

## Chapter 12

### TRANSFER POLICY

#### INTRODUCTION

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

This chapter describes HUD regulations and LMHA policies related to transfers in four parts:

Part I: Emergency Transfers. This part describes emergency transfers, emergency transfer procedures, and payment of transfer costs.

Part II: LMHA Required Transfers. This part describes types of transfers that may be required by the LMHA, notice requirements, and payment of transfer costs.

Part III: Transfers Requested by Residents. This part describes types of transfers that may be requested by residents, eligibility requirements, security deposits, payment of transfer costs, and handling of transfer requests.

Part IV: Transfer Processing. This part describes creating a waiting list, prioritizing transfer requests, the unit offer policy, examples of good cause, deconcentration, transferring to another development and reexamination.

LMHA may require the tenant to move from the unit under some circumstances. There are also emergency circumstances under which alternate accommodations for the tenant must be provided, that may or may not require a transfer. LMHA will determine the effect of the displacement within three (3) business days and decide if the tenant will remain in the new unit or be moved back into the original unit where the emergency occurred. This decision will be provided to the tenant in writing.

The tenant may also request a transfer, such as a request for a new unit as a reasonable accommodation.

~~The~~ LMHA must have specific policies in place to deal with acceptable transfer requests.

#### LMHA Policy

All transfers will be made in compliance with the Jaimes Court Decision and all applicable laws.

## PART I: EMERGENCY TRANSFERS

### 12-I.A. OVERVIEW

HUD categorizes certain situations that require emergency transfers [PH Occ GB, p. 147]. The emergency transfer differs from a typical transfer in that it requires immediate action by the LMHA.

In the case of a genuine emergency, it may be unlikely that ~~the~~ LMHA will have the time or resources to immediately transfer a tenant. Due to the immediate need to vacate the unit, placing the tenant on a transfer waiting list would not be appropriate. Under such circumstances, if an appropriate unit is not immediately available, ~~the~~ LMHA should find alternate accommodations for the tenant until the emergency passes, or a permanent solution, i.e., return to the unit or transfer to another unit, is possible.

### 12-I.B. EMERGENCY TRANSFERS

If the dwelling unit is damaged to the extent that conditions are created which are hazardous to life, health, or safety of the occupants, ~~or where when necessary repairs cannot be made within a reasonable time~~, ~~the~~ LMHA must offer standard alternative accommodations, if available. ~~where necessary repairs cannot be made within a reasonable time~~ [24 CFR 966.4(h)].

#### LMHA Policy

The following is considered an emergency circumstance warranting an immediate transfer of the tenant or family:

*Maintenance conditions* in the resident's unit, building or at the site that pose an immediate, verifiable threat to the life, health or safety of the resident or family members that cannot be repaired or abated within 24 hours.

Examples of such unit or building conditions would include: a gas leak; no heat in the building during the winter; no water; toxic contamination; and serious water leaks.

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

#### LMHA Policy

If the transfer is necessary because of maintenance conditions, and an appropriate unit is not immediately available, ~~the~~ LMHA will provide temporary accommodations to the tenant by arranging for temporary lodging at a hotel or similar location.

If the conditions that required the temporary transfer cannot be repaired, or the condition cannot be repaired in a reasonable amount of time, ~~the~~ LMHA will transfer the resident to the first available and appropriate unit in a development in which the tenant's race does not predominate. If no unit is available in a development in which the transferring family's race does not predominate, the family will be transferred to the first available, appropriate unit.

Emergency transfers are mandatory for the tenant.

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

### LMHA Policy

~~The~~ LMHA will bear the reasonable costs of temporarily accommodating the tenant and of long term transfers, if any, due to emergency conditions.

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

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

If the emergency situation was caused by the tenant, the tenant is responsible for all costs associated with this transfer.

## **PART II: LMHA REQUIRED TRANSFERS**

### **12-II.A. OVERVIEW**

HUD regulations regarding transfers are minimal, leaving it up to the LMHA to develop reasonable transfer policies.

