

Chapter 2

FAIR HOUSING AND EQUAL OPPORTUNITY

INTRODUCTION

This chapter explains the laws and HUD regulations requiring housing agencies to affirmatively further civil rights and fair housing in all federally-assisted housing programs. The letter and spirit of these laws are implemented through consistent policy and processes. The responsibility to further nondiscrimination pertains to all areas of the AHA's housing choice voucher (HCV) operations.

This chapter describes HUD regulations and AHA policies related to these topics in three parts:

Part I: Nondiscrimination. This part presents the body of laws and regulations governing the responsibilities of the AHA regarding nondiscrimination.

Part II: Policies Related to Persons with Disabilities. This part discusses the rules and policies of the housing choice voucher program related to reasonable accommodation for persons with disabilities. These rules and policies are based on the Fair Housing Act (42.U.S.C.) and Section 504 of the Rehabilitation Act of 1973, and incorporate guidance from the Joint Statement of The Department of Housing and Urban Development and the Department of Justice (DOJ), issued May 17, 2004.

Part III: Prohibition Against National Origin Discrimination Affecting Limited English Proficiency Persons. This part details the obligations of the AHA to ensure meaningful access to the HCV program and its activities by persons with limited English proficiency (LEP). This part incorporates HUD's final Guidance, published January 22, 2007 in the *Federal Register*.

Part IV: Affirmatively Furthering Fair Housing.

PART I: NONDISCRIMINATION

2-I.A. OVERVIEW

Federal and state laws require PHAs to treat all applicants and participants equally, providing the same quality of service, regardless of family characteristics and background. Federal law prohibits discrimination in housing on the basis of race, color, religion, sex, national origin, age, familial status, and disability. The California Fair Employment and Housing Act prohibits discrimination in housing on these same bases, as well as gender, gender identity, gender expression, sexual orientation, marital status, ancestry, source of income, and genetic information. The AHA will comply fully with all federal, state, and local nondiscrimination laws, and with rules and regulations governing fair housing and equal opportunity in housing and employment, including:

- Title VI of the Civil Rights Act of 1964
- Title VIII of the Civil Rights Act of 1968 (as amended by the Community

Development Act of 1974 and the Fair Housing Amendments Act of 1988)

- Executive Order 11063
- Section 504 of the Rehabilitation Act of 1973
- The Age Discrimination Act of 1975
- Title II of the Americans with Disabilities Act (to the extent that it applies, otherwise Section 504 and the Fair Housing Amendments govern)
- California's Fair Employment and Housing Act, Gov't Code Sec. 12900 *et seq.*
- California Unruh Civil Rights Act, Civil Code Sec. 51
- California Disabled Persons Act, Civil Code Sec. 54
- Violence Against Women Reauthorization Act of 2013 (VAWA)
- When more than one civil rights law applies to a situation, the laws will be read and applied together.
- Any applicable state laws or local ordinances and any legislation protecting individual rights of tenants, applicants, or staff that may subsequently be enacted

2-I.B. NONDISCRIMINATION

Federal regulations prohibit discrimination against certain protected classes. State and local requirements, as well as AHA policies, can prohibit discrimination against additional classes of people.

The AHA shall not discriminate because of race, color, sex (includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth, as well as gender identity and gender expression), religion, marital or familial status, age, disability, medical condition, national origin, ancestry, source of income, and sexual orientation, (called "protected classes"). Familial status includes children under the age of 18 living with parents or legal custodians, pregnant women, and people securing custody of children under the age of 18.

The AHA will not use any of these factors to:

- Deny to any family the opportunity to apply for housing, nor deny to any qualified applicant the opportunity to participate in the housing choice voucher program
- Provide housing that is different from that provided to others
- Subject anyone to segregation or disparate treatment
- Restrict anyone's access to any benefit enjoyed by others in connection with the housing program
- Treat a person differently in determining eligibility or other requirements for admission
- Steer an applicant or participant toward or away from a particular area based on any of these factors

If a criminal record is the basis of the denial, a copy of the record must accompany the notice. In addition, a copy of the criminal record must be provided to the subject of the record [24 CFR 982.553(d)].

Notice requirements related to denying assistance to noncitizens are contained in Section 3-II.B.

Notice policies related to denying admission to applicants who may be victims of domestic violence, dating violence, or stalking are contained in Section 3-III.G.

The family will be notified of a decision to deny assistance in writing within 14 calendar days of the determination.

