

HOUSING JUSTICE

National Housing Law Project

Newsletter October 2009

Public Housing Agency Plans Part II: The Section 8 Administrative Plan

In Part I of this series of newsletters focusing on public housing agency (PHA) plans, we provided an overview of the PHA planning process and how to engage in the process to improve policies. This second part of the series will cover the Administrative Plan. The Administrative Plan states the policies that the PHA will use to administer its Section 8 voucher program. This newsletter will discuss some common policies found in Administrative Plans that affect survivors of domestic violence and that advocates should review and submit comments upon. Specifically, this newsletter will discuss: admissions criteria, portability, family breakup, and termination of assistance.

Admissions Criteria

The Administrative Plan must set forth the PHA's admissions criteria for the Section 8 program. These criteria may present problems for survivors.

Common Policies

- *Policy:* Prohibiting admission of applicants who have previously been terminated from federally subsidized housing, or who owe money to a PHA for rent or damages.
- *Problem:* Survivors are often evicted or terminated from subsidized housing for reasons related to the batterer's conduct, such as noisy disturbances or property damage. If these survivors apply for subsidized housing after escaping the batterer, they risk being denied

housing due to the prior eviction or subsidy termination.

- *Policy:* Barring admission of applicants who have been arrested for or convicted of violent criminal activity within the past three to five years.
- *Problem:* Survivors who have arrests or convictions stemming from self-defense, coercion, or mutual arrest risk being denied housing.

What Advocates Can Do

- Under VAWA, the fact that an applicant "is or has been a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of program assistance or for denial of admission if the applicant otherwise qualifies for assistance or admission." Advocates can ask PHAs to include this language in the Administrative Plan.
- Ask PHAs to adopt policies that allow for mitigation of negative history that is related to acts of violence committed against a survivor. PHAs should consider whether an applicant would be suitable for housing assistance but for a negative history caused by domestic violence. If the negative history was the consequence of domestic violence against the applicant, the PHA should not deny the household assistance on the basis of this information.

Restrictions on Moving

A PHA's Administrative Plan sets forth the policies that are used when a Section 8 voucher tenant seeks to move to another unit, either in the same

(Continued on page 2)

In this Issue:

Administrative Plans
Statistic of the Month
HUD VAWA Guidance for Project-Based
Section 8 Owners Reissued

VAWA Self-Certification Forms Translated
OVW Director Nominated
NHLP — Website Resource for LAV Grantees

HUD Reissues VAWA Guidance to Project-Based Section 8 Owners

On October 1, 2009, the U.S. Department of Housing and Urban Development (HUD) reissued a notice that provides guidance on the Violence Against Women Act to project-based Section 8 landlords. Notice H 09-15 is available at www.hud.gov/hudclips. The notice instructs project-based Section 8 landlords that:

- An applicant's status as a victim of domestic violence is not a basis for denial of housing
- Incidents of domestic violence will not be construed as serious or repeated violations of the lease or other "good cause" for terminating the tenancy of a victim of abuse.
- A lease may be "bifurcated" to remove the perpetrator from the home while allowing the victim to stay.
- Landlords should update their tenant selection plans and house rules to incorporate VAWA's protections.
- Landlords should establish policies that assist victims and that will protect victims from losing their housing because of domestic violence.
- Landlords responding to an incident of domestic violence that could impact a tenant's participation in the housing program may request that the tenant complete a HUD certification form.
- In lieu of the certification form, landlords may accept a police or court record or documentation signed by a professional .
- The identity of the victim and all information provided to the landlord relating to incidents of domestic violence must be retained in confidence.
- Landlords are required to give all tenants a lease addendum that includes the VAWA provisions.

Statistic of the Month

In a survey of housing authority annual plans, only 18.7% included an express preference for victims of domestic violence.

National Center on Homelessness and Poverty, *Insult to Injury: Violations of the Violence Against Women Act*, April 2009, available at http://www.nlchp.org/view_report.cfm?id=301

jurisdiction, or another one entirely. When a Section 8 tenant seeks to move and use her voucher assistance outside of the housing authority's jurisdiction, it is called "portability."