~~The~~ LMHA may require that a resident transfer to another unit under some circumstances. For example, ~~the~~ LMHA may require a resident to transfer to make an accessible unit available to a disabled family. ~~The~~ LMHA may also transfer a resident in order to maintain occupancy standards based on family composition. Finally, ~~a~~ LMHA may transfer residents in order to demolish or renovate the unit.

A transfer that is required by ~~the~~ LMHA is an adverse action and is subject to the notice requirements for adverse actions [24 CFR 966.4(e)(8)(i)].

### **12-II.B. TYPES OF MANDATORY LMHA TRANSFERS**

#### LMHA Policy

The types of mandatory transfers that may be required by ~~the~~ LMHA, include, but are not limited to:

1. Transfers to make an accessible unit available for a disabled family
2. Transfers to comply with occupancy standards
3. Transfers for demolition, disposition, revitalization, or rehabilitation
4. Emergency transfers as discussed in Part I of this chapter.
5. LMHA-initiated Integrative transfers
6. Transfers for the Public Housing Resident Incentive Program
7. Transfers required by the LMHA are mandatory for the tenant.

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

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

#### LMHA Policy

When a non-accessible unit becomes available, ~~the~~ LMHA will transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. ~~The~~ LMHA will transfer the resident to the first available and appropriate unit in a development in which the tenant's race does not predominate. If no unit is available in a development in which the transferring family's race does not predominate, the family will be transferred to the first available, appropriate unit. ~~The~~ LMHA may wait until a disabled resident requires the accessible unit before transferring the family that does not require the accessible features out of the accessible unit.

## Occupancy Standards Transfers

~~The~~ LMHA may require a resident to move when a reexamination indicates that there has been a change in family composition, and the family is either overcrowded or over-housed according to LMHA policy [24 CFR 960.257(a)(4)]. On some occasions, ~~the~~ LMHA may initially place a resident in an inappropriately sized unit at lease-up, where the family is over-housed, to prevent vacancies. The public housing lease must include the tenant's agreement to transfer to an appropriately sized unit based on family composition [24 CFR 966.4(c)(3)].

### LMHA Policy

~~The~~ LMHA will transfer a family when the family size has changed and the family is now too large (overcrowded) or too small (over-housed) for the unit occupied.

For purposes of the transfer policy, overcrowded and over-housed are defined as follows:

- *Overcrowded*: the number of household members exceeds the maximum number of persons allowed for the unit size in which the family resides, according to the chart in Section 5-I.B.
- *Over-housed*: the family no longer qualifies for the bedroom size in which they are living based on the LMHA's occupancy standards as described in Section 5-I.B.

~~The~~ LMHA may also transfer a family who was initially placed in a unit in which the family was over-housed to a unit of an appropriate size based on ~~the~~ LMHA's occupancy standards, when ~~the~~ LMHA determines there is a need for the transfer.

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

A family that is required to move because of family size will be advised by ~~the~~ LMHA that a transfer is mandatory and that the family has been placed on the transfer list.

Families that request and are granted an exception to the occupancy standards (for either a larger or smaller size unit) in accordance with the policies in Section 5-I.C. will only be required to transfer if it is necessary to comply with the approved exception.

All occupancy standards transfers are subject to the Jaimes Court Decision. ~~the~~ LMHA will transfer the resident to the first available and appropriate unit in a development in which the tenant's race does not predominate. If no unit is available in a development in which the transferring family's race does not predominate, the family will be transferred to the first available, appropriate unit.

## LMHA-Initiated Integrative Transfers

Integrative Transfers are non-mandatory and are available to all tenants in developments in which their race predominates beyond the goals of the Jaimes Court Decision. Such tenants may apply to the Office of LMHA's Executive Director for transfers to appropriate size units in developments in which their race does not predominate. Only tenants in good standing are eligible for Integrative Transfers. Each application will be dated and time-stamped when submitted and placed on the transfer waiting list for each unit size for which the family is eligible. (Jaimes Court Decision, §III.A. & B.)

## **Demolition, Disposition, Revitalizations, or Rehabilitation Transfers**

These transfers permit the LMHA to demolish, sell or do major capital or rehabilitation work at a building site [PH Occ GB, page 148].