3-III.G. PROHIBITION AGAINST DENIAL OF ASSISTANCE TO VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, AND STALKING [Pub. L. 113-4]

The Violence Against Women Reauthorization Act of 2013 (VAWA) prohibits denial of admission to an otherwise qualified applicant on the basis that the applicant is or has been a victim of domestic violence, dating violence, or stalking. Specifically, Section 606(1) of VAWA adds the following provision to Section 8 of the U.S. Housing Act of 1937, which lists contract provisions and requirements for the housing choice voucher program:

- That an applicant or participant is or has been a victim of domestic violence, dating violence, sexual assault
- or stalking is not an appropriate reason for denial of program assistance or admission.

Notification and Victim Documentation

The AHA acknowledges that a victim of domestic violence, dating violence, sexual assault or stalking may have an unfavorable history that would warrant denial under the AHA's policies. If

the AHA makes a determination to deny admission to an applicant family, the AHA will include in its notice of denial a statement of the protection against denial provided by VAWA and will offer the applicant the opportunity to provide documentation affirming that the cause of the unfavorable history is that a member of the applicant family is or has been a victim of domestic violence, dating violence, or stalking.

Under most circumstances, a survivor need only to self-certify in order to exercise their rights under VAWA, ensuring third-party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe. In cases where both parties are claiming protection under VAWA AHA can require one of the following elements:

The documentation must include one of the following elements:

- Form HUD-5382, or A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in

addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement, or

- A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking, or
- A record from a Federal, State, local law enforcement agency or court documenting the actual or threatened abuse, or
- At the discretion of a covered housing provider, a statement or other evidence provided by the victim.

The required certification and supporting documentation must be submitted to the AHA within 14 business days after the AHA issues its written request. If the applicant is unable to submit the required documentation, he or she may request an informal review and request an extension, which must be in writing, before the 14 business days' time period expires. If the applicant so requests, the AHA will grant an extension of 14 calendar days, and will postpone scheduling the applicant's informal review until after it has received the documentation or the extension period has elapsed. AHA may extend this time period at its discretion based on circumstances. During the 14-business day period and any granted extensions of that time, no adverse actions, such as an eviction or termination, can be taken against the individual requesting VAWA protection.

If after reviewing the documentation provided by the applicant, the AHA determines the family is eligible for assistance, no informal review will be scheduled and the AHA will proceed with admission of the applicant family.

Perpetrator Removal or Documentation of Rehabilitation

In cases where an applicant family includes the perpetrator as well as the victim of domestic violence, dating violence, or stalking, the AHA will proceed as above but will require, in addition, either (a) that the perpetrator be removed from the applicant household and not reside in the assisted housing unit or (b) that the family provide documentation that the perpetrator has successfully completed, or is successfully undergoing, rehabilitation treatment.

If the family elects the second option, the documentation must be signed by an employee or agent of a domestic violence service provider or by a medical or other knowledgeable professional from whom the perpetrator has sought or is receiving assistance in addressing the abuse. The signer must attest under penalty of perjury to his or her belief that the rehabilitation was successfully completed or is progressing successfully. The victim and perpetrator must also sign or attest to the documentation. This additional documentation must be submitted within the same time frame as the documentation required above from the victim.

AHA Confidentiality Requirements

All information provided to the AHA regarding domestic violence, dating violence, or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

<p style="text-align: center;">Exhibit 3-3 DEFINITIONS VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)</p>
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- The term domestic violence includes felony or misdemeanor crimes of violence committed by:
 - A current or former spouse or intimate partner of the victim;
 - A person with whom the victim shares a child in common;
 - A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
 - A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or
 - 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.

[Note: The term dating violence is no longer a separate term, but is included in the overall "domestic violence" definition given above.]
- The term *stalking* means engaging in a course of conduct directed at a specific person that would cause a reasonable person to:
 - 1) Fear for the person's individual safety or the safety of others; or
 - 2) Suffer substantial emotional distress.
- The term *immediate family member* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that person, or an individual to whom that person stands in the position or place of a parent; or
 - Any other person living in the household of that person and related to that person by blood and marriage.

Generally, the head of household is required to attend the briefing. If the head of household is unable to attend, the AHA may approve another adult family member to attend the briefing.

Families that attend group briefings and still need individual assistance will be referred to an appropriate AHA staff person.

Briefings will be conducted in English. For limited English proficient (LEP) applicants, the AHA will provide translation services in accordance with the AHA's LEP plan (See Chapter 2).

Notification and Attendance

Families will be notified of their eligibility for assistance at the time they are invited to attend a briefing. The notice will identify who is required to attend the briefing, as well as the date and time of the scheduled briefing.

If the notice is returned by the post office with no forwarding address, a notice of denial (see Chapter 3) will be sent to the family's address of record.

