

6127 PROTECTIONS FOR PUBLIC HOUSING APPLICANTS AND TENANTS UNDER THE VIOLENCE AGAINST WOMEN ACT

- 6127.1 In certain circumstances, as further explained below, applicants or tenants may be afforded additional protections from DCHA requirements and policies under the Violence Against Women Act (“VAWA”). DCHA shall comply with the terms of VAWA in administration of public housing. VAWA protections are for victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. DCHA shall not discriminate against VAWA victims on the basis of any protected categories pursuant to 24 CFR § 5.105(a) including race, color, national origin, religion, sex, familial status, disability, or age.
- 6127.2 DCHA will provide to applicants deemed ineligible for admission to public housing and public housing tenants the “Notice of Occupancy Rights under the Violence Against Women Act” and the HUD-approved certification form in accordance with HUD rules and regulations.
- 6127.3 Applicants seeking admission to DCHA public housing units shall not be denied admission to public housing on the basis of or as a direct result of the fact that the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the applicant otherwise qualifies for admission, assistance, participation, or occupancy.
- 6127.4 Pursuant to federal regulations, DCHA shall not terminate tenancy for tenants protected under VAWA on the basis of, or as a direct result of, the fact that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, if the tenant otherwise qualifies for admission, assistance, participation, or occupancy.
- 6127.5 Pursuant to federal regulations, DCHA shall not deny tenancy or occupancy rights on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if 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 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.
- 6127.6 Pursuant to federal regulations, incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as a serious or repeated lease violation by the victim or threatened victim of such incidents; or good cause for terminating the tenancy or occupancy rights of the victim or threatened victim of such incidents.
- 6127.7 Notwithstanding Subsections 6127.4, 6127.5, and 6127.6, DCHA may terminate tenancy for any violation not premised on an act of domestic violence, dating

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violence, sexual assault, or stalking, provided that DCHA does not subject such a tenant to a more demanding standard than other tenants in making the determination whether to evict or terminate the tenancy.

- 6127.8 Notwithstanding Subsections 6127.4, 6127.5, and 6127.6, DCHA may terminate tenancy if DCHA demonstrates that an actual and imminent threat to other tenants, employees, or others providing service to a public housing property would be present if a tenant or lawful occupant is not evicted.
- 6127.9 Prior to terminating tenancy under Subsection 6127.8, DCHA shall consider other actions that may be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat.
- 6127.10 DCHA shall comply with a court order addressing rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking
- 6127.11 Tenants or applicants seeking VAWA protections shall provide to DCHA documentation of domestic violence, dating violence, sexual assault, or stalking.
- 6127.12 A tenant or applicant may document an incident or incidences of domestic violence, dating violence, or stalking as follows:
- (a) The HUD-approved certification form;
 - (b) A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking (i.e., police reports, protective orders, and restraining orders); or
 - (c) Documentation that is signed by the victim and signed by an employee, agent, or volunteer of a victim service provider, or an attorney, or mental health or medical provider from whom the victim has sought assistance in the situation who attests under penalty of perjury that he or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for VAWA protection.
- 6127.13 Conflicting Allegations.
- (a) If DCHA receives conflicting documentation of domestic violence, dating violence, sexual assault, or stalking from two (2) or more members of a household, each claiming to be a victim and naming one (1) or more of the other petitioning household members as the perpetrator, DCHA may

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require third-party documentation to resolve the conflict in accordance with VAWA and its implementing regulations. DCHA will review conflicting allegations through the process specified in § 6127.13(c).

- (b) If a household member does not submit third-party documentation, or only submits third-party documentation that contains conflicting information, DCHA may deny the VAWA request. DCHA shall provide to tenants written notice and the opportunity to grieve in accordance with § 6301.
- (c) **Conflicting Allegations Panel.** If DCHA receives conflicting documents submitted pursuant to § 6127.12 from two (2) or more members of a household, each claiming to be a victim and naming one (1) or more of the other petitioning household members as the perpetrator, DCHA shall convene a conflicting allegations panel within five (5) business days to recommend which Family member's request will be granted in accordance with the Violence Against Women Act (VAWA) and its implementing regulations, as explained in §§ 6127.1, and other applicable laws using the following guidelines:
 - (1) Prior to making any recommendation on who retains assistance, the conflicting allegations panel shall attempt to notify both adult family members involved in the alleged incident by first-class mail to the address of record or an alternative address or email address, if one is provided, and by phone, if a phone number is provided, that only one (1) part of the family shall continue to receive assistance;
 - (2) The notice shall inform both adults of how DCHA will determine who retains assistance, and what relevant information each adult can provide to assist DCHA in making its recommendation;
 - (3) After making its recommendation using the factors as enumerated in § 6127.13(e), the documentation provided pursuant to § 6127.12, and any additional relevant information provided (including, but not limited to, police report(s), protective orders, restraining orders, photographs, video footage, any past history of abuse, or evidence of who is the primary aggressor), DCHA shall notify both adults in writing of its decision and the basis for the decision; and
 - (4) If DCHA denies the request, DCHA shall provide to the adult household member written notice and the opportunity to grieve in accordance with § 6301.
- (d) The Conflicting Allegations Panel will consist of three members, two (2) staff members from Property Management and Operations, designated by