### LMHA Policy

~~The~~ LMHA will relocate a family when the unit or site in which the family lives is undergoing major rehabilitation that requires the unit to be vacant, or the unit is being disposed of or demolished. The LMHA's relocation plan may or may not require transferring affected families to other available public housing units.

If the relocation plan calls for transferring public housing families to other public housing units, affected families will be placed on the transfer list.

In cases of revitalization or rehabilitation, the family may be offered a temporary relocation if allowed under Relocation Act provisions, and may be allowed to return to their unit, depending on contractual and legal obligations, once revitalization or rehabilitation is complete.

All demolition, disposition and revitalization transfers are subject to the Jaimes Court Decision. ~~The~~ LMHA will transfer the resident to the first available and appropriate unit in a development in which the tenant's race does not predominate. If no unit is available in a development in which the transferring family's race does not predominate, the family will be transferred to the first available, appropriate unit.

## **Transfers for the Public Housing Resident Incentive Program (hereinafter referred to as the "Resident Incentive Program")**

Units requiring comprehensive renovations through LMHA's Real Estate Development & Modernization Department and that are determined by LMHA to be eligible for the program will become part of the Resident Incentive Program. The Resident Incentive Program gives existing public housing residents who meet established criteria the opportunity to be selected to transfer to units that are part of the program.

- The Resident Incentive Program is administered in accordance with the ACOP, Operating Procedure # 63, and other applicable LMHA policies.
- Additional eligibility and program criteria are stipulated in Operating Procedure # 63 and INTER AGENCY INQUIRY & REFERRAL FORM.
- The Resident Incentive Program falls under "Other LMHA-required transfers" in 12-IV.B. Transfer List of the ACOP.
- Transfers under the Resident Incentive Program are considered at the discretion of LMHA.

### **12-II.C. ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]**

A LMHA required transfer is an adverse action. As an adverse action, the transfer is subject to the requirements regarding notices of adverse actions. If the family requests a grievance hearing within the required timeframe, ~~the~~ LMHA may not take action on the transfer until the conclusion of the grievance process.

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

#### LMHA Policy

- ~~The~~ LMHA will bear the reasonable costs of transfers for demolition, disposition, revitalization and rehabilitation. ~~The~~ LMHA will not bear the cost of all other mandatory transfers. The reasonable costs of transfers include the cost of packing, moving, and unloading.
- ~~The~~ LMHA will establish a moving allowance based on the typical costs in the community of packing, moving, and unloading. To establish typical costs, ~~the~~ LMHA will collect information from companies in the community that provide these services.
- ~~The~~ LMHA will reimburse the family for eligible out-of-pocket moving expenses up to the LMHA's established moving allowance.

## PART III: TRANSFERS REQUESTED BY TENANTS

### 12-III.A. OVERVIEW

HUD provides the LMHA with discretion to consider transfer requests from tenants. The only requests that the LMHA is required to consider are requests for reasonable accommodation. All other transfer requests are at the discretion of the LMHA. To avoid administrative costs and burdens, this policy limits the types of requests that will be considered by the LMHA.

Some transfers that are requested by tenants should be treated as higher priorities than others due to the more urgent need for the transfer.

### 12-III.B. TYPES OF RESIDENT REQUESTED TRANSFERS

#### LMHA Policy

The types of requests for transfers that ~~the~~ LMHA will consider are limited to requests for:

1. Transfers to alleviate a serious or life threatening medical condition
2. Transfers due to domestic violence, dating violence, sexual assault stalking, human trafficking, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse (VAWA, 2022)
3. Reasonable Accommodations
4. Transfers to a location closer to employment
5. Integrative transfer

No other transfer requests will be considered by ~~the~~ LMHA.

