

HOUSING AUTHORITY OF THE CITY OF FREDERICK  
VIOLENCE AGAINST WOMEN ACT POLICY

I. Purpose And Applicability

The purpose of this policy (herein called "Policy") is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162) and more generally to set forth the policies and procedures of the Housing Authority of the City of Frederick (HACF) regarding domestic violence, dating violence, and stalking, as hereinafter defined.

This policy shall be applicable to the HACF's administration of all federally subsidized public housing under the United States Housing Act of 1937 (42 U.S.C. §1437 *et seq.*). Notwithstanding its title, this policy is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, or stalking as well as female victims of such violence.

II. Goals and Objectives

This Policy has the following principal 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 or stalking who are assisted by HACF;
- C. Providing and maintaining housing opportunities for victims of domestic violence, dating violence, or stalking;
- D. Creating and maintaining collaborative arrangements between HACF, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence, and stalking who are assisted by HACF;
- E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, or stalking affecting individuals assisted by HACF.

III. Other HACF Policies and Procedures

This Policy shall be referenced in and attached to the HACF's Five-Year and Annual Public Housing Agency Plans and shall be incorporated in and made part of HACF's Admissions and Continued Occupancy Policy.

To the extent any provision of this Policy shall vary or contradict with any previously adopted policy or procedure of HACF, the provisions of this Policy shall prevail.

IV. Definitions

As used in this Policy:

- A. *Domestic Violence* – The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, 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. *Dating Violence* – Violence committed by a person –
  - (a) Who is or has been in a social relationship of a romantic or intimate nature with the 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.
- C. *Stalking* - means 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.
- D. *Immediate Family Member* – a spouse, parent, brother or sister, or child of the person, or an individual to whom that person stands in loco parentis (in place of a parent); or any other person living in the household of that person and related to that person by blood or marriage.
- E. *Perpetrator* – A person who commits an act of domestic violence, dating violence, or stalking against a victim.

V. Admissions and Screening

*Non-Denial of Assistance* – HACF will not deny admission to its federally subsidized programs to any person on the basis or as a *direct result* of the fact that person is or has been a victim of domestic violence, dating violence, or stalking, provided that such person is otherwise qualified for admission.

VI. Termination of Tenancy or Assistance

A. *VAWA Protections*. Under VAWA, recipients of federally subsidized housing have the following specific protections, which will be observed by HACF:

1. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be considered to be a “serious or repeated” violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.
2. In addition to the foregoing, tenancy or assistance will not be terminated by HACF as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence or stalking engaged in by a member of the assisted household, a guest or another person under the tenant’s control, and the tenant or an immediate family member is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:
  - (a) Nothing contained in this paragraph shall limit any otherwise available authority to evict or terminate for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, or stalking in question against the tenant or a member of the tenant’s household. However, in taking any such action, HACF may not apply a more demanding standard to the victim of domestic violence than that applied to other tenants.
  - (b) Nothing contained in this paragraph shall be construed to limit the authority of HACF to evict a tenant or lawful applicant if HACF 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 assistance.

B. *Removal of Perpetrator* – Further, notwithstanding anything in paragraph VI.A.2, or Federal, State or local law to the contrary, HACF may bifurcate a lease, or remove a household member or lawful occupant from a lease or assisted tenancy, without regard to whether a household member is a signatory to a lease or voucher, in order to evict, remove, terminate occupancy rights or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. Such action against the perpetrator of such physical violence may be taken without evicting or terminating or otherwise penalizing the victim of such violence who is also the tenant or lawful occupant. Such eviction shall be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy, evictions by HACF and bifurcate provisions in Section 17 of PIH-2017-08.

VII. Verification of Domestic Violence, Dating Violence or Stalking

A. *Requirement for Verification*. The law allows, but does not require, HACF to verify that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. Subject only to waiver as provided in paragraph VII.C., HACF shall require verification in all cases where an individual claims protection under VAWA against an action taken or proposed to be taken by HACF.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence or stalking may be accomplished in one of the following three ways:

1. *HUD-approved form* – by providing HACF a written certification on form HUD-5382. The incident or incidents in question must be described in reasonable detail as required by this form.
2. *Other documentation* – by providing HACF 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 the domestic violence, dating violence or stalking, or the effects of the abuse, described in the documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence, or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.

3. *Police or court record* – by providing HACF a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

In accordance with VAWA Final Rule, if more than one applicant or tenant provides documentation to show they are victims of domestic violence, dating violence, sexual assault or stalking, and the information in one person's documentation conflicts with the information in another person's documentation; or submitted documentation contains information that conflicts with existing information already available to the PHA or owner, the HACF will require the applicant(s) or tenant(s) to submit third-party documentation that meets the criteria in 24 CFR 5.2007(b)(1)(ii), (b)(1)(iii), or (b)(1)(iv).

- B. *Time allowed to provide verification/failure to provide.* An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, or stalking, and who is requested by HACF to provide verification, must provide such verification within 14 business days after HACF requests the verification. Failure to provide verification, in proper form, within such time will result in the loss of protection under VAWA and this policy against a proposed adverse action.
- C. *Waiver of verification requirement.* The Executive Director of the HACF may, with respect to any specific case, 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. 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 any apparent similarity in circumstances.

## VIII. Confidentiality

- A. *Right of confidentiality.* All information (including the fact that an individual is a victim of domestic violence, dating violence, or stalking) provided to HACF in connection with a verification required under section VII of this policy or provided in lieu of such verification where a waiver of verification is granted shall be retained by the receiving party in confidence and shall neither be entered in any shared database nor provided to any related entity, except where disclosure is (i) requested or consented to in writing by the individual in a time-limited release; (ii) required for use in a public housing eviction or termination of assistance as permitted in VAWA; or (iii) otherwise required by applicable law.
- B. *Notification of rights.* All tenants are participants assisted by HACF shall be notified in writing concerning their right to confidentiality and the limits on such rights.

## IX. Relationships with Service Providers

HACF will cooperate with organizations and entities, both private and governmental, which provide shelter and/or services to victims of domestic violence. If staff becomes aware that an individual assisted by the Authority is a victim of domestic violence, dating violence, or stalking, HACF will refer the victims to such providers of shelter or services as appropriate. Notwithstanding the foregoing, nothing in this policy creates any legal obligation requiring HACF to make such a referral in any particular case.

## X. Notification

HACF will provide written notification to applicants and tenants concerning the rights and obligations created under VAWA regarding confidentiality, denial of assistance, and termination of tenancy or assistance.

## XI. Relationship with Other Applicable Laws

Neither VAWA nor this Policy shall preempt or supersede any provision of Federal, State, or local law that provides greater protection than that provided under VAWA for victims of domestic violence, dating violence, or stalking.