



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES
HAWAII PUBLIC HOUSING AUTHORITY
1002 NORTH SCHOOL STREET
POST OFFICE BOX 17907
Honolulu, Hawaii 96817

IN REPLY PLEASE REFER TO:

ADMINISTRATIVE MEMORANDUM

Programs No. 2.
September 18, 2008,
Amended June 18, 2015
Amended June 14, 2017

Subject: VIOLENCE AGAINST WOMEN ACT (VAWA) POLICY

I. PURPOSE & APPLICABILITY

The purpose of this policy (Policy) is to implement the applicable provisions of the Violence Against Women Reauthorization Act of 2013 (Pub. L. 113–4, 127 Stat. 54) (VAWA 2013), and the final rule implementing VAWA 2013 in the U.S. Department of Housing and Urban Development (HUD) housing programs (81 Fed. Reg. 80,724 (Nov. 16, 2016)) (HUD Final Rule). VAWA 2013 reauthorized and amended the Violence Against Women Act of 1994, as amended (Title IV, sec. 40001–40703 of Pub. L. 103–322, 42 U.S.C. 13925 et seq.). This Policy generally sets forth the Hawaii Public Housing Authority’s (HPHA) requirements and procedures regarding domestic violence, dating violence, stalking and sexual assault as hereinafter defined, regardless of sex, gender identity, or sexual orientation.

This Policy shall be applicable to the HPHA’s administration of all its federally subsidized public housing, Section 8 rental assistance programs under the United States Housing Act of 1937 (42 U.S.C. § 1437 et seq.), any other HUD-covered housing programs, and owners participating in HUD-covered housing programs administered by the HPHA. Notwithstanding this Policy, owners participating in HPHA HUD-covered housing programs, have an independent obligation to comply with the requirements of VAWA 2013, the HUD Final Rule, and HUD PIH Notice 2017-08, and any other applicable laws and HUD guidance. If the event of a conflict between this Policy and VAWA 2013, the HUD Final Rule, or HUD Notice PIH 2017-08 (HA), the following shall prevail in order of precedence: VAWA 2013, the HUD Final Rule, and HUD PIH Notice 2017-08.

VAWA protections cover tenants and assisted families, as defined under applicable program regulations. VAWA protections also cover applicants when they are applying for admission to a HUD-covered housing program.

This Policy shall be fully integrated into the HPHA's Admissions and Continued Occupancy Policy (ACOP), Section 8 Administrative Plan, and Administrative Rules.

This VAWA Policy is available to the public on the HPHA's website at <http://www.hpha.hawaii.gov/referenceinformation/index.htm> and during normal business hours at the HPHA's Asset Management Project (AMP) offices throughout the State, the HPHA's Section 8 Branch and the Applications Office located at 1002 North School Street, Honolulu, HI 96817.

II. GOALS & OBJECTIVES

This Policy has the following principal goals and objectives:

- A. Maintaining compliance, including training of appropriate staff managing the HPHA public housing and Section 8 Housing Choice Vouchers (which includes tenant-based vouchers and project-based vouchers), with all applicable legal requirements imposed by VAWA;
- B. Providing and maintaining housing opportunities for victims of domestic violence, dating violence, stalking or sexual assault; and
- C. Responding in accordance with HPHA policies and procedures to incidents of domestic violence, dating violence, stalking, or sexual assault affecting individuals assisted by the HPHA.

III. DEFINITIONS

As defined in VAWA 2013, 24 CFR §§ 5.2003 and 5.2005, and as used in this Policy:

Actual and imminent threat refers to 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.

Affiliated Individual means, with respect to an individual –

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.