#### LMHA Policy

~~The~~ LMHA will consider the following as high priority transfer requests:

- When a transfer is needed to alleviate verified medical problems of a serious or life-threatening nature. Such circumstances may, at the LMHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of domestic violence, dating violence, sexual assault stalking, human trafficking, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse.
- When a family requests a transfer as a reasonable accommodation. Examples of



a reasonable accommodation transfer include, but are not limited to:

- a transfer to a first floor unit for a person with a mobility impairment or,
- a transfer to a unit with accessible features

~~The~~ LMHA will consider the following as regular priority transfer requests:

- Integrative transfers are non-mandatory and are available to all tenants in developments in which their race predominates beyond the goals of the Jaimes Court Decision. Such tenants may apply to the Office of LMHA's Executive Director for transfers to appropriate size units in developments in which their race does not predominate. Only tenants in good standing are eligible for integrative transfers. (Jaimes Court Decision § III.A. & B.)
- When the head of household or spouse is employed 10 miles or more from the public housing unit, has no reliable transportation, and public transportation is not adequate

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

### **12-III.C. ELIGIBILITY FOR TRANSFER**

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, ~~the~~ LMHA may establish other standards for considering a transfer request [PH Occ GB, p. 150].

#### LMHA Policy

Except where reasonable accommodations ~~is~~ ~~are~~ being requested, ~~the~~ LMHA will only consider transfer requests from residents that meet the following requirements:

- Residents who have not engaged in criminal activity that threatens the health and safety of residents and staff
- Residents who owe no back rent or other charges, or have a pattern of late payment
- Residents who have no housekeeping lease violations or history of damaging property
- Residents who can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)
- Residents who ~~Has~~ have no a pattern of repeated lease violations in the last 12 months. A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection six months later.

Exceptions to the good record requirement may be made when it is to ~~the~~ LMHA's advantage to make the transfer. Exceptions may also be made when ~~the~~ LMHA determines that a transfer is necessary to protect the health or safety of a resident who is

a victim of domestic violence, dating violence, sexual assault, stalking, human trafficking, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse; and who provides documentation of such abuse in accordance with section 16-VII.D of this ACOP.

If a family requested to be placed on the waiting list for a unit size smaller than designated by the occupancy guidelines, the family will not be eligible to transfer to a larger size unit for a period of two years from the date of admission, unless they have a change in family size or composition or it is needed as a reasonable accommodation.

## **12-III.D. SECURITY DEPOSITS AND VACATE CHARGES**

### LMHA Policy

- When a family transfers from one unit to another, ~~the~~ LMHA will transfer their security deposit to the new unit.
- The tenant will be billed for any maintenance or others charges due for the “old” unit prior to moving to the new unit.
- A repayment agreement will be offered and must be signed by the tenant before receiving permission to occupy the “new” unit.
- Refusal to sign the repayment agreement will result in forfeiture of the transfer.
- Exceptions ~~is~~ will be made for mandatory Reasonable Accommodations and Emergency transfers. In these instances, refusal to sign the repayment agreement will not prevent transfer and charges will still be issued to the tenant’s account.
- Disputes relating to maintenance or other charges will be handled in accordance with
- LMHA’s Grievance Procedure.

## **12-III.E. COST OF TRANSFER**

~~The~~ LMHA must pay moving expenses to transfer a resident with a disability to an accessible unit as an accommodation for the resident’s disability [Notice PIH 2010-26].

### LMHA Policy

The resident will bear all of the costs of transfer s/he requests. However, ~~the~~ LMHA will bear the transfer costs of integrative transfers. LMHA will either pay the actual moving expenses at a rate not to exceed \$200 per bedroom or provide moving services at no cost to the tenant. In addition, LMHA will not charge the tenant any rent for the first month after the integrative transfer. (Jaimes Court Decision §III. E)

## 12-III.F. HANDLING OF REQUESTS

### LMHA Policy

Residents requesting a transfer to another unit or development will be required to submit a written request for transfer.

In **the** case of a reasonable accommodation transfer, ~~the~~ LMHA will encourage the resident to make the request in writing using a reasonable accommodation request form. However, ~~the~~ LMHA will consider the transfer request any time the resident indicates that an accommodation is needed, whether or not a formal written request is submitted.