Applicants who fail to attend a scheduled briefing will be removed from the waiting list unless the applicant can show good cause. Good cause is defined as a disability or emergency family circumstances where the applicant requests the AHA maintain the applicant's place on the waiting until the next briefing, not to exceed six months, as a reasonable accommodation and only if requested prior to the briefing. Not attending a briefing because of incarceration is not an acceptable reason to hold an applicant's place on the waiting list and will result in removal from the waiting list. (See Chapter 3).

Oral Briefing [24 CFR 982.301(a)]

Each briefing must provide information on the following subjects:

- How the Housing Choice Voucher program works;
- Family and owner responsibilities;
- Where the family can lease a unit, including renting a unit inside or outside the AHA's jurisdiction;
- For families eligible under portability, an explanation of portability. The AHA cannot discourage eligible families from moving under portability;
- For families living in high-poverty census tracts, an explanation of the advantages of moving to areas outside of high-poverty concentrations;
- When AHA-owned units are available for lease, the AHA will inform the family during the oral briefing that the family has the right to select any eligible unit available for lease, and is not obligated to choose a AHA-owned unit; and
- VAWA Notice of Occupancy Rights. Provides protections for Housing Choice Voucher and PBV applicants, tenants, and participants from being denied assistance on the basis or as a direct result of being a victim of domestic violence, dating violence, sexual assault and stalking.

Briefing Packet [24 CFR 982.301(b)]

Documents and information provided in the briefing packet must include the following:

- The term of the voucher, and the AHA's policies on any extensions or suspensions of the term. If the AHA allows extensions, the packet must explain how the family can request an extension.
- A description of the method used to calculate the housing assistance payment for a family, including how the AHA determines the payment standard for a family, how the AHA determines total tenant payment for a family, and information on the payment standard and utility allowance schedule.
- An explanation of how the AHA determines the maximum allowable rent for an assisted unit.
- Where the family may lease a unit. For a family that qualifies to lease a unit outside the AHA jurisdiction under portability procedures, the information must include an explanation of how portability works.
- The HUD-required tenancy addendum, which must be included in the lease.
- The form the family must use to request approval of tenancy, and a description of the procedure for requesting approval for a tenancy.
- A statement of the AHA policy on providing information about families to prospective owners.
- The AHA subsidy standards including when and how exceptions are made.
- The HUD brochure on how to select a unit.
- The HUD pamphlet on lead-based paint entitled *Protect Your Family from Lead in Your Home*.
- Information on federal, state and local equal opportunity laws and a copy of the housing discrimination complaint form.
- A list of landlords or other parties willing to lease to assisted families or help families find units, especially outside areas of poverty or minority concentration.
- Notice that if the family includes a person with disabilities, the family may request a list of available accessible units known to the AHA.
- The family obligations under the program, including any obligations of a welfare-to-work family.

VAWA (Violence Against Women Act) Notice of Occupancy Rights.

- The grounds on which the AHA may terminate assistance for a participant family because of family action or failure to act.
- AHA informal hearing procedures including when the AHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

Chapter 10

MOVING WITH CONTINUED ASSISTANCE AND PORTABILITY

INTRODUCTION

Freedom of choice is a hallmark of the housing choice voucher (HCV) program. In general, therefore, HUD regulations impose few restrictions on where families may live or move with HCV assistance. This chapter sets forth HUD regulations and AHA policies governing moves within or outside the AHA's jurisdiction in two parts:

Part I: Moving with Continued Assistance. This part covers the general rules that apply to all moves by a family assisted under the AHA's HCV program, whether the family moves to another unit within the AHA's jurisdiction or to a unit outside the AHA's jurisdiction under portability.

Part II: Portability. This part covers the special rules that apply to moves by a family under portability, whether the family moves out of or into the AHA's jurisdiction. This part also covers the special responsibilities that the AHA has under portability regulations and procedures.

PART I. MOVING WITH CONTINUED ASSISTANCE

10-I.A. ALLOWABLE MOVES

HUD lists five regulatory conditions and the statutory condition under VAWA in which an assisted family is allowed to move to a new unit with continued assistance. Permission to move is subject to the restrictions set forth in section 10-I.B.

- The family has a right to terminate the lease on notice to the owner (for the owner's breach or otherwise) and has given a notice of termination to the owner in accordance with the lease [24 CFR 982.314(b)(3)] with tenant-based assistance and with project-based assistance, any time after the first year of occupancy. If the family terminates the lease on notice to the owner, the family must give the AHA a copy of the notice at the same time [24 CFR 982.314(d)(1)].

If the family in a project-based unit wishes to move with continued tenant-based assistance, the family must contact the AHA to request the rental assistance prior to providing notice to terminate the lease. If the family terminates the lease in accordance with these requirements and the AHA has the available resources, the AHA will offer the family the opportunity for continued tenant-based assistance, in the form of a Housing Choice Voucher.

