

Lake County Consortium Violence Against Women Act Policy and Emergency Transfer Plan

Program Applicability

This Emergency Transfer Plan covers rental beneficiaries and tenants under the following programs:

1. HOME Investment Partnerships Program (“HOME Program”)
2. Community Development Block Grant (“CDBG”)
3. Emergency Solutions Grant (“ESG”)

Background

The 2013 reauthorization of the Violence Against Women Act (“VAWA”) expands housing protections to all of HUD’s housing programs, as well as provides enhanced protections and options for victims of domestic violence, dating violence, sexual assault, and stalking. HUD’s Violence Against Women Reauthorization Act of 2013 Implementation Rule requires Lake County to adopt an emergency transfer plan no later than June 14, 2017.

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

The regulatory basis for and requirements of this Policy and Plan are identified in 24 CFR 5.2005, 2007, & 2009; 24 CFR 91.520; 24 CFR 92.253, 359, 504 & 508; 24 CFR 576.105, 106, 400, 409, & 500.

General VAWA Protections, Requirements, and Limitations

Applicability and Duration

This Policy & Plan applies as follows:

1. HOME Program: all rental projects and all Tenant Based Rental Assistance activities with a commitment date on or after December 16, 2016. Requirements apply for the entire Period of Affordability of the project or activity.
2. CDBG: all rental projects and homelessness prevention programs with a contract date on or after December 16, 2016.
3. ESG: all eligibility and termination decisions that are made with respect to ESG rental assistance on or after December 16, 2016.

Notice to Applicants and Tenants

All HOME Program, CDBG, and ESG housing providers shall provide to each applicant and tenants the Notice of Occupancy Rights and the Certification Form (in a form approved by HUD and in accordance with the applicable requirements of VAWA). The Notice of Occupancy Rights explains the VAWA protections under 24 CFR Part 5. The Certification Form is to be completed by a tenant in an instance of domestic violence, dating violence, sexual assault or stalking.

Housing providers must provide the Notice of Occupancy Rights to an applicant or tenant at each of the following times:

1. At the time the applicant is denied assistance or admission under a covered housing program;
2. At the time the individual is provided assistance or admission under a covered housing program;
3. With any notification of eviction or notification of termination of assistance; and
4. During the 12-month period following December 16, 2016, either during the annual recertification or lease renewal process, or if there will be no recertification or lease renewal for a tenant during the 12-month period, through other means.

The Notice of Occupancy and the Certification Form shall be made available in multiple languages, as is consistent with guidance issued by HUD in accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency).

Prohibited Basis for Denial or Termination of Assistance or Eviction

An applicant for assistance or tenant assisted under a covered housing program may not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy. No individual or family may be denied admission to or removed from an emergency shelter on the basis or as a direct result of the fact that the individual or family is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the individual or family otherwise qualifies for admission or occupancy.

A tenant in a covered housing program may not be denied tenancy or occupancy rights solely based on criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if:

1. 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
2. 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.

Construction of Lease Terms and Terms of Assistance

An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall *not* be construed as:

1. A serious or repeated violation of a lease executed under a covered housing program by the victim or threatened victim of such incident; or
2. Good cause for terminating the assistance, tenancy, or occupancy rights under a covered housing program of the victim or threatened victim of such incident.

HOME Program Only: All tenants residing in a HOME Program unit or tenants receiving HOME Program Tenant-Based Rental Assistance shall have a VAWA lease addendum incorporating the requirements of 24 CFR Parts 5 & 92. Specifically, the lease addendum shall allow the tenant to terminate the lease without penalty if the conditions for an emergency transfer (below) are met. For tenants receiving Tenant-Based Rental Assistance, the lease addendum shall require the owner to notify Lake County before the owner bifurcates the lease, as described below, or provides

notification of eviction to the tenant. If HOME Program Tenant-Based Rental Assistance is the only assistance provided, the VAWA lease addendum may be written to expire at the end of the rental assistance period.

ESG Only: Each ESG lease executed on or after December 16, 2016 shall have a VAWA provision or lease addendum that incorporates all of the requirements of the tenant and owner under the regulations (24 CFR Parts 5 & 576), the prohibited bases for evictions and restrictions on the construction of lease terms noted above.

Limitations of VAWA

This policy in no way limits the authority of a covered housing provider to comply with a court order, or to evict or terminate assistance to a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking. Additionally, this policy does not limit a housing provider's ability to evict or terminate assistance if the housing provider can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property.

Emergency Transfers

In accordance with VAWA, Lake County 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 to all tenants, regardless of sex, gender identity, sexual orientation, race, color, national origin, religion, familial status, disability, or age. The ability of Lake County to honor such a request for tenants, however, depends upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether there is another unit available *and* is a safe unit for the tenant to occupy.

Emergency Transfers Eligibility and Priority

A tenant who is a victim of domestic violence, dating violence, sexual assault, or staling, as provided in HUD's regulations at 24 CFR Part 5, Subpart L is eligible for an emergency transfer if the tenant expressly submits a written request for a transfer and reasonably believes that there is a threat of imminent harm from further violence if the tenant remains in 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.

Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements of this plan.

To the extent permitted by local, state and federal law, tenants requesting an emergency transfer under this Plan shall have priority over other tenants seeking transfers and individuals seeking placement on waiting lists.

Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall submit a written request to their landlord. Within forty-eight (48) hours, the landlord shall notify Lake County of all requests received under this plan. All notifications to the County shall abide by the confidentiality requirements of this plan.

The tenant's written request must include the tenant's name, safe contact information, and one of the following:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain the same dwelling unit; or
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding a request for an emergency transfer.