~~The~~ LMHA will respond by approving the transfer and putting the family on the transfer list, by denying the transfer, or by requiring more information or documentation from the family, such as documentation of domestic violence, dating violence, sexual assault, stalking, **human trafficking, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse** in accordance with section 16-VII.D of this ACOP.

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

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

For each tenant who is transferred, the notice from LMHA will also state that LMHA operates as a non-segregated transfer system and does not discriminate on the basis of race, color or national origin. In order to correct the effect of past practices alleged to be discriminatory, present tenants have the opportunity to apply for an integrative transfer (discussed earlier in this chapter) in accordance with the Jaimes Court Decision. An application for an integrative transfer will be attached to the letter.

## **PART IV: TRANSFER PROCESSING**

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

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

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

#### LMHA Policy

The LMHA will maintain a centralized transfer list to ensure that transfers are processed in the correct order and that procedures are uniform across all properties.

Emergency transfers will be handled immediately on a case-by-case basis. If the emergency cannot be resolved by a temporary accommodation and the resident requires a permanent transfer, the family will be placed at the top of the transfer list.

Transfers will be processed in the following order:

1. Emergency transfers (hazardous maintenance conditions)
2. Integrative transfers
3. High-priority transfers (verified medical condition, domestic violence, and reasonable accommodation)
4. Transfers to make accessible units available
5. Demolition, renovation, etc.
6. Occupancy standards
7. Other LMHA-required transfers
8. Other tenant-requested transfers

Within each category, transfers will be processed in order of the date a family was placed on the transfer list, starting with the earliest date.

With the approval of the executive director, ~~the~~ LMHA may, on a case-by-case basis, transfer a family without regard to its placement on the transfer list in order to address the immediate need of a family in crisis.

Demolition and renovation transfers will gain the highest priority as necessary to allow ~~the~~ LMHA to meet the demolition or renovation schedule.

Transfers will take precedence over waiting list admissions.

## 12-IV.C. TRANSFER OFFER POLICY

### LMHA Policy

Residents will receive one offer of a transfer.

~~The~~ LMHA will offer the resident an appropriate unit in a development in which the tenant's race does not predominate. If no unit is available in a development in which the transferring family's race does not predominate, the family will be offered the first available, appropriate unit.

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

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

No transfer will be granted for the same reason as the original request within 12 months from the initial transfer request when a resident fails to provide LMHA with good cause.

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

### LMHA Policy

Good cause for refusal of a unit offer include the following:

- The family demonstrates to LMHA's satisfaction that accepting the unit offer will require an adult household member to quit a job, drop out of an educational institution or job training program, or take a child out of day care or an educational program for children with disabilities.
- The family demonstrates to LMHA's satisfaction that accepting the offer will place a family member's life, health, or safety in jeopardy. The family should offer specific and compelling documentation such as restraining orders, other court orders, risk assessments related to witness protection from a law enforcement agency, or documentation of domestic violence, dating violence, sexual assault stalking, human trafficking, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse in accordance with section 16-VII.D of this ACOP. Reasons offered must be specific to the family. **Refusals due to location alone do not qualify for this good cause exemption.**
- A health professional verifies temporary hospitalization or recovery from illness of the principal household member, other household members (as listed on final application) or live-in aide necessary to the care of the principal household member.
- The unit is inappropriate for the applicant's disabilities, or the family does not need the accessible features in the unit offered and does not want to be subject to

a 30-day notice to move.

- The unit has lead-based paint and the family includes children under the age of six.
- In accordance with the Jaimes Court Decision, the resident may refuse a unit in a development where their race predominates.

LMHA will consider other refusals for good cause on a case-by-case basis and will require documentation for the unit refusal.

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

##### LMHA Policy

If subject to deconcentration requirements, ~~the~~ LMHA will consider its deconcentration goals when transfer units are offered. When feasible, families above the Established Income Range will be offered a unit in a development that is below the Established Income Range, and vice versa, to achieve ~~the~~ LMHA's deconcentration goals.

A deconcentration offer will be considered a "bonus" offer; that is, if a resident refuses a deconcentration offer, the resident will receive one additional transfer offer.