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the Director of Property Management and Operations, and a victim service provider employee or agent.

- (e) The Conflicting Allegations Panel will consider the following to determine which VAWA request will be granted:
 - (1) DCHA shall be bound to any decision of the courts, including but not limited to in cases of divorce, legal separation, or intrafamily offenses;
 - (2) In the case that there is no judicial decision relating to who will continue to receive the assistance, DCHA shall consider the following:
 - (1) Any incidents of domestic violence, dating violence, sexual assault, or stalking, or an intrafamily offense, in which case, DCHA shall ensure that the victim retains assistance;
 - (2) The interest of minor children; or
 - (3) The interest of an ill, elderly, or disabled Family member.

6127.14 A tenant who has been a victim of domestic violence, dating violence, sexual assault, or stalking may request an emergency VAWA transfer pursuant to Section 6402 and Subsections 6127.14 through 6127.18 of this title, if:

- (a) the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under DCHA's program; or
- (b) the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency VAWA transfer.

6127.15 A tenant requesting an emergency VAWA transfer pursuant to § 6127.14, must submit a written request to transfer. A tenant may submit a DCHA or HUD-approved emergency VAWA transfer form, or provide a written statement that includes either:

- (a) A statement expressing and certifying that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under DCHA's program; or
- (b) A statement certifying that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the ninety (90)-

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calendar-day period preceding the tenant's request for an emergency VAWA transfer.

- 6127.16 If a tenant requests an emergency VAWA transfer under the protections of VAWA, DCHA will request in writing that the tenant provide documentation in accordance with Subsection 6127.12.
- 6127.17 Tenants must provide the documentation required under Subsection 6127.12 within fourteen (14) business days of receiving the written request for documentation. If DCHA receives conflicting documentation of domestic violence, dating violence, sexual assault, or stalking from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, Subsection 6127.13 shall apply.
- 6127.18 Notwithstanding Section 6403, a tenant is not required to give advanced written notice of intent to vacate the unit if the family moved to protect the health or safety of the victim.
- 6127.19 DCHA may bifurcate a lease, or remove a person from a lease in order to evict, remove, or terminate occupancy rights to any lessee or household member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant. A lease bifurcation shall be carried out in accordance with federal and local law for termination of tenancy and eviction, and in accordance with HUD requirements.
- 6127.20 If DCHA exercises the option to bifurcate a lease, DCHA will execute a new lease with the victim in accordance with federal and local requirements. If the evicted household member was the eligible tenant, the remaining tenant(s) or lawful occupant(s) that was not already eligible shall be given a period of thirty (30) calendar days from the date of bifurcation of the lease to:
- (a) Establish eligibility for the DCHA public housing program; or
 - (b) Find alternative housing.
- If the remaining tenant or lawful occupant(s) fails to establish eligibility or find alternative housing, DCHA will pursue eviction through court process in accordance with local law.
- 6127.21 Any information submitted to DCHA under this section, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be maintained in strict confidence by DCHA.

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- (a) DCHA shall not allow any individual managing properties on behalf of DCHA or any persons within their employ (*e.g.*, contractors) or any employee of DCHA to have access to confidential information unless explicitly authorized by DCHA for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.
- (b) DCHA shall not enter confidential information submitted to DCHA pursuant to this section into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is:
 - (1) Requested or consented to in writing by the individual in a time-limited release;
 - (2) Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
 - (3) Otherwise required by applicable law.

SOURCE: Final Rulemaking published at 65 DCR 13209 (November 30, 2018); as amended by Final Rulemaking published at 67 DCR 9071 (July 24, 2020).