Bifurcate means dividing a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered housing program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

Covered housing program consists of the following HUD programs:

- (1) Section 202 Supportive Housing for the Elderly (12 U.S.C. 1701q), with implementing regulations at 24 CFR part 891.
- (2) Section 811 Supportive Housing for Persons with Disabilities (42 U.S.C. 8013), with implementing regulations at 24 CFR part 891.
- (3) Housing Opportunities for Persons With AIDS (HOPWA) program (42 U.S.C. 12901 et seq.), with implementing regulations at 24 CFR part 574.
- (4) HOME Investment Partnerships (HOME) program (42 U.S.C. 12741 et seq.), with implementing regulations at 24 CFR part 92.
- (5) Homeless programs under title IV of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360 et seq.), including the Emergency Solutions Grants program (with implementing regulations at 24 CFR part 576), the Continuum of Care program (with implementing regulations at 24 CFR part 578), and the Rural Housing Stability Assistance program (with regulations forthcoming).
- (6) Multifamily rental housing under section 221(d)(3) of the National Housing Act (12 U.S.C. 17151(d)) with a below-market interest rate (BMIR) pursuant to section 221(d)(5), with implementing regulations at 24 CFR part 221.
- (7) Multifamily rental housing under section 236 of the National Housing Act (12 U.S.C. 1715z-1), with implementing regulations at 24 CFR part 236.
- (8) HUD programs assisted under the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.); specifically, public housing under section 6 of the 1937 Act (42 U.S.C. 1437d) (with regulations at 24 CFR Chapter IX), tenant-based and project-based rental assistance under section 8 of the 1937 Act (42 U.S.C. 1437f) (with regulations at 24 CFR chapters VIII and IX), and the Section 8 Moderate Rehabilitation Single Room Occupancy (with implementing regulations at 24 CFR part 882, subpart H).
- (9) The Housing Trust Fund (12 U.S.C. 4568) (with implementing regulations at 24 CFR part 93).

Covered housing provider refers to the individual or entity under a covered housing program that has responsibility for the administration and/or oversight of VAWA protections and includes PHAs, sponsors, owners, mortgagors, managers, State and local governments or agencies thereof, nonprofit or for-profit organizations or entities. The program-specific regulations for the covered housing programs identify the individual or entity that carries out the duties and responsibilities of the covered housing provider as set forth in [24 CFR] part 5, subpart L. For any of the covered housing programs, it is possible that there may be more than one covered housing provider; that is, depending upon the VAWA duty or responsibility to be performed by a covered housing provider, the covered housing provider may not always be the same individual or entity.

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 relationship is determined based on a consideration of the following factors:
 - a. The length of the relationship;
 - b. The type of relationship; and
 - c. The frequency of interaction between the persons involved in the relationship.

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated 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 the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's act under the domestic or family violence laws of the jurisdiction. The term "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.

"Lawful Occupant" and "Tenant" are not defined by VAWA 2013. Generally, while the term "lawful occupant" as defined by state law would be applicable in determining whether or not someone would be an affiliated individual, it would not be for lease bifurcations. The term "lawful occupant" for lease bifurcations would be whether or not the person is a lawful occupant (beneficiary or tenant, or recognized member of the household) per the program regulations of the specific HUD program. Therefore, while someone may be a "lawful occupant" under state law, if they are not on the lease or receiving assistance under the HUD program regulations they are not eligible for lease bifurcation. (See HUD Response in HUD Final Rule, 81 Fed. Reg. at 80,739).

Perpetrator or Abuser means any person who commits an act of domestic violence, dating violence, stalking or sexual assault against a victim.

Safe Unit means a unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

Sexual Assault means any nonconsensual sexual act proscribed by Federal, tribal or State law, including when the victim lacks capacity to consent.

Spouse or Intimate Partner of a 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. (See Rule Change in HUD Final Rule, 81 Fed. Reg. at 80,739; 24 CFR § 5.2003 (2016)).

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.

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

Victim means a tenant or an applicant who is a victim of domestic violence, dating violence, sexual assault, or stalking regardless of whether the act was perpetrated by a tenant living on the property, or whether the act occurred on the property grounds, or, in cases of sexual assault or stalking, whether the tenant knows the perpetrator. (See HUD Response in HUD Final Rule, 81 Fed. Reg. at 80,739; 24 CFR § 5.2003 (2016))

IV. PROHIBITING DISCRIMINATION

VAWA protects applicants, tenants, and program participants in HUD covered housing programs from being denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis 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, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

Notwithstanding the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Reasonable Accommodations

The HPHA will provide reasonable accommodations to its emergency transfer policy for individuals with disabilities.