If a voucher is not immediately available upon termination of the family's lease in the PBV unit, the AHA will give the family priority to receive the next available voucher. If the family terminates the assisted lease before the end of the first year, the family relinquishes the Housing Choice Voucher assistance. [24 CFR 983.260]

- The Violence Against Woman Reauthorization Act of 2013 provides that "a family may receive a voucher from a public housing agency and move to another jurisdiction under the tenant-based assistance program if the family has complied

with all other obligations of the Section 8 program and has moved out of the assisted dwelling unit in order to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the assisted dwelling unit.” [Pub.L. 113-4]

- The lease for the family’s unit has been terminated by mutual agreement of the owner and the family [24 CFR 982.314(b)(1)(ii)]. If the family and the owner mutually agree to terminate the lease for the family’s unit, the family will give the AHA a copy of the termination agreement. The initial lease term must be for at least one year for a project-based unit and may not be terminated without good cause. In the PBV program, terminating tenancy for “good cause” does not include doing so for a business or economic reason, or a desire to use the unit for personal or family use or other non-residential purpose.
- The owner has given the family a notice to vacate, has commenced an action to evict the family, or has obtained a court judgment or other process allowing the owner to evict the family [24 CFR 982.314(b)(2)]. The family must give the AHA a copy of any owner eviction notice [24 CFR 982.551(g)].
- The AHA has terminated the assisted lease for the family’s unit for the owner’s breach [24 CFR 982.314(b)(1)(i)].
- The AHA determines that the family’s current unit does not meet the HQS space standards because of an increase in family size or a change in family composition. In such cases, the AHA will issue the family a new voucher, and the family and AHA will try to find an acceptable unit as soon as possible. If an acceptable unit is available for the family, the AHA will terminate the HAP contract for the tenant-based voucher family’s old unit in accordance with the HAP contract terms and will notify both the family and the owner of the termination. The tenant-based voucher HAP contract terminates at the end of the calendar month that follows the calendar month in which the AHA gives notice to the owner. [24 CFR 982.403(a) and (c)]

If the family lives in a PBV unit, the family and the owner will be notified within 14 calendar days that the family will be offered continued assistance in another unit. This assistance may be in one of the following forms:

- Another project-based unit;
- A tenant-based voucher; or
- A HOME unit.

If the AHA offers the family the opportunity to receive a tenant-based voucher, the AHA will terminate HAP for the wrong-sized PBV unit at expiration of the term of the family’s HCV voucher including any extension granted by the AHA. If the AHA offers the family the opportunity for another PBV unit or a HOME unit and the family does not accept the offer or does not move out of the wrong-sized PBV unit within 30 calendar days from the date of the offer to accept the other unit, the AHA will terminate HAP for the wrong-sized or accessible unit, at the expiration of the 30-day time period.

10-I.B. RESTRICTIONS ON MOVES

A family's right to move is generally contingent upon the family's compliance with program requirements [24 CFR 982.1(b)(2)]. HUD specifies two conditions under which a PHA may deny a family permission to move and two ways in which a PHA may restrict moves by a family.

Denial of Moves

HUD regulations permit the AHA to deny a family permission to move under the following conditions:

Insufficient Funding

The AHA may deny a family permission to move if the AHA does not have sufficient funding for continued assistance [24 CFR 982.314(e)(1)].

The AHA will deny a family permission to move on grounds that the AHA does not have sufficient funding for continued assistance if (a) the move is initiated by the family, not the owner or the AHA; (b) the AHA can demonstrate that the move will, in fact, result in higher subsidy costs; and (c) the AHA can demonstrate, through a detailed cost-reduction plan based on reasonable assumptions, that it does not have sufficient funding in its annual budget to accommodate the higher subsidy costs. This policy applies to moves within the AHA's jurisdiction as well as to moves outside it under portability.

Grounds for Denial or Termination of Assistance

The AHA has grounds for denying or terminating the family's assistance [24 CFR 982.314(e)(2)]. VAWA creates an exception to these restrictions for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking, and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit. [Pub.L. 113-4]

If the AHA has grounds for denying or terminating a family's assistance, the AHA will act on those grounds in accordance with the regulations and policies set forth in Chapters 3 and 12, respectively. In general, it will not deny a family permission to move for this reason; however, it retains the discretion to do so under special circumstances. Refer to section 3-III.G and 12-II.E for VAWA provisions.

Restrictions on Elective Moves [24 CFR 982.314(c)]

HUD regulations permit the AHA to prohibit any elective move by a participant family during the family's initial lease term. They also permit the AHA to prohibit more than one elective move by a participant family during any 12-month period.

