

# HOUSING JUSTICE

National Housing Law Project

Newsletter September 2009

## Public Housing Agency Plans: Part I How Advocates Can Get Involved

While the Violence Against Women Act (VAWA) provides certain housing protections for survivors of domestic violence, dating violence, and stalking, many policies are left to the discretion of local public housing agencies (PHAs). PHAs, commonly referred to as housing authorities, must develop plans each year that set forth the policies governing their Section 8 voucher and public housing programs. These plans include the PHA's policies regarding the housing rights of survivors of domestic violence, dating violence, and stalking. The PHA planning process provides an opportunity for advocates to comment on their local PHAs' policies on domestic violence (or to ask PHAs to adopt such policies), and to work toward implementing policies that better serve their clients.

This newsletter outlines the process by which a PHA develops its annual plans and how advocates can get involved. Forthcoming newsletters will expand upon the planning process. Part II: The Section 8 Administrative Plan and Part III: The Public Housing Admissions and Continued Occupancy Policy will provide examples of policies that PHAs can adopt to ensure that survivors of domestic violence may access affordable housing.

### Background

In 1998, Congress acted to give more

## NHLP Launches New Webpage for LAV Grantees

National Housing Law Project (NHLP) is pleased to announce the launch of its new webpage specifically designed for Legal Assistance to Victims (LAV) grantees. You can access the site 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. We plan to regularly update this site as we develop more materials for grantees.

To provide comments or feedback on our new webpage, or to request technical assistance on a housing issue, contact Meliah Schultzman at [mschultzman@nhlp.org](mailto:mschultzman@nhlp.org) or Navneet Grewal at [ngrewal@nhlp.org](mailto:ngrewal@nhlp.org). To reach us by phone, call 510-251-9400.

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responsibility and authority to PHAs in the administration of their public housing and Section 8 voucher programs. In exchange for the increased responsibility and authority, PHAs must develop Five-Year and Annual Plans that are submitted to and approved by the Department of Housing and Urban Development (HUD). When developing these plans, PHAs must provide an opportunity for residents and the public to comment on the proposed policies.

As an attachment to the Annual Plan, the PHA must include its Section 8 Administrative Plan and its public housing Admissions and Continued Occupancy Policy (ACOP). The Annual Plan summarizes some of the PHA's policies regarding the public housing and Section 8 programs. The Administrative Plan details the policies that a PHA uses in the day-to-day operation of its Section 8 voucher program. The ACOP serves a similar function for the PHA's public housing program. The plans include policies on fair housing and civil rights, waiting lists, admissions, transfers, evictions and terminations, hearing rights, and more. The policies can specifically address the needs of domestic violence survivors, such as by providing a transfer to another public housing unit for a tenant who has experienced domestic violence or by considering the role that do-

mestic violence played in a lease or program violation. Furthermore, federal law, at 42 U.S.C. § 1437c-1(d)(13), requires that the Annual Plan describe:

(A) any activities, services, or programs provided or offered by an agency, either directly or in partnership with other service providers, to child or adult victims of domestic violence, dating violence, sexual assault, or stalking;

(B) any activities, services, or programs provided or offered by a public housing agency that help child and adult victims of domestic violence, dating violence, sexual assault, or stalking, to obtain or maintain housing; and

(C) any activities, services, or programs provided or offered by a public housing agency to prevent domestic violence, dating violence, sexual assault, and stalking, or to enhance victim safety in assisted families.

### PHA Plan Process

Congress requires that PHAs seek input from Resident Advisory Boards (RABs) regarding their proposed policies and provide the public with an opportunity to submit written comments and participate in a public hearing conducted by the PHA's board of commissioners. In addition, a PHA must make available for review by the public, including Section 8 and public housing residents, basic PHA policies and rules concerning the PHA's

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### Statistic of the Month

An analysis by the National Law Center on Homelessness and Poverty found that only 59.5% of all PHA plans analyzed by the organization met the basic standard of compliance with domestic violence planning requirements.

National Law 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](http://www.nlchp.org/view_report.cfm?id=301)

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operations, programs and services.