Common Policies

- *Policy:* Ordinarily, a Section 8 voucher family cannot continue to receive assistance if they move out of their assisted apartment in violation of the lease.
- *Policy:* Families must lease a unit within the PHA's jurisdiction for the initial 12 months of assistance before they can move to another jurisdiction.
- *Policy:* A family can only move during the initial term of the lease (generally 12 months) if the landlord agrees to end the lease and/or may only move once during a 12-month period.
- *Problem:* Portability is particularly important to domestic violence survivors who must move to a confidential location to escape their batterers. These restrictions may put the survivor in danger.

What Advocates Can Do

- VAWA provides an exception to restrictions on portability. If a Section 8 voucher family has moved to protect the safety of a victim of domestic violence, dating violence, or stalking who reasonably believed she would be threatened by further violence if she remained, the family may continue to receive assistance. Advocates should urge PHAs to amend their Administrative Plans to include VAWA's language regarding portability.
- Advocates should ask PHAs to amend these policies to include exceptions for families who must move to protect the safety of survivors of domestic violence.
- Ask PHAs to adopt a policy stating that if it is necessary for a family member to break a lease to escape domestic violence, the PHA will not terminate the victim from the Section 8 program.
- Ask PHAs to include a statement in the Administrative Plan that the address to which

(Continued on page 3)

(Continued from page 2)

an individual fleeing domestic violence has relocated will be kept strictly confidential and will not be shared with any person outside the PHA unless the individual voluntarily waives confidentiality.

Family Breakup

Common Policies

- *Policy:* The Administrative Plan contains a policy regarding whom the PHA will continue to assist with a Section 8 voucher if the family breaks up. Sometimes this policy may state that the voucher will go to the listed head of household, or to the tenant that is remaining in the leased unit.
- *Problem:* A survivor who lives with her batterer may need to flee the Section 8 unit due to domestic violence and would thus be unable to maintain a Section 8 voucher if such a policy were in place.
- *Policy:* Assigning the assistance based on a written agreement between family members.
- *Problem:* The batterer may threaten a survivor with continued violence if she does not sign such an agreement.

What Advocates Can Do

- The Administrative Plan should state that the PHA will consider a variety of factors in making the decision of who will receive continued Section 8 voucher assistance, including whether family members were forced to leave the unit as a result of violence committed by another family member, and if domestic violence was involved in the family break up.
- Advocates should also consider encouraging PHAs to adopt breakup policies that take into account the interests of minor children.

Other Considerations

- If the Section 8 assistance has been allocated under a settlement or judicial decree as part of divorce or separation proceedings, the PHA must follow the court's determination of which family members continue to receive assistance.

Termination of Assistance

Common Policies

- *Policy:* Many PHAs have policies terminating voucher assistance for any criminal activity, by the voucher holder, guest, or person under their control.
- *Problem:* Survivors of domestic violence may be arrested or convicted of criminal activity while acting in self-defense. Additionally, the batterer may engage in criminal activity on the premises of the survivor's unit.
- *Policy:* Termination for lease violations, such as missing appointments with the housing authority.
- *Problem:* In some cases, survivors may not be able to comply with lease terms because of issues directly related to domestic violence. For example, a survivor may miss appointments with the PHA because she is afraid to leave the home due to threats of violence by the batterer, or because she has taken refuge at a shelter or has been hospitalized.

What Advocates Can Do

- The Administrative Plan should include VAWA's language providing that criminal activity directly relating to domestic violence, dating violence, or stalking shall not be considered a serious or repeated violation of the lease by the victim justifying termination of assistance.
- The Administrative Plan should also include VAWA's provision stating that the PHA may terminate voucher assistance to individuals who engage in violence against family members or others without penalizing the victims of such violence.
- Finally, the Administrative Plan should state that if a victim has committed a lease violation unrelated to domestic violence, dating violence, or stalking, the PHA may not hold the victim to a more demanding standard than other tenants in deciding whether to terminate.
- Advocates should ask PHAs to amend their

(Continued on page 4)

Administrative Plans to state that in making termination decisions, the PHA will consider the role that domestic violence played in lease violations or program violations.