The AHA will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within the AHA's jurisdiction or outside it under portability.

The AHA will consider exceptions to these policies for the following reasons: to protect the health or safety of a family member (e.g., lead-based paint hazards, domestic violence, witness protection programs), to accommodate a change in family

move by a participant family: insufficient funding and grounds for denial or termination of assistance.

In determining whether or not to deny an applicant family permission to move under portability because the AHA lacks sufficient funding or has grounds for denying assistance to the family, the initial PHA will follow the policies established in section 10-I.B of this chapter.

In addition, the AHA may establish a policy denying the right to portability to nonresident applicants during the first 12 months after they are admitted to the program [24 CFR 982.353(c)].

If neither the head of household nor the spouse/cohead of an applicant family had a domicile (legal residence) in the AHA's jurisdiction at the time the family's application for assistance was submitted, the family must live in the AHA's jurisdiction with voucher assistance for at least 12 months before requesting portability.

The AHA will consider exceptions to this policy for purposes of reasonable accommodation (see Chapter 2), in special circumstances, for family unification, or hard to house families with the approval of the Executive Director. Any exception to this policy, however, is subject to the approval of the receiving AHA [24 CFR 982.353(c)(3)].

Participant Families

The Initial PHA must not provide portable assistance for a participant if a family has moved out of its assisted unit in violation of the lease. [24 CFR 982.3539b).] VAWA creates an exception to this prohibition for families who are otherwise in compliance with program obligations but have moved to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence or stalking and who reasonably believed he or she was imminently threatened by harm from further violence if he or she remained in the unit.

The AHA will determine whether a participant family may move out of the AHA's jurisdiction with continued assistance in accordance with the regulations and policies set forth here and in sections 10-I.A and 10-I.B of this chapter. The AHA will notify the family of its determination in accordance with the approval policy set forth in section 10-I.C of this chapter.

Determining Income Eligibility

Applicant Families

An applicant family may lease a unit in a particular area under portability only if the family is income eligible for admission to the voucher program in that area [24 CFR 982.353(d)(3)]. The family must specify the area to which the family wishes to move [Notice 2016-9].

The initial PHA is responsible for determining whether the family is income eligible in the area to which the family wishes to move [24 CFR 982.355(c)(1)]. If the applicant family is not income eligible in that area, the PHA must inform the family that it may not move there and receive voucher assistance [Notice PIH 2016-9].

The request to terminate assistance should be made in writing and signed by the head of household, spouse, or cohead. Before terminating the family's assistance, the AHA will follow the notice requirements in Section 12-II.F.

12-I.D. MANDATORY TERMINATION OF ASSISTANCE

HUD requires the AHA to terminate assistance in the following circumstances.

Eviction [24 CFR 982.552(b)(2)]

The AHA must terminate assistance whenever a family is evicted from a unit assisted under the HCV program for a serious or repeated violation of the lease. In keeping with provisions of the Violence Against Women Reauthorization Act of 2013 (VAWA), incidents of actual or threatened violence, dating violence, or stalking may not be construed as serious or repeated violations of the lease by the victim or threatened victim of such violence or stalking.

Serious or repeated lease violations will include, but not be limited to, nonpayment of rent, unauthorized household members, disturbance of neighbors, destruction of property, or living or housekeeping habits that cause damage to the unit or premises and criminal activity. Generally, the criterion to be used is whether the reason for the eviction was through no fault of the tenant or guests.

A family will be considered *evicted* if the family moves after a legal eviction order has been issued, whether or not physical enforcement of the order was necessary.

If a family moves after the owner has filed an unlawful detainer against the family, but before a legal eviction order has been issued, termination of assistance is not mandatory. However, the AHA will determine whether the family has committed serious or repeated violations of the lease based on available evidence and may terminate assistance or take any of the alternative measures described in Section 12-II.C and other factors as described in Sections 12-II.E. Upon consideration of such alternatives and factors, the AHA may, on a case-by-case basis, choose not to terminate assistance.

Failure to Provide Consent [24 CFR 982.552(b)(3)]

The AHA must terminate assistance if any family member fails to sign and submit any consent form they are required to sign for a reexamination. See Chapter 7 for a complete discussion of consent requirements.

Failure to Document Citizenship [24 CFR 982.552(b)(4) and [24 CFR 5.514(c)]

The AHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or immigration status; (2) a family submits evidence of citizenship and eligible immigration status in a timely manner, but United States Citizenship and Immigration Services (USCIS) primary and secondary verification does not verify eligible immigration status of the family; or (3) a family member, as determined by the AHA, has knowingly permitted another individual who is not eligible for assistance to reside (on a permanent basis) in the unit.

the behavior that is the basis of the proposed termination of assistance. See Chapter 2 for a discussion of reasonable accommodation.

