

# **VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY**

## **I. PURPOSE AND APPLICABILITY**

The purpose of this policy is to implement the requirements of the Violence Against Women Act (VAWA) with respect to the responsibilities of the PHA regarding domestic violence, dating violence, sexual assault and stalking. This policy shall be applicable to all of the federally-subsidized housing programs administered by the PHA and shall be part of the Housing Choice Voucher Administrative Plan and the Public Housing Admissions and Continued Occupancy Policy by reference. Protections under this policy are available to all victims regardless of sex, gender identity, or sexual orientation and will be applied consistent with all nondiscrimination and fair housing requirements.

## **II. GOALS AND OBJECTIVES**

- A. Maintaining compliance with all applicable legal requirements imposed by VAWA
- B. Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence, sexual assault and stalking
- C. Providing and maintaining housing opportunities for victims of domestic violence, dating violence, sexual assault and stalking
- D. Creating and maintaining collaborative arrangements between the PHA, law enforcement authorities, victim service providers and others to promote the safety and well-being of victims of actual or threatened domestic violence, dating violence, sexual assault and stalking
- E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, sexual assault and stalking affecting individuals assisted by the PHA

### III. DEFINITIONS

- A. Domestic Violence - includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child, by a person who is living with or has lived with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.
- B. Spouse or Intimate Partner - includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.
- C. Dating Violence - violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship is determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.
- D. Sexual Assault - is any type of sexual contact or behavior that occurs without the explicit consent of the recipient, including when the individual lacks capacity to consent
- E. Stalking - engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's individual safety or the safety of others, or suffer substantial emotional distress
- F. Affiliated individual - with respect to an individual, means
  - (1) a spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
  - (2) any other person living in the household of that individual
- G. Perpetrator - a person who commits acts of domestic violence, dating violence, sexual assault, or stalking against a victim

- H. VAWA Self Petitioner - refers to noncitizens who claim to be victims of "battery or extreme cruelty." Battery or extreme cruelty includes domestic violence, dating violence, sexual assault, and stalking. VAWA allows these noncitizens to self-petition for Lawful Permanent Resident (LPR) status without the cooperation of or knowledge of their abusive relative

#### IV. NOTIFICATIONS PROVIDED

- A. All applicants and tenants of all PHA Housing Programs will be provided HUD-5380, "Notification of Occupancy Rights Under the Violence Against Women Act (VAWA)" and HUD-5382, "Certification of Domestic Violence, Dating violence, Sexual Assault, or Stalking and Alternate Documents" at the following times:
  - (1) at time of denial of assistance or admission
  - (2) at time of providing of assistance or admission
  - (3) at any eviction or termination
  - (4) at recertification or lease renewal
- B. These forms will be provided in the applicable language, if necessary, in accordance with Executive Order 13166 (Improving Access to Services for Persons with Limited English Proficiency).

#### V. ADMISSIONS AND SCREENING

- A. Non-Denial of Assistance - The PHA will not deny assistance or admission to any person because that person is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, provided that such person is otherwise qualified for admission.
- B. Mitigation of Disqualifying Information
  - (1) An applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, may request that the PHA take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling.
  - (2) If requested by an applicant to take such mitigating information into account, the PHA shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic

violence and its probable relevance to the potentially disqualifying information.

- (3) The PHA will not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

## VI. TERMINATION OF TENANCY OR ASSISTANCE

### A. VAWA Protections

- (1) A tenant may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if
  - a. 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
  - b. 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
- (2) An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be considered as a serious or repeated violation of the lease by the victim or threatened victim or good cause for terminating the assistance, tenancy or occupancy rights of the victim or threatened victim of such incident.

### B. Limitations of VAWA Protections

- (1) Nothing in the above section limits the authority of the PHA to comply with a court order with respect to the 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, or the distribution or possession of property among members of a household.
- (2) Nothing in the above section limits any available authority of the PHA to evict or terminate assistance to a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking. However, the PHA will not hold to a more demanding standard, a tenant or an affiliated

individual who is or has been a victim of or domestic violence, dating violence, sexual assault, or stalking

- (3) Nothing in the above section limits the authority of the PHA to evict or terminate from assistance any tenant or lawful applicant if
  - a. PHA can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the property, if the tenant is not evicted or terminated from the assistance, and
  - b. no other actions that could be taken to reduce the threat have been successful, including transferring the victim to a different unit, barring the perpetrator from the property, involving law enforcement, or seeking other legal remedies to prevent the perpetrator from acting on a threat.

## VII. VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

- A. Requirement for Verification. Subject only to waiver as provided in paragraph D below, the PHA shall require verification in all cases where an individual requests protection against an action involving domestic violence, dating violence, sexual assault, or stalking. Verification may be accomplished in one of three ways:
  - (1) Completing HUD-5382, "Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking"
  - (2) Other documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the side effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury that the incident or incidents in question are bona fide and meet the requirements of the applicable definition set forth in this policy.
  - (3) Police or court record - provided to the PHA by federal, state, tribal, or local police or court record describing the incident or incidents in question.

