

# Violence Against Women Act (VAWA) Policy

## NEEDHAM HOUSING AUTHORITY VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY

### **I. Purpose and Applicability**

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.

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 (Pub. L. 113-4) and, more generally, to set forth NHA’s policies and procedures regarding domestic violence, dating violence, sexual assault, and stalking, as hereinafter defined. This Policy shall apply to the administration by NHA of all its federally subsidized public housing and Section 8 rental assistance programs under the United States Housing Act of 1937 (42 U.S.C. §1437 et seq.).

### **II. Goals and Objectives**

This Policy has the following principal goals and objectives:

- A. Maintaining compliance, including training of appropriate staff managing NHA properties, with all applicable legal requirements imposed by VAWA;
- B. Participating, with others, in protecting the physical safety of victims of actual or threatened domestic violence, dating violence, sexual assault, or stalking whom NHA assists;
- C. Providing and maintaining housing opportunities for victims of domestic violence, dating violence, sexual assault, or stalking;
- D. Cooperating, with others, in the formation and maintenance of collaborative arrangements between NHA, 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, stalking, who are assisted by NHA; and
- E. Responding in accordance with NHA policies and procedures to incidents of domestic violence, dating violence, sexual assault, or stalking affecting individuals assisted by NHA.

### **III. Other NHA Policies and Procedures**

This Policy shall be referenced in and attached to NHA’s Five-Year Public Housing Agency Plan and, where appropriate, provisions consistent with this Policy shall be incorporated in and made a part of NHA’s Admissions and Continued Occupancy Policy (ACOP), NHA’s Section 8 Administrative Plan (Admin Plan), and other NHA policies. NHA’s annual public housing agency plan shall also contain information concerning NHA’s activities, services, or programs relating to domestic violence, dating violence, sexual assault, and stalking. To the extent that any provision of this policy shall contradict any previously adopted policy or procedure of NHA, 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 – 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 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 – (A) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) to place under surveillance with the intent to kill, injure, harass or intimidate 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 immediate family of that person; or (iii) the spouse or intimate partner of that person;

D. Immediate Family Member - means, with respect to a person – (A) a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or (B) any other person living in the household of that person and related to that person by blood or marriage.

E. Perpetrator – means person who commits an act of domestic violence, dating violence or stalking against a victim.

#### **V. Admissions and Screening**

1. The NHA shall not deny participation or admission to public housing or to the Section 8 rental assistance program on the basis of a person’s victim status, if the person otherwise qualifies for admission of assistance.
2. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking or victims or threatened victims of sexual assault 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, terminating Section 8 assistance or occupancy rights or evicting a tenant.

3. Criminal activity directly related to domestic violence, dating violence, or stalking or victims or threatened victims of sexual assault engaged by a member of the 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 affiliated individual is victim of that domestic violence, dating violence or stalking or victims or threatened victims of sexual assault.

## **VI. Termination of Tenancy or Assistance**

A. VAWA Protections. 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 NHA in administration of its programs:

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 NHA 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 a member of the household 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 of NHA' 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, or stalking in question against the tenant or a member of the tenant's household. However, in taking any such action, neither NHA nor a Section 8 manager or owner may apply a more demanding standard to the victim of domestic violence, dating violence or stalking than that applied to other tenants.
  - (b) Nothing contained in this paragraph shall be construed to limit the authority of NHA or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or NHA, as the case may be, 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 V.A.2. or Federal, State or local law to the contrary, NHA 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 acts of physical

violence against family members or others. 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. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be affected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by NHA. Leases used for all public housing operated by NHA and leases for dwelling units occupied by families assisted with Section 8 rental assistance administered by NHA, shall contain provisions setting forth the substance of this paragraph or as required by the U.S. Department of Housing & Urban Development.

## **VII. Verification of Domestic Violence, Dating Violence or Stalking**

A. Requirement for Verification. For those seeking protection under this Policy, the law allows, but does not require, NHA or a section 8 owner or manager 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., NHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by NHA. If there is reason to believe that verification is incomplete or inaccurate, the NHA may require additional documentation of the incident(s). Such documentation requirement shall not place the victim in danger. As necessary, the NHA shall work with the victim to identify appropriate sources of documentation. Section 8 owners or managers receiving rental assistance administered by NHA may elect to require verification, or not to require it as permitted under applicable law.

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

1. HUD-approved form (HUD Form 50066) - by providing to NHA 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) and available from NHA, that the individual is a victim of domestic violence, dating violence 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 there is reason to believe that the certification is incomplete or inaccurate, the NHA may require additional documentation of the incident(s). Such documentation requirement shall not place the victim in danger. As necessary, the NHA shall work with the victim to identify appropriate sources of documentation.

2. Other documentation - by providing to NHA 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 or stalking, or the effects of the abuse, described in such documentation. 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 to NHA 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. 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 NHA, or a 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. Time for response will be extended upon a showing of good cause.

## **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 NHA or to a Section 8 owner or manager shall be retained by the receiving party in confidence and shall not be entered in any shared database nor provided to any related entity, except where disclosure is:

1. requested or consented to by the individual in writing, or
2. required for use in a public housing eviction proceeding or in connection with termination of Section 8 assistance, as permitted in VAWA, or
3. 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 NHA shall be notified in writing concerning their right to confidentiality and the limits on such right to confidentiality.

## **IX. Transfer to New Residence**

A. Application for transfer. The opportunity to transfer in Public Housing due to incidents of domestic violence, dating violence and/or stalking is described in the NHA's Admissions and Continued Occupancy Policy (ACOP). The opportunity to relocate in the Section 8 rental assistance program due to incidents of domestic

violence, dating violence and/or stalking is described in the NHA Administrative Plan. Except with respect to portability of Section 8 assistance, as provided in section B below, the decision to approve or disapprove a transfer shall be made in accordance with the ACOP or Administrative Plan, as applicable. This policy does not create any additional right on the part of any public housing tenant or Section 8-assisted tenant to be granted a transfer.

- B. Portability. Notwithstanding the foregoing, a Section 8-assisted tenant will not be denied portability to a unit in another location (notwithstanding the term of the tenant's existing lease has not expired, or the family has not occupied the unit for 12 months) so long as the tenant has complied with all other requirements of the Section 8 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 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.

#### **X. Court Orders/Family Break-up**

- A. Court orders. It is NHA's policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by NHA 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.
- B. Family break-up. Other BHA policies regarding family break-up are contained in BHA's ACOP and its Section 8 Administrative Plan.

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

It is the policy of NHA to cooperate with organizations and entities, both private and governmental, that provide shelter and/or services to victims of domestic violence, dating violence and/or stalking. If NHA staff become aware that an individual assisted by NHA is a victim of domestic violence, dating violence or stalking, NHA will provide the victim with written materials about such providers of shelter or services. However, and notwithstanding the foregoing, this Policy does not create any legal obligation requiring NHA either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence, dating violence and/or stalking or to make a referral in any particular case.

#### **XII. Notification**

NHA shall provide 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 or stalking.

**XIV. Amendment**

This policy may be amended from time to time by NHA as approved by its Administrator following an opportunity for notice and comment by interested parties.