Other Items to Include in the Administrative Plan

- Preferences: An admissions preference is a policy that provides certain categories of applicants a priority on the waiting list as units become available. Advocates may want to consider working with their PHA to institute a preference for survivors of domestic violence into its Administrative Plan.
- Certification of Domestic Violence: The Administrative Plan should clearly state that the PHA will accept any one of the three types of documentation allowed under VAWA for certification of an individual’s status as a survivor: (1) completing a HUD-approved certification form; (2) providing documentation signed by a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, in which the professional attests under penalty of perjury to the professional's belief that the incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; or (3) providing a police or court record. Advocates should also consider whether there are other documents that should be added to the list, such as medical records, a statement from a clergy member or social worker, or a signed statement by the survivor.
- Confidentiality: The Administrative Plan should also make clear that the PHA shall keep confidential any information regarding an individual's status as a survivor of domestic violence and that this information may not be entered into a shared database or provided to other entities. It should also clearly state that VAWA provides exceptions to confidentiality where disclosure is requested by the survivor in writing, where the information is required

HUD Translates Domestic Violence Certification Form

The U.S. Department of Housing and Urban Development (HUD) has translated into 11 different languages Form 50066. This form is used to document incidents of domestic violence, dating violence, and stalking in cases where Section 8 and public housing tenants seek to assert their housing rights under the Violence Against Women Act. Tenants facing evictions or subsidy terminations due to the acts of their abusers can complete Form 50066 and give it to a housing authority or Section 8 landlord to prove that they are victims of domestic violence, dating violence, or stalking. The translated forms are available at <http://www.hud.gov/offices/fheo/promotingfh/lep.cfm>

Form 50066 is available in:

English	Hmong
Arabic	Korean
Cambodian	Lao
Chinese	Russian
Creole	Spanish
French	Vietnamese

Nominee for Director of Office on Violence Against Women Announced

President Obama has nominated Judge Susan B. Carbon as director of the Office on Violence Against Women, Department of Justice (DOJ). Judge Carbon has been a supervisory judge of the New Hampshire Judicial Branch Family Division since 1996. She has served on the New Hampshire Governor’s Commission on Domestic and Sexual Violence and was chairwoman of the state’s Domestic Violence Fatality Review Committee. She was also president of the National Council of Juvenile and Family Court Judges. In 2006, she chaired Firearms and Domestic Violence: A National Summit for Community Safety, an initiative funded by DOJ. She also chaired the project that produced a guide for Effective Issuance and Enforcement of Orders of Protection in Domestic Violence cases, which is used by advocates nationwide.

for use in an eviction proceeding, or where otherwise required by the law. The Administrative Plan should state that the PHA will inform the survivor before disclosing information so that safety risks or alternatives to disclosure can be identified.

- Notifying Tenants of Their Rights Under VAWA: PHAs must provide notice to Section 8 tenants of their rights under VAWA. The Administrative Plan should state the notification procedures that the PHA will use. This should include: providing verbal notice during orientations to the voucher program and annual recertification meetings; inserting a paragraph regarding VAWA rights into denial of assistance letters and termination notices; posting notice of VAWA in PHA's office; and posting notice of VAWA on the PHA's website.
- Defining Who is a Survivor of Domestic Violence, Dating Violence, or Stalking: The Administrative Plan should include VAWA's definitions of whom can be considered a victim of dating violence, domestic violence, or stalking in the Administrative Plan. Additionally, VAWA's definition of "domestic violence" incorporates state law definitions of the term. Therefore, PHAs should include their state's definition of domestic violence in the Administrative Plan, if it is more expansive than the federal definition.
- Community Resources: Advocates should urge PHAs to include a statement in the Administrative Plan on how they will inform survivors of domestic violence about community resources. Where possible, advocates should offer to provide PHAs with these resources and should urge PHAs to make them accessible to individuals who are disabled or limited English proficient (LEP). ■

Remember to check out NHLP's new **Website for LAV Grantees** at <http://www.nhlp.org/resourcecenter?tid=96>

The webpage contains a variety of materials designed to help you address housing issues commonly encountered by survivors of domestic violence, sexual assault, and stalking. Examples of these materials include an advocates toolkit on the housing provisions of the Violence Against Women Act (VAWA), training curricula on the housing rights of survivors of domestic violence and sexual assault, and NHLP's monthly newsletters for LAV grantees.

For technical assistance, requests for trainings or materials, or further questions, please contact:

Navneet Grewal, ngrewal@nhlp.org, ext. 3102,
 Meliah Schultzman, mschultzman@nhlp.org,
 ext. 3116
 National Housing Law Project
 614 Grand Ave. Suite 320
 Oakland, CA 94610.
 Phone: (510)251-9400
 Fax (510)451-2300

This project was supported by Grant No. 2008-TA-AX-K030 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.