- B. Time Allowed. An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking, and who is requested by the PHA to provide verification, must provide such verification within 14 business days after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.
- C. If the PHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms 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 abuser or perpetrator), the PHA has the right to request that the tenant provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. Failure to provide third-party documentation where there is conflicting evidence will result in loss of protection under VAWA and this policy against a proposed adverse action.
- D. Waiver of verification requirement. With respect to any specific case, the PHA may waive the above-stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Executive Director or President/CEO. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

#### VIII. NON-CITIZEN SELF-PETITIONER VERIFICATION

- A. Financial assistance to ineligible noncitizens will not be denied while verifying immigration status.
- B. Self-petitioners can indicate that they are in "satisfactory immigration status" when applying for assistance or continued assistance. "Satisfactory immigration status" means an immigration status which does not make the individual ineligible for financial assistance. After verifying such immigration status in the Department of Homeland Security (DHS) Systematic Alien Verification for Entitlements (SAVE) System, PHAs will make a final determination as to the self-petitioner's eligibility for assistance.

- C. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR (Lawfully Permanent Resident).
- D. Once a PHA receives a self-petition (INS Form I-360 or I-130) or INS Form 797, PHA will not request any additional information from the VAWA self-petitioner, other than what is required using the SAVE system to complete the verification.
- E. When a PHA receives a self-petition or INS Form 797 Notice of Action, the PHA will initiate verification in the SAVE System
- F. Final determination from the SAVE System. PHA will receive one of two confirmations:
  - (1) the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected;
  - (2) the I-130 is verified, in which case the petitioner submitting a family-based visa petition must provide to the PHA any evidence of “battery or extreme cruelty.”
- G. Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR (Lawful Permanent Resident) status is made. If the final determination is to deny the VAWA self-petition or LPR petition, the PHA must alert the petitioner and take actions to terminate voucher assistance or evict the petitioner from public housing in accordance with the existing public housing requirements.

## IX. EMERGENCY TRANSFER PLAN

### A. Eligibility for Transfer

In accordance with the Violence Against Women Act (VAWA) the PHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant’s current unit to another unit, regardless of sex, gender identity, or sexual orientation. The ability of the PHA to honor such request for tenants currently receiving assistance may depend upon

- (1) a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and

- (2) on whether the PHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

B. Requesting a transfer

- (1) To request an emergency transfer the tenant shall notify the PHA office and submit a written request for a transfer (HUD-5383). The PHA will provide reasonable accommodations to this policy for individuals with disabilities. The tenant's written request for an emergency transfer should include either:
  - a. A statement expressing 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 the PHA's program; or
  - b. A statement that 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 transfer.
- (2) The PHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. However, the PHA will act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit.
- (3) If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit.
- (4) If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. The PHA may be unable to transfer a tenant to a particular unit if the tenant cannot establish eligibility for that unit.
- (5) In cases where the PHA determines that the family's decision to move out of the PHA housing was reasonable under the circumstances, the PHA may wholly or partially waive rent payments and any rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a tenant subsequently occupying the unit.



- (6) Portability - An HCV-assisted tenant will not be denied portability to a unit located in another jurisdiction so long as the tenant has complied with all other requirements of the Housing Choice Voucher program and has moved from the unit in order to protect the health or safety of an individual member of the household who is or has been the victim of domestic violence, dating violence, sexual assault or stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.
- (7) If the PHA has no safe and available units for which a tenant who needs an emergency is eligible, the PHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move.
- (8) At the tenant's request, the PHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

#### C. Safety and Security of Tenants

- (1) Confidentiality - The PHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant gives the PHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant.
- (2) Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.
- (3) Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

- (4) Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.
- (5) Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

## X. OTHER REMEDIES

### A. Lease Bifurcation

- (1) the PHA may bifurcate a lease; that is, remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to that member who engages in criminal activity related to of domestic violence, dating violence, sexual assault, or stalking. In such a case, it does not matter that the perpetrator was a signatory to the lease and the victim is allowed to stay in the unit or on the program.
- (2) In removing the perpetrator from the household, the PHA will follow all federal, state and local eviction procedures.
- (3) If the evicted person was the eligible person in the household, the remaining tenants will be given 90 days from the date of bifurcation of the lease to:
  - a. establish eligibility for the program they are currently under
  - b. establish eligibility under another program, or
  - c. find alternative housing

### B. Efforts to promote housing stability

The PHA will make every effort that is feasible and permissible to assist victims to remain in their units or other units of the PHA and/or retain assistance. The PHA will bear the cost of any transfer, where permissible.

### C. Relationships with service providers

It is the policy of the PHA to cooperate with organizations and entities, both private and governmental, that provide shelter and/or services to victims of domestic violence. If the PHA becomes aware that an individual assisted by the PHA is a victim of domestic violence, dating violence, sexual assault or stalking, the PHA will refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring the PHA either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence or to make a referral in any particular case. The PHA's annual Public Housing Agency Plan shall describe providers of shelter or services to victims of domestic violence with which the PHA has referral or other cooperative relationships.

ATTACHMENT I

LOCAL RESOURCES FOR VICTIMS OF DOMESTIC VIOLENCE, DATING  
VIOLENCE, SEXUAL ASSAULT, OR STALKING

Abused Adult Resource Center – (701) 222-8370

West Central Human Service Center – (701) 328-8888

Lutheran Social Services – (701) 223-1510

ADAPT North Dakota – (701) 255-3717

