

TRANSFER POLICY

INTRODUCTION

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

This chapter describes HUD regulations and SHA 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: PHA Required Transfers. This part describes types of transfers that may be required by the PHA, 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.

The SHA 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.

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

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

PART I: EMERGENCY TRANSFERS

OVERVIEW

HUD categorizes certain actions as emergency transfers. The emergency transfer differs from a typical transfer in that it requires immediate action by the SHA.

In the case of a genuine emergency, it may be unlikely that the SHA 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 SHA 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 reached.

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, the SHA must offer standard alternative accommodations, if available, where necessary repairs cannot be made within a reasonable time [24 CFR 966.4(h)].

SHA 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.

EMERGENCY TRANSFER PROCEDURES

SHA Policy

If the transfer is necessary because of maintenance conditions, the SHA will transfer the resident to the first available and appropriate unit.

Emergency transfers are mandatory for the tenant.

COSTS OF TRANSFER

SHA Policy

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

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

PART II: SHA REQUIRED TRANSFERS

OVERVIEW

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

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

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

TYPES OF SHA REQUIRED TRANSFERS

SHA Policy

The types of transfers that may be required by the SHA, include, but are not limited to, transfers to make an accessible unit available for a disabled family, transfers to comply with occupancy standards, transfers for demolition, disposition, revitalization, or rehabilitation, and emergency transfers as discussed in Part I of this chapter.

Transfers required by the SHA 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 SHA may require the family to agree to move to a non-accessible unit when it becomes available [24 CFR 8.27(b)].

SHA Policy

When a non-accessible unit becomes available, the SHA may transfer a family living in an accessible unit that does not require the accessible features, to an available unit that is not accessible. The SHA 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 SHA 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 SHA policy [24 CFR 960.257(a)(4)]. On some occasions, the SHA 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)].

SHA Policy

The SHA may 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 SHA's occupancy standards as described in Section 5-I.B.

The SHA 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 SHA's occupancy standards, when the SHA determines there is a need for the transfer.

The SHA 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 SHA that a transfer is necessary 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.

Demolition, Disposition, Revitalizations, or Rehabilitation Transfers

These transfers permit the SHA to demolish, sell or do major capital or rehabilitation work at a building site.

SHA Policy

The SHA may 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 SHA's relocation plan may or may not require transferring affected families to other available public housing units.

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

ADVERSE ACTION [24 CFR 966.4(e)(8)(i)]

A SHA 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 SHA may not take action on the transfer until the conclusion of the grievance process.

12-II.D. COST OF TRANSFER

SHA Policy

The SHA will bear the reasonable costs of transfers that the SHA requires, except that residents will be required to bear the cost of occupancy standards transfers.

The reasonable costs of transfers include the cost of packing, moving, and unloading, as well as the cost of reconnecting existing resident paid services such as telephone or cable television.

The SHA will establish a moving allowance based on the typical costs in the community of packing, moving, unloading and reconnecting resident paid services. To establish typical costs, the SHA will collect information from companies in the community that provide these services.

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

PART III: TRANSFERS REQUESTED BY TENANTS

OVERVIEW

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

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

TYPES OF RESIDENT REQUESTED TRANSFERS

SHA Policy

The types of requests for transfers that the SHA will consider are limited to requests for transfers to alleviate a serious or life threatening medical condition, transfers due to a threat of physical harm or criminal activity, reasonable accommodation, transfers to a different unit size as long as the family qualifies for the unit according to the SHA's occupancy standards, and transfers to a location closer to employment. No other transfer requests will be considered by the SHA.

The SHA 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

When there has been a verified threat of physical harm or criminal activity. Such circumstances may, at the SHA's discretion, include an assessment by law enforcement indicating that a family member is the actual or potential victim of a criminal attack, retaliation for testimony, a hate crime, or domestic violence, dating violence, sexual assault, or stalking.

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 mobility impairment, or a transfer to a unit with accessible features

The SHA will consider the following as regular priority transfer requests:

When a family requests a larger bedroom size unit even though the family does not meet the PHA's definition of overcrowded, as long as the family meets the PHA's occupancy standards for the requested size unit

When the head of household or spouse is employed, has no reliable transportation, and public transportation is not adequate

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

ELIGIBILITY FOR TRANSFER

Transferring residents do not have to meet the admission eligibility requirements pertaining to income or preference. However, the SHA may establish other standards for considering a transfer request.

SHA Policy

Except where reasonable accommodation is being requested, the SHA will only consider transfer requests from residents that meet the following requirements:

- Have not engaged in criminal activity that threatens the health and safety of residents and staff

- Owe no back rent or other charges, or have a pattern of late payment

- Have no housekeeping lease violations or history of damaging property

- Can get utilities turned on in the name of the head of household (applicable only to properties with tenant-paid utilities)

A resident with housekeeping standards violations will not be transferred until the resident passes a follow-up housekeeping inspection.

Exceptions to the good record requirement may be made when it is to the SHA's advantage to make the transfer.

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.

SECURITY DEPOSITS

SHA Policy

When a family transfers from one unit to another, the SHA 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.

COST OF TRANSFER

SHA Policy

The resident will bear all of the costs of transfer s/he requests. However, the SHA will bear the transfer costs when the transfer is done as a reasonable accommodation.

HANDLING OF REQUESTS

SHA Policy

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

In case of a reasonable accommodation transfer, the request must be in writing to the site manager.

The site manager will send a memo along with the letter to the executive office for approval. The site manager is responsible for showing the tenant to be in good standing with the SHA.

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

However, the SHA will consider the transfer request only after approved by the executive offices.

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

PART IV: TRANSFER PROCESSING

OVERVIEW

Generally, transfers should be placed on a transfer list and handled in the appropriate order. The transfer process must be clearly auditable to ensure that residents do not experience disparate treatment.

TRANSFER LIST

SHA Policy

The SHA will maintain a centralized transfer list to ensure that transfers are processed, and that procedures are uniform across all properties.

Emergency transfers will not automatically go on the transfer list. Instead emergency transfers will be handled immediately, on a case by case basis. If the emergency will not be finally resolved by a temporary accommodation, and the resident requires a permanent transfer, that transfer 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. High-priority transfers (verified medical condition, threat of harm or criminal activity, and reasonable accommodation)
3. Transfers to make accessible units available
4. Demolition, renovation, etc.
5. Occupancy standards
6. Other SHA-required transfers
7. 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 SHA 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.

Emergency transfers, high priority tenant requested transfers, transfers to make accessible units available, demolition, and renovation transfers will take precedence over waiting list admissions.

All other transfers will be processed at a rate of approximately 1 transfer to 20 admissions.

TRANSFER OFFER POLICY

SHA Policy

Residents will receive one offer of a transfer.

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

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

GOOD CAUSE FOR UNIT REFUSAL

SHA Policy

Examples of good cause for refusal of a unit offer include, but are not limited to, the following:

The family demonstrates to the SHA'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, or risk assessments related to witness protection from a law enforcement agency. 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 SHA will require documentation of good cause for unit refusals.

DECONCENTRATION

SHA Policy

If subject to deconcentration requirements, the SHA 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 SHA's deconcentration goals.

REEXAMINATION POLICIES FOR TRANSFERS

SHA Policy

The reexamination date will not change to the first of the month in which the transfer took place.