

## Chapter 25

### VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY

#### 1.0 PURPOSE

The purpose of this Policy is to reduce domestic violence, dating violence, sexual assault and stalking and to prevent homelessness by:

- a) protecting the safety of victims;
- b) creating long-term housing solutions for victims;
- c) building collaborations among victim service providers; and
- d) assisting the Housing Authority (HA) to respond appropriately to the violence, while maintaining a safe environment for HA employees, tenants, applicants and others.

The Policy will assist the HA in protecting rights under the Violence Against Women Act to its applicants and public housing residents.

#### 2.0 MISSION STATEMENT

The HA's policy is to comply with the 2005 VAWA Pub. L 109-162; Stat. 2960 signed into law on January 5, 2006 and codified at 42 U.S.C. 1437d (l) and 1437f (d), (o) & I and (u). The HA shall not discriminate against an applicant, public housing resident or program participant on the basis of the rights or privileges provided under the VAWA. This policy has also been updated and expanded due to the Violence Against Women Act Reauthorization of 2013. Protections under this new re-authorization expands protections to sexual assault victims, extends to all Federally subsidized housing programs and requires landlords and housing agencies to adopt emergency transfer policies.

#### 3.0 DEFINITIONS

The definitions in this Section apply only to this Policy.

3.1 Confidentiality: Means that the HA will not enter information provided to the HA under 4.2 and 4.3 into a shared database or provide this information to any related entity except as stated in 4.4.

3.2 Dating Violence: Violence committed by a person (a) who is or has been in a social relationship of a romantic or intimate nature with a victim; and (b) where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (i) the length of the relationship;
- (ii) the type of relationship;

- (iii) the frequency of interaction between the persons involved in the relationship. 42 U.S.C. 1437d (u)(3)(A)

3.3 Domestic Violence: Felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, committed by a person with whom the victim shares a child in common, committed by a person who is cohabitating with or has cohabitated with the victim as a spouse, committed by a person similarly situated to a spouse of the victim under the domestic or family violence laws or committed 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.

3.4 Immediate Family Member: A spouse, parent, brother or sister, or child of a victim or an individual to whom the victim stands in loco parent; or any other person living in the household of the victim and related to the victim by blood and marriage. 42 U.S.C. 1437d (u)(3)(D).

3.5 Long-term Housing: Is housing that is sustainable, accessible, affordable and safe for the foreseeable future which:

- a) the person rents or owns;
- b) is subsidized by a voucher or other program as long as the person meets the eligibility requirements of the program;
- c) directly provided by the HA, is not time limited and the person meets the eligibility requirements of the program.

3.6 Perpetrator: A person who commits an act of domestic violence, dating violence, sexual assault or stalking against a victim.

3.7 Stalking:

- (a) to follow, pursue or repeatedly commit acts with the intent to kill, injure, harass or intimidate the victim;
- (b) to place under surveillance with the intent to kill, injure, harass or intimidate the victim;
- (c) in the course of, or as a result of such following, pursuit, surveillance, or repeatedly committed acts, to place the victim in reasonable fear of the death of, or serious bodily injury to the victim; or
- (d) to cause substantial emotional harm to the victim, a member of the immediate family of the victim or the spouse or intimate partner of the victim. 42 U.S.C. 1437d (u)(3)(C).

3.8 Victim: Is the person who is the victim of domestic violence, dating violence, or stalking under this Policy and who has timely and completely completed the certification under 4.2 and 4.3 or as requested by the HA.

#### 4.0 CERTIFICATION AND CONFIDENTIALITY

**4.1 Failure to Provide Certification Under 4.2 and 4.3**

The person shall provide complete and accurate certifications to the HA within 14 business days after the party requests in writing that the person completes the certifications. If the person does not provide a complete and accurate certification within the 14 business days, the HA, the owner or manager may take action to deny or terminate participation or tenancy under: 42 U.S.C. 1437 I (5) & (6); 42 U.S.C. 1437 (d) (c)(3); 42 U.S.C. 1437f (c)(9); 42 U.S.C. 1437f (d)(1)(B)(ii) & (iii); 42 U.S.C. 1437f (o)(7)(C) & (D); or 42 U.S.C. 1437f (o)(20) or for other good cause.

**4.2 HUD Approved Certification**

For each incident that a person is claiming abuse, the person shall certify to the HA, the victim status by completing a HUD approved certification form. The person shall certify the date, time and description of the incident(s), that the incident(s) are bona fide incidents of actual or threatened abuses and meet the requirements of VAWA and this Policy. The person shall provide information to identify the perpetrator including but not limited to the name and, if known, all alias names, date of birth, address, contact information such as postal, email or internet address, telephone or facsimile number or other information.

**4.3 Other Certification**

A person who is claiming victim status shall provide to the HA:

- a) Documentation signed by the victim and 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 effects of the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746 ) to the professional's belief that the incident(s) in question are bona fide incidents of abuse; or
- b) a federal, state, tribal, territorial, local police or court record.

