

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

The goal of the FHA is to assist eligible families in serving the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking by offering a local preference to families that have been subjected to or victimized by a member of the family or household or affiliated individual. The FHA will require evidence that the family has been displaced as a result of violence in the home. Families will also be eligible for this preference if there is proof that the family is currently living in a situation where they are being subjected to, or victimized by, violence in the home.

The FHA follows policies regarding Admission, Occupancy, and Termination of Assistance in accordance with HUD regulations.

The FHA works with local advocacy groups and service providers to assist victims and consults with the Framingham Police Department, the Massachusetts Trial Court Probation Department, and Probate Court to enhance victim safety in assisted families.

## **Framingham Housing Authority**

### **Violence Against Women Act (VAWA) 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 2013 (VAWA 2013) and more generally to set forth the Framingham Housing Authority (FHA) policies and procedures regarding domestic violence, dating violence, sexual assault and stalking, as hereinafter defined. This policy shall be applicable to the administration by the FHA of all federally subsidized public housing and Section 8 rental assistance under the United States Housing Act of 1937 (42 U.S.C. § 1437 et seq.). Notwithstanding its title, this policy

- II. is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, sexual assault or stalking as well as female victims of such violence.

#### **III. Goals and Objectives**

This Policy has the following principal goals and objectives:

- A. Maintaining compliance with all applicable legal requirements imposed by VAWA;
- B. Insuring the physical safety of victims of actual or threatened domestic violence, dating violence, sexual assault or stalking who are assisted by the FHA.
- C. Providing and maintaining housing opportunities for victims of domestic violence, dating violence, sexual assault or stalking;
- D. Creating and maintaining collaborative arrangements between the FHA, 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, sexual assault and stalking who are assisted by the FHA; and

- E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, sexual assault or stalking, affecting individuals assisted by the FHA.

#### IV. Other FHA Policies and Procedures

This Policy shall be referenced in attached to the FHA's Five (5)year Public Housing Agency Plan and shall be incorporated in and made a part of the FHA's Admissions and Continued Occupancy Policy. The FHA's annual public housing agency plan shall also contain information concerning the FHA's activities, services or programs relating to domestic violence, dating violence, sexual assault and stalking to the extent any provision of this Policy shall vary or contradict any previously adopted policy or procedure of the FHA, the provisions of this Policy shall prevail.

#### V. Definitions

As used in this Policy:

- A. *Affiliated individual*- defined with respect to an individual-(A) a spouse, parent, brother, sister Or child of that individual, or an individual to whom that individual stands in loco parentis (B) any individual ,tenant or lawful occupant living in the household of that individual

- B. *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 who 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 similarity 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.

- C. *Dating Violence* - means: 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 factors:
  - i. The length of the relationship.
  - ii. The type of relationship.
  - iii. The frequency of interaction between the persons involved in the relationship

- D. *Stalking* - means:

- a. to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (b) to place under surveillance with the intent to kill, injure, harass or intimate another person; and
- b. in the course of, or as a result of, such following, pursuit, surveillance or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to:

- i. that person;
- ii. a member of the affiliated individual of that person; or the spouse or intimate partner of that person

*E. Perpetrator* - means person who commits an act of violence, dating violence, sexual assault or stalking against a victim.

*F. Sexual Assault*- defined as "any nonconsensual sexual act proscribed by federal , tribal or state law including when the victim lacks capacity to consent.

## VI. Admissions and Screening

a) **Non-Denial of Assistance.** The FHA will not deny admission to public housing or to the Section 8 rental assistance program to any person because that person is or has been a victim of domestic violence, dating violence, sexual assault or stalking, provided that such a person is otherwise qualified for such admission.

b) **Mitigation of Disqualifying Information.** When so requested in writing by an applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, the FHA may but shall not be obliged to, take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling. If requested by an appellant to take such mitigating information into account, the FHA shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence and its probably relevance to the potentially disqualifying information. The FHA will not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

## VII. Terminations of Tenancy or Assistance

### A. VAWA Protection.

Under VAWA, public housing residents and persons assisted under the section 8 rental assistance program have the following specific protections, which will be observed by the FHA:

a. An incident or incidents, 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.

b. In addition to the forgoing, tenancy or assistance will not be terminated by the FHA as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence, sexual assault or stalking engaged in by a member of the tenant's household, a guest or person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual or family member is the victim or threatened victim of the domestic violence, dating violence, sexual assault or stalking (emphasis

added) . However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:

i. Nothing contained in this paragraph shall limit any otherwise available authority of the FHA or a Section 8 owner or manager to terminate tenancy, evict, or to terminate assistance, as the case may be, for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, sexual assault or stalking in question against the tenant or member of the tenants household. However, in taking any such action neither the FHA nor a Section 8 manager or owner may apply a more demanding standard to the victim of domestic violence, dating violence, sexual assault or stalking than that apply to the other tenants.

