

HOUSING AUTHORITY OF THE CITY AND COUNTY OF DENVER

VIOLENCE AGAINST WOMEN ACT PROCEDURE

I. Purpose and Applicability

The purpose of this policy (herein called “Policy”) is to implement the applicable provisions of the Violence Against Women Act (“VAWA”), the Department of Housing and Urban Development (“HUD”) Regulations and Requirement, and more generally to set forth the policies and procedures of the Housing Authority of the City and County of Denver (“DHA”) regarding domestic violence, dating violence, sexual assault, and stalking, as hereinafter defined.

This Policy shall be applicable to all DHA 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 applies to all victims of domestic violence, dating violence, sexual assault, or stalking, regardless of sex, gender identity, or sexual orientation.

II. Goals and Objectives

This Policy has the following principal goals and objectives:

- A. Maintaining compliance with all applicable legal requirements imposed by the VAWA;
- B. Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence or stalking who are assisted by DHA;
- C. Providing and maintaining housing opportunities for victims of domestic violence, dating violence or stalking;
- D. Creating and maintaining collaborative arrangements between DHA, 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, or stalking, who are assisted by DHA;
- E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence or stalking, affecting individuals assisted by DHA; and
- F. Outline DHA’s Emergency Transfer Plan.

III. Other DHA Policies and Procedures

This Policy shall be referenced in DHA’s Five-Year Public Housing Agency Plan and shall be incorporated in and made a part of DHA’s Admissions and Occupancy Terms and Conditions and DHA’s Section 8 Housing Programs Administrative Plan. DHA’s annual public housing agency plan shall also contain information concerning DHA’s activities, services or programs relating to domestic violence, dating violence, sexual assault, or stalking.

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

IV. Definitions

As used in this Policy:

- A. *Actual and imminent threat*- means a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining whether an individual would pose an actual and imminent threat, the factors to be considered include: The duration of the risk, the nature and severity of the potential harm, the likelihood that the potential harm will occur, and the length of time before the potential harm would occur.
- B. *Affiliated individual*, with respect to an individual, means:
 - (1) A spouse, parent, brother, sister, or child of that individual, or a person to whom that individual stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or
 - (2) Any individual, tenant, or lawful occupant living in the household of that individual.
- C. *Bifurcate* - means to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members' lease and occupancy rights are allowed to remain intact.
- D. *Dating Violence* – means violence committed by a person:
 - (1) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
 - (2) 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; and
 - (iii) The frequency of interaction between the persons involved in the relationship.
- E. *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 or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of Colorado, 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 Colorado.
- F. *Perpetrator* – means person who commits an act of domestic violence, dating violence, sexual assault, or stalking against a victim.
- G. *Sexual assault* -means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.
- H. *Spouse or intimate partner of the victim* - includes a person who is or has been in a social relationship of a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

- I. *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.
- J. VAWA means the Violence Against Women Act of 1994, as amended (42 U.S.C. 13925 and 42 U.S.C. 14043e et seq.).

V. Admissions and Screening

- A. *Non-Denial of Assistance.* DHA 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 or stalking, provided that such person is otherwise qualified for such admission.

VI. Termination of Tenancy or Assistance

- A. *VAWA Protections.* Under the VAWA, public housing residents and persons assisted under the Section 8 rental assistance program have the following specific protections, which will be observed by DHA:
 - 1. An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault, 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 DHA 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 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 of DHA 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 a member of the tenant’s household. However, in taking any such action, neither DHA 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 section shall be construed to limit the authority of DHA or a Section 8 owner or manager to evict or terminate assistance to any tenant or lawful applicant if the owner, manager or DHA, 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 VI.A.2. or federal, state or local law to the contrary, DHA or a Section 8 owner or manager, as the case may be, may bifurcate a lease in order to evict, remove, or terminate assistance to an individual 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. 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 DHA. With respect to the issue of whether two vouchers will be issued when a lease is bifurcated, one voucher will be issued to the victim. The perpetrator will be removed from the original voucher and will not receive a new voucher. Similarly, the perpetrator will be removed from a DHA public housing lease and will not be provided with alternative DHA public housing.

VII. Verification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

- A. *Requirement of Verification.* The law allows, but does not require, DHA 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, DHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by DHA. Section 8 owners or managers receiving rental assistance administered by DHA 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, sexual assault, or stalking must be accomplished by completing the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. The individual’s Certification must include the name of the perpetrator.