- Individuals with disabilities may request a reasonable accommodation at any time to any program rules, policies, or practices that may be necessary.
- The HPHA will provide appropriate services necessary to ensure effective communication, which includes ensuring that information is provided in appropriate accessible formats as needed (e.g., audio, large type, and sign language interpreters).
- The HPHA will ensure that communications and materials are provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and their implementing regulations.
- A tenant or participant in HPHA's HUD-covered programs can request VAWA protections based on the grounds that the live-in aide is a victim of domestic violence, dating violence, sexual assault or stalking.

LEP Obligations

Per 24 CFR § 5.2005(a)(3), Forms HUD-5380, *Notice of Occupancy Rights Under the Violence Against Women Act*, and 5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternative Documentation*, must be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 13166, signed 8-11-00, and published in the Federal Register on 8-16-00. The HPHA will take reasonable steps to ensure meaningful access to its programs and activities to LEP individuals.

Federal, State, Local Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of VAWA-related crimes. Tenants may be entitled to additional housing protections for victims of VAWA-related crimes under other Federal laws, as well as under State and local laws.

V. DETERMINING ELIGIBILITY

VAWA protections cover tenants, assisted families, and applicants, as defined under applicable program regulations.

Guests, unassisted members, and live-in aides of the family are ineligible for VAWA protections that are available to tenants and participants. In cases where a guest or unassisted member is a victim of domestic violence, dating violence, sexual assault or stalking, a tenant/participant cannot be evicted or have assistance terminated on the basis of the domestic violence, dating violence, sexual assault or stalking of the guest or unassisted member.

For HUD-covered housing programs, if the denial or termination of assistance is required by a federal statute, based on a particular adverse factor, the HPHA must comply with that statute, even if the adverse factor is a direct result of domestic violence, dating violence, sexual assault or stalking (e.g., an applicant or household member who is subject to a lifetime registration requirement under a state sex offender registration program).

It is the responsibility of the applicant or tenant to:

1. Inform the HPHA or owner that they are a victim of domestic violence, dating violence, sexual assault, or stalking; and
2. Provide enough information for the PHA or owner to make a determination regarding the adverse factor they are claiming was a direct result of domestic violence, dating violence, sexual assault, or stalking.

If the HPHA or owner believes any of the information is not clear, it should speak to the victim and try to clarify the information. After the HPHA or owner receives this information from the applicant or tenant, the HPHA or owner should consider the individual's statement and any possible supporting documentation in determining, based on all the circumstances, if an adverse factor was a direct result of domestic violence, dating violence, sexual assault, or stalking.

VI. ADMISSIONS & SCREENING

- A. *In General.* The HPHA 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, stalking, or sexual assault provided that such person is otherwise qualified for such admission. If the applicant is determined to be ineligible for admission or participation in the HPHA public housing or Section 8 program, upon request by the applicant, the HPHA will provide will provide an **informal review hearing** on the determination. See § 24 CFR 960.208 (public housing); 24 CFR § 982.554 (Section 8).
- B. *Preference.* An applicant will be granted a preference eligible status as a victim of domestic violence, dating violence, sexual assault, or stalking, with certification or documentation verifying current actual or threatening abuse.
- C. *Mitigation of Disqualifying Information.* In reviewing preference eligibility, the HPHA must determine whether negative suitability was a consequence of domestic violence against the applicant. An applicant will not be denied admission if the unfavorable (negative report) screening factors of the applicant are related to acts of domestic violence, dating violence, sexual assault, or stalking against the applicant or any member of the family household. The HPHA shall be entitled to conduct such

inquiries as are reasonably necessary to verify the claimed history of domestic violence, dating violence, stalking and/or sexual assault and its probable relevance to the potentially disqualifying information.

On the surface, adverse factors may appear unrelated to domestic violence, dating violence, sexual assault, or stalking and may present legitimate reasons for denial, termination, or eviction. However, the presence of an adverse factor may be due to an underlying experience of domestic violence, dating violence, sexual assault, or stalking. An adverse factor may be present during much of an abusive relationship, or it may present itself only when a victim is attempting to leave, or has left, the abusive relationship. HUD PIH Notice 2017-08, Section 7.2 provides examples of the many instances in which adverse factors might be the “direct result” of domestic violence, dating violence, sexual assault, or stalking.