ii. Nothing contained in this paragraph shall be construed to limit the authority of the FHA or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or the FHA, as that case may be, can demonstrate an actual and imminent threat to other tenants or to those who employed at 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, the FHA or a Section 8 owner or manager, as the case may be, may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, 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, removing, terminating, assistance to, or otherwise penalizing the victim of such violence who is also the tenant or a lawful occupant. The FHA shall provide remaining tenant the opportunity to establish eligibility for the covered Housing program. If the remaining tenant cannot establish eligibility, the FHA is required to provide the tenant a reasonable time to find new housing or to establish eligibility under another covered housing program. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by the FHA. Leases used for all public housing operation by the FHA and, at the option of Section 8 owners or managers, leases for dwelling units occupied by families assisted with Section 8 rental assistance administered by the FHA, shall contain provisions setting for the substance of this paragraph.

### VIII. Verification of Domestic Violence, Dating Violence, Sexual assault or Stalking

A. Requirement for Verification. The law allows, but does not require, the FHA or a Section 8 owner or manager to verify that an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault 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., the FHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the FHA. Section 8 owners or managers receiving rental assistance administered by the FHA may elect to

require verification, to not to require it as permitted under applicable law. Other acceptable forms of documentation of abuse to include a document signed by a mental health professional or the record of an administrative agency.

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

- a. **HUD - approved form** - by providing FHA or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim on domestic violence, dating violence, sexual assault or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator if known to the victim.
- b. **Other Documentations** - by providing to the FHA or to the requesting Section 8 owner or manager 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, sexual assault or stalking, or the effects of the abuse, described in documentation. the professional providing the documentation must sign and attest under the penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bonafide 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 documentation must also sign and attest to the documentation under the penalty of perjury.
- c. **Police or Court Record** - by providing the FHA or to the requesting Section 8 owner or manager, a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.
- d. **Document signed by a mental health professional** or the record of an administrative agency.

**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 throated domestic violence, dating violence, sexual assault or stalking, and who is requested by the FHA, or Section 8 owner or manager to provide verification, must provide such verification within 14 business days (i.e., 14 calendar days excluding Saturdays, Sundays, and federally-recognized holidays) 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. Waiver of Verification Requirement.** The Executive Director of the FHA, or a Section 8 owner or manager, 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, owner or manager. 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.

## IX. Confidentiality

**A. Right of Confidentiality.** All information (including the fact that an individual is a victim of

domestic violence, dating violence, sexual assault or stalking) provided to the FHA or Section 8 owner or manager 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 not provided to any related entity, except where disclosure is.

- a. requested or consented to by the individual in writing, or
- b. required for use in public housing eviction proceeding or in connection with termination of Section 8 assistance, as permitted in VAWA, or
- c. otherwise required by applicable law.

**B. Notification of Rights.** All tenants of public housing and tenants participating in the Section 8 rental assistance program administered by the FHA shall be notified in writing concerning their right to confidentiality and limits of such rights to confidentiality.

#### **X. Court Orders/Family Breakup**

**A. Court Orders.** It is the FHA's policy to honor ordered entered by courts of competent jurisdiction affecting individuals assisted by the FHA and their property. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.

#### **XI. Relationships with Service Providers**

It is the policy of the FHA to cooperate with organizations and entities, both private and governmental, which provides shelter and/or services to victims of domestic violence. If the FHA staff becomes aware that an individual assisted by the FHA is a victim of domestic violence, dating violence, sexual assault or stalking, the FHA 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 FHA to either maintain a relationship with any particular provider of shelter or services to victims or domestic violence or to make a referral in any particular case. the FHA's annual public housing agency plan shall describe providers of shelter or services to victims of domestic violence with which the FHA has referral or other cooperative relationships.

#### **XII. Notification**

The FHA shall provide with written notification to applicants, tenants, and Section 8 owners and managers, concerning the rights and obligations created under VAWA relating to confidentiality, denial of assistance and, termination of tenancy or assistance.

#### **XIII. Relationship with Other Applicable Laws**

Neither VAWA nor this Policy implementing it 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, sexual assault or stalking.

#### **XIV. Amendment**

This policy may be amended from time to time by the FHA as approved by the FHA's Board of Commissioners.