12-II.E. TERMINATING THE ASSISTANCE OF DOMESTIC VIOLENCE, DATING VIOLENCE, OR STALKING VICTIMS AND PERPETRATORS [Pub.L. 113-114]

The Violence Against Women Reauthorization Act of 2013 (VAWA) provides that criminal activity directly relating to domestic violence, dating violence, sexual assault 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 a cause for termination of assistance, tenancy, or occupancy rights if the tenant or an immediate member of the tenant's family is the victim or threatened victim of that domestic violence, dating violence, or stalking. Applicants and tenants may not be denied assistance or have assistance terminated under a covered housing program on the basis of or as a direct result of the fact that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

VAWA also gives the AHA the authority to 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 such violence who is also a tenant or lawful occupant.

VAWA does not prohibit the AHA or owner from terminating assistance or evicting a tenant if the AHA or owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the property would be present if that tenant or lawful occupant is not evicted or terminated from assistance.

When a participant family is facing termination of assistance because of the actions of a participant, household member, guest, or other person under the participant's control and a participant or immediate family member of the participant's family claims that she or he is the victim of such actions and that the actions are related to domestic violence, dating violence, sexual assault or stalking, the claim will be addressed per VAWA regulations before the termination of assistance is completed.

Under most circumstances, a survivor need only to self-certify in order to exercise their rights under VAWA, ensuring third-party documentation does not cause a barrier in a survivor expressing their rights and receiving the protections needed to keep themselves safe.

In cases where both parties are claiming protection under VAWA AHA can require one of the following elements:

- Form HUD-5382; or
- A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney, a medical professional or another knowledgeable professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking or the effects of abuse. The professional must attest under penalty of perjury that the professional believes in the occurrence of the incident that is the ground for protection and remedies

under the VAWA Final Rule and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003. The applicant or tenant must sign or attest to the statement. Or,

- A record from a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency documenting the situation.
- At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or participant.

The required certification and supporting documentation must be submitted to the AHA within 14 business days after the PHA issues its written request. The 14-day deadline may be extended at the AHA's discretion. If the individual does not provide the required certification and supporting documentation within 14 business days, or the approved extension period, the AHA may proceed with assistance termination.

If the applicant or tenant fails to provide documentation that meets the criteria in 24 CFR 5.2007 within 14 business days after receiving the written request for that documentation, or within the designated extension period, nothing in VAWA Final Rule may be construed to limit the authority of the covered housing provider to:

- a) Deny admission by the applicant or tenant to the housing or program;
- b) Deny assistance under the covered housing program to the applicant or tenant;
- c) Terminate the participation of the tenant in the covered housing program; or
- d) Evict the tenant, or a lawful occupant that commits a violation of a lease.

If the AHA can demonstrate an actual and imminent threat to other participants or those employed at or providing service to the property if the participant's tenancy is not terminated, the AHA will bypass the standard process and proceed with the immediate termination of the family's assistance. In determining this course of action, the AHA will consider any possible actions that may reduce or eliminate an actual and imminent threat and, if possible, use an alternative measure to prevent or remedy the situation rather than terminate the victim's assistance.

Although VAWA provides assistance termination protection for victims of domestic violence, it does not provide protection for perpetrators. Members of the household may not engage in criminal activity or criminal activity directly related to domestic violence. AHA will process termination of the perpetrator for violations of the family obligations found at 24 CFR 982.551(l) Crime by household members. The VAWA Final Rule provides that a participant who receives assistance under a covered housing program will not be terminated or evicted from housing on the basis of or as a direct result of having been a victim of criminal activity related to domestic violence, dating violence, sexual assault, or stalking.

When the actions of a participant or other family member result in an AHA decision to terminate the family's assistance and another family member claims that the actions involve criminal acts of physical violence against family members or others, the AHA will request that the victim submit the above required certification and supporting documentation in accordance with the stated time frame. If the certification and supporting documentation are submitted within the required time frame, or any

approved extension period, the AHA will terminate the perpetrator's assistance. If the victim does not provide the certification and supporting documentation, as required, the AHA will proceed with termination of the family's assistance. If the AHA denies VAWA protections, it will follow its established procedures for grievance hearings, informal hearings, or informal reviews.

AHA Confidentiality Requirements

All information provided to the AHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking, must be retained in confidence and may neither be entered into any shared data base nor provided to any related entity, except to the extent that the disclosure (a) is requested or consented to in writing by the individual (victim) in a time-limited release, (b) is required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program, or (c) is otherwise required by applicable law.