**4.4 Confidentiality**

The HA shall keep all information provided to the HA under this Section confidential. The HA shall not enter the information into a shared database or provide to any related entity except to the extent that:

- (a) the victim requests or consents to the disclosure in writing;
- (b) the disclosure is required for:
  - (i) eviction from public housing under 42 U.S.C. 1437 I (5) & (6) (See Section 5 in this Policy)

- (ii) the disclosure is required by applicable law.

**4.5 Compliance Not Sufficient to Constitute Evidence of Unreasonable Act**

The HA compliance with Sections 4.1, 4.2 and 4.3 shall alone not be sufficient to show evidence of an unreasonable act or omission by them.

**5.0 Appropriate Basis for Denial of Admission, Assistance or Tenancy**

**5.1** The HA shall not deny participation or admission to the public housing program on the basis of a person's victim status, if the person otherwise qualifies for admission of assistance.

**5.2** An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be a serious or repeated violation of the lease by victim and shall not be good cause for denying to a victim admission to a program, or occupancy rights, or evicting a tenant.

**5.3** Criminal activity directly related to domestic violence, dating violence, or stalking engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim of that domestic violence, dating violence or stalking.

**5.4** Notwithstanding Sections 5.1, 5.2 and 5.3 the HA, may bifurcate a lease to evict, remove or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal acts of physical violence against family members or others without evicting, removing, terminating assistance to or otherwise penalizing the victim of the violence who is also a tenant or lawful occupant. 42 U.S.C. 1437d (1)(6)(B).

**5.5** Nothing in Sections 5.1, 5.2 and 5.3 shall limit the authority of the HA, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household members when the family breaks up.

**5.6** Nothing in Sections 5.1, 5.2 and 5.3 limits the HA authority to evict or terminate assistance to any tenant for any violation of lease not premised on the act or acts of violence against the tenant or a member of the tenant's household. However, the HA may not hold a victim to a more demanding standard.

**5.7** Nothing in Sections 5.1, 5.2 and 5.3 limits the HA's authority to evict or terminate assistance, or deny admission to a program if the HA can show an actual and imminent

threat to other tenants, neighbors, guests, employees, persons providing service to the property or others if the tenant family is not evicted or terminated from assistance or denied admission.

- 5.8 Nothing in Sections 5.1, 5.2 and 5.3 limits the HA's authority to deny admission, terminate assistance or evict a person who engages in criminal acts including but not limited to acts of physical violence or stalking against family members or others.
- 5.9 A public housing tenant who wants a transfer to protect their health or safety and who:
- a) is victim under this Policy;
  - b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the unit; and
  - c) has complied with all other obligations of the public housing program may transfer to another HA unit.

#### 6.0 Actions Against a Perpetrator

The HA may evict or deny admission to a program or trespass a perpetrator from its property under this Policy. The victim shall take action to control or prevent the domestic violence, dating violence, sexual assault or stalking. The action may include but is not limited to:

- a) obtaining and enforcing a restraining or no contact order or order of protection against the perpetrator;
- b) obtaining and enforcing a trespass against the perpetrator;
- c) enforcing the HA or law enforcement's trespass of the perpetrator;
- d) preventing the delivery of the perpetrator's mail to the victim's unit;
- e) providing identifying information listed in 4.2; and
- f) other reasonable measures.

#### 7.0 Notice to Applicants and Tenants

The HA shall provide notice to applicants and tenants of their rights and obligations under Section 4.4 Confidentiality and Section 5.0 Appropriate Basis for Denial of Admission, Assistance or Tenancy.

#### 8.0 Reporting Requirements

The HA shall include in its Agency Plan, a statement of goals, objectives, policies or programs that will serve the needs of victims when required. The HA may also include a description of activities, services or programs provided or offered either directly or in partnership with other service providers to victims, to help victims obtain or maintain housing or to prevent the abuse or to enhance the safety of victims.

9.0 Conflict and Scope

This Policy does not enlarge the HA's duty under any law, regulation or ordinance. If this Policy conflicts with the applicable law, regulation or ordinance, the law, regulation or ordinance shall control. If this Policy conflicts with another HA policy, this Policy will control.

10.0 Amendment

The Executive Director may amend this policy when it is reasonably necessary to effectuate the Policy's intent, purpose or interpretation. The proposed amendment along with the rationale for the amendment shall be submitted to the Executive Director for consideration. Where reasonably necessary, the Executive Director may approve the amendment. The amendment shall be effective and incorporated on the date that the Executive Director signs the amendment.

11.0 Emergency Transfer Policy

As per the requirement from the Violence Against Women Act Reauthorization of 2013, the legislation requires Authorities to provide Emergency Transfer services to victims of domestic violence, dating violence, sexual assault and stalking. Victims of domestic violence, dating violence, sexual assault and staling will automatically go to the top of the transfer list for existing tenants. At the next appropriate vacancy, the victim of said crimes will be allowed to transfer on an Emergency Basis.

GOALS:

The Housing Authority has teamed with the local community to help support children and adults from violence. If a child is involved, the local office of child protective services will help assist and place the child in a safe environment. If an adult is involved, the City Police Department or County Sheriff's department will assist the adult in getting to safe harbor. The local Health Department will also assist in placing families out of harm's way with a contact person who will assist families with counseling services. All referrals will be made on a case-by-case basis.