- 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 DHA, 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 the VAWA and this Policy against a proposed adverse action.

C. *Waiver of verification requirement.* The Executive Director of DHA, 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.

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 DHA or to a 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 nor provided to any related entity, except where disclosure is:

1. Requested or consented to by the individual in writing;
2. Required for use in a public housing eviction proceeding or in connection with termination of Section 8 assistance, as permitted in the VAWA; or
3. Otherwise required by applicable law.

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

C. *Colorado Address Confidentiality Program.* This program is not affiliated with DHA. The State of Colorado offers this program to victims of domestic violence. The Address Confidentiality Program ("ACP") consists of two parts:

1. A Confidential Address. The ACP provides participants with a legal, substitute mailing address. When presented with a current and valid authorization card, DHA will accept the substitute address as a participant's mailing address.
2. A Mail-Forwarding Service. The ACP also provides participants with a first-class mail forwarding service. Participant's mail is received by the ACP and forwarded to their confidential home address. The ACP serves as a participant's agent for service of process and for receipt of mail.

For more information about Colorado's Address Confidentiality Program, please go to their website at www.acp.colorado.gov.

IX. Emergency Transfer Plan

A. *Application for transfer.*

In situations where a tenant is a victim of domestic violence, dating violence, sexual assault, or stalking, the tenant is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

DHA may, if an approved unit size is available at a location that may reduce the risk of harm, approve transfer by a public housing tenant to a different unit in order to reduce the level of risk to the individual.

DHA is further notifying tenants of the following additional requirements regarding requests for emergency transfers that are the result of domestic violence, dating violence, or stalking:

1. Tenant initiated emergency transfers that are the result of domestic violence, dating violence, sexual assault, or stalking will only be approved if they are accompanied by documentation acceptable to DHA substantiating the domestic violence, dating violence, sexual assault, or stalking.
2. Whenever a tenant is granted an emergency transfer that is the result of domestic violence, dating violence, sexual assault, or stalking, the perpetrator of such violence or stalking will be automatically barred from the tenant's previous residence, the tenant's new residence, and all of the tenant's subsequent residences pursuant to the DHA No Trespass/Barring Procedure.
3. A tenant who is granted an emergency transfer that is the result of domestic violence, dating violence, sexual assault, or stalking who subsequently allows a barred perpetrator onto the property in violation of the DHA Not Trespass/Barring Procedure will be in violation of his/her lease and subject to possible eviction.

DHA is further notifying Section 8 voucher recipients of the following additional requirement regarding requests for emergency transfers that are the result of domestic violence, dating violence, sexual assault, or stalking:

1. Requests for vouchers to transfer to another unit that are the result of domestic violence, dating violence, sexual assault, or stalking will only be approved if they are accompanied by documentation substantiating the domestic violence, dating violence, sexual assault, or stalking.

B. No right to transfer.

DHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. DHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and

conditions that govern occupancy in the unit to which the tenant has been transferred. DHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

DHA will make every effort to accommodate requests for transfer when suitable alternative vacant units are available and the circumstances warrant such action. However, except with respect to portability of Section 8 assistance as provided in paragraph IX.C below the decision to grant or refuse to grant a transfer shall lie within the sole discretion of DHA, and this Policy does not create any right on the part of any applicant to be granted a transfer.

- C. *Portability.* Notwithstanding the foregoing, a Section 8-assisted tenant will not be denied portability to a unit located in another jurisdiction (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 a health or safety of an individual member of the household who is or has been the victim of domestic violence, dating violence, sexual assault, 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 DHA's policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by DHA 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 DHA policies regarding family break-up are contained in DHA's Public Housing Admissions and Occupancy Terms and Conditions and its Section 8 Administrative Plan.

XI. Relationships with Service Providers

It is the policy of DHA to cooperate with organizations and entities, both private and governmental that provides shelter and/or services to victims of domestic violence, dating violence or stalking. If DHA staff becomes aware that an individual assisted by DHA is a victim of domestic violence, dating violence or stalking, DHA will endeavor to refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring DHA either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence, dating violence or stalking or to make a referral in any particular case.

XII. Notification

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

XIII. Relationship with Other Applicable Laws

Neither the 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 the VAWA for victims of domestic violence, dating violence or stalking.

XIV. Amendment

This policy may be amended from time to time by DHA, in its sole discretion, without prior notice.