### *Timeline*

PHAs must follow a statutorily set timeline when developing and submitting PHA plans. The plans must be submitted to HUD 75 days prior to the end of the PHA's fiscal year. The PHA must give the public a 45-day notice of the public hearing on the plan. HUD urges PHAs to begin consulting with the RAB six months prior to the date that the plan must be submitted to HUD. As an example, a PHA may operate on a fiscal year that begins on July 1. Therefore, the PHA's plans must be submitted by April 16, 75 days before the end of the fiscal year. The public hearing should be set to allow the PHA enough time to respond to the public's comments. Because the public must be given a 45-day notice regarding the hearing, a July 1 PHA will often begin the comment process in early to mid-January. Advocates can determine which fiscal year their local PHA is on by visiting HUD's website at <http://www.hud.gov/offices/pih/pha/>.

As a practical matter, advocates should begin working with their local PHAs long before the official comment period is open. This allows advocates to influence the initial drafting process, during which the PHA may be more open to additional ideas and input. To do this, advocates can contact the PHA's executive director or the persons in charge of administering the Section 8 program and the public housing program and indicate their interest in working on the plan process.

### *Obtaining the Plans*

PHAs must make available to the public their Five-Year and Annual Plans, along with all required attachments and supporting documents. The Five-Year and Annual Plan are posted on HUD's website. Many PHAs

post their plans, including the Administrative Plan and ACOP, on their own websites. Often, an advocate can simply request the plans from the PHA via email and receive electronic copies.

Advocates should review the plans, especially in areas where the PHA's policies do not fully serve survivors' needs. For example, if survivors have complained about lengthy wait periods before they are able to transfer to another public housing unit, even in emergency situations, the advocate should determine exactly what the PHA's policies are regarding transfers and whether they can be improved. In Parts II and III of this series on plans, we will discuss concrete policies that could improve survivors' ability to obtain and maintain affordable housing.

### *Written Comments*

The written comment process should be interactive. Advocates should offer to meet with the PHA to discuss potential changes to its policies. The PHA may be more receptive if advocates explain how they can assist the PHA, such as by conducting trainings on VAWA or domestic violence or by accepting referrals from PHA staff members who are assisting tenants experiencing domestic violence. In any case, advocates should submit written comments by the deadline provided by the PHA. Advocates should consider submitting the comments in conjunction with other organizations. For sample comments, visit <http://nhlp.org/node/433>.

### *Public Hearing*

As noted above, the PHA must hold a public hearing to accept comments on its proposed plans. The hearing must be held in front of the PHA's board of commissioners. This can often be a vital tool for influencing

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the plans, as the board can pressure PHA staff to make changes. Advocates have found that the board is often interested in hearing how the PHA is addressing domestic violence, particularly whether the PHA is complying with VAWA. PHA plans are typically but one item on the board's agenda. There is usually a time limit on public comments—sometimes just two or three minutes per person. Thus, advocates should prepare statements that briefly summarize their concerns and explain how the PHA's policies could be improved. Even with such a short time for comment, the hearing process can be an important part of advocating for policies that improve survivors' access to housing.

#### *Follow-Up*

PHAs are required to respond in writing to resident comments regarding plans and to submit those responses with its Annual Plan to HUD. Most PHAs will also respond to comments from the general public. These responses are sometimes useful to understanding the reasoning behind a PHA's refusal to make a change. After submitting comments, advocates should request follow-up meetings with the PHA. Through these meetings, the advocates can work with the PHA to make and implement policy changes.

#### *Review*

HUD reviews PHA Annual Plans to determine if a plan contains all the information required by law, including information on how the PHA is serving victims of domestic violence, dating violence, and stalking. Once HUD approves a plan, it must be made available to the public.

#### *Enforceability*

HUD regulations require that a PHA must follow the rules and policies set forth in its approved PHA Plan. 24 C.F.R. § 903.25.

HUD has the authority to respond to complaints of noncompliance. If a PHA has failed to include information regarding domestic violence in its Annual Plan and has not responded to requests to address this deficiency, advocates should contact their regional HUD office of Fair Housing and Equal Opportunity.

#### **Citations and Resources**

- 42 U.S.C. § 1437c–1 — PHA Plan Provisions
- 42 U.S.C. § 1437c-1(d)(13) — Provisions requiring Annual Plan to include policies on domestic violence
- 24 C.F.R. § § 903.3 *et seq.* — Regulations regarding PHA Plans
- PHA Plan Desk Guide, available at <http://www.hud.gov/offices/pih/pha/policy/pha-plan-guide.pdf>

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

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*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.*