12-II.F. TERMINATION NOTICE [HCV GB, p. 15-7]

If a family's assistance is to be terminated, whether voluntarily or involuntarily, the AHA must give the family and the owner written notice that specifies:

- The reasons for which assistance has been terminated,
- The effective date of the termination,
- The family's right to an informal hearing as described in Chapter 15.46

If a criminal record is the basis of the termination, a copy of the record must accompany the notice. A copy of the criminal record also must be provided to the subject of the record [24 CFR 982.553(d)].

When termination is initiated by the AHA, the notice to terminate will be sent to the family and the owner at least 30 calendar days prior to the effective date of the termination. However, if a family vacates the unit without informing the AHA, 30 days notice will not be given. In these cases, the notice to terminate will be sent at the time the AHA learns the family has vacated the unit.

When a family requests to be terminated from the program they must do so in writing to the AHA (see section 12-I.C.). The AHA will then send a confirmation notice to the family and the owner within 14 calendar days of the family's request, but no later than the termination effective date (as requested by the family).

Notice of Termination Based on Citizenship Status [24 CFR 5.514 (c) and (d)]

The AHA must terminate assistance if (1) a family fails to submit required documentation within the required timeframe concerning any family member's citizenship or eligible immigration status; (2) evidence of citizenship and eligible immigration status is submitted timely, but USCIS primary and secondary verification does not verify eligible immigration status of a family; or (3) the AHA determines that a family member has knowingly permitted another individual who is not eligible for

PART VI: REPORTING AND RECORD KEEPING FOR CHILDREN WITH ENVIRONMENTAL INTERVENTION BLOOD LEAD LEVEL

15-VI.A. OVERVIEW

The AHA has certain responsibilities relative to children with environmental intervention blood lead levels that are receiving HCV assistance. The notification, verification, and hazard reduction requirements are discussed in Chapter 8. This part deals with the reporting requirements, and data collection and record keeping responsibilities that the AHA is subject to.

15-VI.B. REPORTING REQUIREMENT [24 CFR 35.1225(e)]

The AHA must report the name and address of a child identified as having an environmental intervention blood lead level to the public health department within 5 business days of being so notified by any other medical health care professional.

The AHA will provide the public health department written notice of the name and address of any child identified as having an environmental intervention blood lead level.

15-VI.C. DATA COLLECTION AND RECORD KEEPING [24 CFR 35.1225(f)]

At least quarterly, the AHA must attempt to obtain from the public health department(s) with a similar area of jurisdiction, the names and/or addresses of children less than 6 years old with an identified environmental intervention blood lead level.

If the AHA obtains names and addresses of environmental intervention blood lead level children from the public health department(s), the AHA must match this information with the names and addresses of families receiving HCV assistance, unless the public health department performs such a procedure. If a match occurs, the AHA must carry out the notification, verification, and hazard reduction requirements discussed in Chapter 8, and the reporting requirement discussed above.

At least quarterly, the AHA must also report an updated list of the addresses of units receiving assistance under the HCV program to the same public health department(s), unless the public health department(s) states that it does not wish to receive such a report.

The public health department(s) has stated they **do not** wish to receive a report of an updated list of the addresses of units receiving assistance under the HCV program, on a quarterly basis. Therefore, the AHA is not providing such a report.

PART VII: REPORTING REQUIREMENTS OF VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT OF 2013 (VAWA)

15-VII.A. NOTIFICATION TO PARTICIPANTS [Pub. L. 113-4]

VAWA requires the AHA to notify housing choice voucher participants of their rights under this law, including their right to confidentiality and the limits thereof. The AHA will

provide all participants with notification of their protections and rights under VAWA with any AHA notification of eviction or terminations of assistance and during the annual recertification or lease renewal process.

15-VII.B. NOTIFICATION TO APPLICANTS

The AHA will provide all applicants with notification of their protections and rights under VAWA at the time the individual is provided assistance or admission and at the time the applicant is denied assistance or admission. The notice also will inform each applicant of AHA confidentiality requirements.

15-VII.C. NOTIFICATION TO OWNERS AND MANAGERS [Pub.L. 113-4]

VAWA requires the AHAs to notify owners and managers of their rights and responsibilities under this law. HUD encourages PHAs to identify opportunities to provide notice and/or training to owners participating in the HCV program of their rights and obligations under VAWA. The AHA will inform property owners and managers of their screening and termination responsibilities related to VAWA. The AHA will utilize any or all of the following means to notify owners of their VAWA responsibilities:

As appropriate, in day to day interactions with owners and managers.

Inserts in HAP payments, 1099s, owner workshops, classes, orientations, and/or newsletters.

Signs in the AHA lobby and/or mass mailings which include model VAWA certification forms.

