.6, which shall include DCHA's reasons for the final decision.
- (b) The final decision shall include notification that:
  - (1) Final decisions by the Executive Director may be reviewed by the District of Columbia Court of Appeals; and
  - (2) Information on the deadline to submit a Petition for Review with the Court of Appeals from the date of the Final Decision.
- (c) The Executive Director may modify or set aside, in whole or in part, the decision of the hearing officer which
  - (1) Otherwise exceeds the authority of the hearing officer, or
  - (2) Is contrary to applicable HUD regulations or requirements, or is otherwise contrary to federal or local law, including the provisions of Title 14 DCMR and the HCVP Administrative Plan.

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](http://www.dcregs.gov), or by contacting Edward Kane Jr. 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 reference 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 Jr., 1133 North Capitol Street, N.E., Suite 210, Washington D.C. 20002-7599.
2. Electronic Submission of comments: Comments may be submitted electronically by submitting comments to Edward Kane Jr. at: [PublicationComments@dchousing.org](mailto: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*.

# RESOLUTION 20-11