The housing provider may request, in writing, documentation of the incident from the applicant or tenant. *It is at the discretion of the applicant or tenant what documentation to provide.* The applicant or tenant shall have a minimum of 14 days to provide documentation. The housing provider is in no way required to request documentation. The following are acceptable forms of documentation:

1. The Certification Form; or
2. A document (i) signed by the applicant or tenant, (ii) signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and (iii) that 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 this subpart, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault or stalking under 24 CFR 5.2003.
3. A record of a federal, state, tribal, territorial or local law enforcement agency, court, or administrative agency; or
4. At statement or other evidence provided by the applicant or tenant

The housing provider may request third-party documentation if conflicting documentation is received after the original request for documentation. The applicant or tenant shall have 30 days to provide the documentation in such a situation.

Confidentiality

Lake County and all housing providers shall keep any information submitted, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, in strict confidence.

Lake County and all housing providers shall not allow any individual administering assistance on behalf of the entity, or any persons within their employ, or any individual in the employ of the County or the housing provider to have access to confidential information unless explicitly authorized for reasons that call for such individuals to have access to this information under applicable federal, state, or local law.

Lake County and all housing providers will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer unless:

1. the tenant gives Lake County or the landlord permission to release the information on a time limited basis; or
2. disclosure of the information is required by law; or
3. disclosure of the information is required for use in an eviction proceeding or hearing regarding termination of assistance from the HOME Program, CDBG, or ESG.

This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided.

Neither Lake County nor any housing provider shall enter confidential information into any shared database or disclose such information to any other entity or individual, except to the extent the disclosure fits one of the three exceptions noted above.

A housing provider's compliance with VAWA protections and confidentiality requirements shall not be sufficient to constitute evidence of an unreasonable act or omission by the housing provider. Neither VAWA nor this plan limits a housing provider's duty to honor court orders about access to or control of the property; this includes orders issued to protect a victim and orders dividing property among household members in cases where a household breaks up.

Emergency Transfer Timing and Availability

Neither Lake County nor housing providers can guarantee that a transfer request will be approved or how long it will take to process a transfer request. Lake County will require housing providers to act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit.

If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a safe unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The housing provider may be unable to transfer a tenant to a unit if the tenant has not or cannot establish eligibility for that unit.

If a housing provider has a safe unit immediately available, the housing provider must allow the tenant to make an internal emergency transfer. An internal emergency transfer is an emergency relocation of a tenant to another unit where the tenant would not be categorized as a new applicant; the tenant may reside in the new unit without having to undergo an application process. A safe unit is a unit that the tenant requesting the transfer believes is safe.

If a housing provider has no safe units available, the housing provider shall give the tenant priority above all others when the next unit becomes available. The housing provider shall also notify Lake County that no internal emergency transfer is available.

If a housing provider has no safe units available for which a tenant who needs an emergency is eligible, Lake County will assist the tenant in an external emergency transfer by identifying other housing providers who *may* have safe units available to which the tenant could move. Lake County will maintain a list of HOME Program units and make the list available to tenants requesting an emergency transfer. An external emergency transfer is an emergency relocation of a tenant to another unit where the tenant

would be categorized as a new applicant; the tenant must undergo an application process in order to reside in the new unit.

Tenants may seek an internal emergency transfer and an external emergency transfer concurrently if a safe unit is not immediately available.

At the tenant's request, the housing provider and Lake County will also assist tenants in contacting A Safe Place and other local organizations aiding victims of domestic violence, dating violence, sexual assault, or stalking.

ESG Only: If a tenant resides in a project-based rental assistance unit and a safe unit is not immediately available for an internal emergency transfer, the tenant shall have priority over all other applicants for tenant-based rental assistance, utility assistance, and units for which project-based rental assistance is provided. If a household receives tenant-based rental assistance and must separate because of an emergency transfer and if the non-transferring family members were on the original lease, then they will continue to receive tenant-based rental assistance. If a household receives tenant-based rental assistance and must separate because of an emergency transfer and if the non-transferring family members were not on the original lease, then they may apply for ESG tenant-based rental assistance but will not receive any priority.

Lease Bifurcation

Housing providers may choose to bifurcate the lease, or remove a household member from a lease in order to evict or terminate assistance to a household member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking. Lease bifurcation shall be carried out in accordance with any requirements or procedures by federal, state, or local law for termination of assistance or leases, and any requirements under the applicable housing program (HOME Program, CDBG, or ESG).

If a housing provider chooses to bifurcate a lease, any remaining tenant(s) shall have ninety (90) calendar days to (i) establish eligibility under the same housing program, (ii) establish eligibility under another housing program, or (iii) find alternative housing.

HOME Program Only: Following a lease bifurcation, tenants within a HOME Program unit shall be allowed to remain in that unit and are not subject to the 90-day limitation; similarly, households receiving HOME Program Tenant-Based Rental Assistance shall continue to receive the rental assistance. Lake County shall decide if the removed tenant shall continue to receive HOME Program rental assistance, so long as the removed tenant has not engaged in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking.

ESG Only: Following a lease bifurcation, any tenant-based rental assistance and utility assistance shall continue for the family member(s) who are not evicted or removed. If the family resides in a unit receiving project-based rental assistance, the household members who are not evicted or removed can remain in the unit without interruption to the assistance provided to the unit. The 90-day limitation does not apply.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the housing provider shall inform the tenant of the following resources and urge the tenant 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 Safe Place Hotline at 847-249-4450 for assistance in creating a safety plan. For persons with hearing impairments, the national 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 networks' national Sexual Assault Hotline at 800-656-HOPE or visit the online hotline at <https://ohl.rainn.org/online/> or they may call the Zacharias Center Hotline at 847-872-7799.

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/salking-resource-center>.

Recordkeeping and Reporting

Lake County shall keep data on emergency transfers requested under the covered housing programs and their outcomes. Lake County shall report this data as required by HUD.