PART VIII: SPECIAL HOUSING TYPES [24 CFR 982 Subpart M]

15-VIII.A. OVERVIEW

Subpart M of 24 CFR 982 allows for the operation of Special Housing Types. These include: Single Room Occupancy (SRO), Congregate Housing, Group Home, Shared Housing, Cooperative, Manufactured Home, Manufactured Home Space Rental, and Homeownership Option.

The AHA will allow Shared Housing in cases where it expands the housing choice for voucher holders. All regulations at 24 CFR 982.615 through 982.618 must be met in order for Shared Housing to be approved. These include:

- The resident owner may not be related to the assisted family by blood or marriage.
- An approved live-in aide may reside with the family.
- The other persons in the unit (a house or an apartment) may be assisted or not assisted under the tenant-based program.

Family Right to Move [24 CFR 983.260]

The family may terminate the lease at any time after the first year of occupancy. The family must give advance written notice to the owner in accordance with the lease and provide a copy of such notice to the AHA. If the family wishes to move with continued tenant-based assistance, the family must contact the AHA to request the rental assistance prior to providing notice to terminate the lease.

If the family terminates the lease in accordance with these requirements, the AHA will offer the family the opportunity for continued tenant-based assistance, in the form of a Housing Choice Voucher. If a voucher is not immediately available upon termination of the family's lease in the PBV unit, the AHA will give the family priority to receive the next available voucher. The Director of Housing Programs shall maintain a list of interested PBV participants who want to move with continued tenant-based HCV assistance. Placement and ranking on the list will be on a first come, first served basis. The AHA shall give preference on this list to Violence Against Women's Act (VAWA)-eligible households.

If the family terminates the assisted lease before the end of the first year, the family relinquishes the Housing Choice Voucher assistance.

Family Break-Up

In the event of a family break-up by divorce or legal separation, the family shall decide who remains in the assisted unit and report the change in household composition in writing to the AHA. No further subsidy shall be provided to the departing spouse. The assistance generally remains with the family members who remain in the assisted unit.

If family members are forced to leave the unit because of actual or threatened physical violence against family members by a spouse or other members of the household, the AHA may terminate the HAP contract for the original assisted unit and transfer the assistance to the family members forced to leave. The actual or threatened physical violence must be documented

The documentation must include one of the following elements:

- A signed statement by the victim that provides the name of the perpetrator and certifies that the incidents in question are bona fide incidents of actual or threatened domestic violence, dating violence, or stalking, or

- A police or court record documenting the actual or threatened abuse, or

- A statement signed by an employee, agent, or volunteer of a victim service provider; an attorney; a medical professional; or another knowledgeable professional from whom the victim has sought assistance in addressing the actual or threatened abuse. The professional must attest under penalty of perjury that the incidents in question are bona fide incidents of abuse, and the victim must sign or attest to the statement.

(Notice policies related to terminating assistance for participants who may be victims of domestic violence, dating violence, or stalking are contained in Section 12-II.E. of the Administrative Plan).

program. The receiving PHA must also have a HUD–VASH voucher available for this family. In these cases, the families must be absorbed by the receiving PHA.

PORTABILITY WHEN CASE MANAGEMENT IS NO LONGER REQUIRED

If the family no longer requires case management, there are no portability restrictions. Normal portability rules apply.

18-III. D. FAMILY BREAK-UP

The HUD-VASH voucher will remain with the veteran in the case of family break-ups. The only exception to this would be protections for victims under VAWA and the veteran is the perpetrator.

PART IV. TERMINATION

A participant cannot be terminated from the program for a reason that could not be used for denying admission to the program. Prior to any termination action, the AHA will contact the VA case manager to determine if there are extenuating circumstances that should be considered to avoid the termination.

The AHA **may** terminate assistance for the following reasons:

1. Program violations that occur after admission to the voucher program

A HUD–VASH participant family must not be terminated after admission for a circumstance or activity that occurred before admission and was known to the AHA, but could not be considered at the time due to the HUD–VASH Operating Requirements. For instance, once accepted to the program, a family could not be terminated for money owed to the AHA on a past voucher; however, families are not protected if violations occur after admission. The AHA will work with the VA to find alternatives to termination to minor program infractions as long as the AHA staff and other residents are not endangered by the family's behavior.

2. Failure to participate, without good cause, in case management as verified by the VAMC

As a condition of receiving rental assistance, a HUD–VASH-eligible family must receive case management services from the VAMC or CBOC. Therefore, a HUD– VASH participant family's assistance must be terminated for failure to participate, without good cause, in case management as verified by the VAMC or CBOC.

However, a VAMC or CBOC determination that the participant family no longer requires case management is **not** grounds for termination of assistance. In such a case, the AHA may offer the family continued HCV assistance through one of