- D. *Break Up of Family on the Waiting List.* If a family on the waiting list breaks up, the HPHA has discretion to determine which family members will retain the family’s position on the waiting list. However, if a court assigns the family’s position on the waiting list to particular family members in a divorce or separation under a settlement or judicial decree, the HPHA must assign the waiting list position as directed by the court.

In the absence of a judicial decision, the HPHA will consider the following factors:

1. The interest of any minor children, including custody arrangements;
2. The interest of any ill, elderly, or disabled family members;
3. Any possible risks to family members as a result of domestic violence or criminal activity; and
4. The recommendations of social service professionals.

The HPHA will prioritize victims of actual or threatened domestic violence, dating violence, or stalking where that violence is a contributing cause of the household breakup. However, if there are minor children in the family and the children do not primarily reside with the victim, the HPHA may choose not to apply this subsection in order to keep the assistance with the children.

VII. VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, STALKING OR SEXUAL ASSAULT

- A. *Requirements for Verification.* For those applicants, tenants, and program participants seeking protection under this Policy, the HPHA or owner shall verify that an incident or incidents of actual or threatened domestic violence, dating violence, stalking or sexual assault claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the

applicable definitions set forth in this Policy. The applicant or tenant shall be allowed to choose the form of verification to be provided to the HPHA, owner, or manager.

If there is reason to believe that verification is incomplete or inaccurate, the HPHA or owner may require additional documentation of the incident(s). Such documentation requirement shall not place the victim in danger.

Verification may be made with at least one of the following:

1. HUD-approved form – Form HUD-5382, *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation*. Completing the form HUD-5382 approved certification form to document the incident or incidents that the Individual is a victim of domestic violence, dating violence, stalking or sexual assault, and that the incident or incidents in question are bona fide incidents of actual or threatened abuse. 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 the name of the perpetrator is safe to provide and is known to the victim. The victim or someone on the victim's behalf may complete the form. The victim or someone filling out the form on the victim's behalf must certify to the truth and accuracy of the information being provided. False information could be the basis for denial of admission, termination of assistance, or eviction. This HUD-approved form shall be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 13166; OR
2. Other documentation – Third-party documentation is **not** required in order for a tenant to be eligible for an emergency transfer. If, however, the tenant happens to have third-party documentation that demonstrates why they are eligible for an emergency transfer or other VAWA protections, they should submit that documentation to HPHA Management if it is safe to do so. Other than for emergency transfers, third-party documentation is required when the HPHA, owner or management receives conflicting evidence as to the occurrence of domestic violence, dating violence, sexual assault, or stalking, as discussed below.

Examples of third-party documentation include, but are not limited to a letter or other documentation from a victim service provider, social worker, attorney or other legal assistance provider, pastoral counselor, mental health provider, medical professional, or other professional from whom the tenant has sought assistance. The person signing the

documentation must have assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of the abuse. The person signing the documentation must attest under penalty of perjury to his or her belief that the incident or incidents in question are bona fide incidents of abuse. The victim of domestic violence, dating violence, sexual assault or stalking should also sign the documentation.

The HPHA or owner may, under special circumstances, accept a verbal statement when there is other sufficient corroborating evidence, such as statements from other household members or case manager, to document that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault or stalking. The HPHA or owner shall document, in a confidential manner, the individual's verbal statement and the corroborating evidence available. HPHA Management or the owner may also agree to accept communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts as documentation.

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

- B. Time allowed to provide verification/failure to provide documentation. An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence, stalking or sexual assault, and who is requested by the HPHA, 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 may be extended upon a showing of good cause.

The HPHA or owner will consider the following factors when extending the 14-day deadline including, but not limited to: cognitive limitations, disabilities, limited English proficiency, absence from the unit due to hospitalization or time in an emergency shelter, administrative delays in obtaining police or court records, the danger of further violence, and the victim's need to address health or safety issues. The HPHA or owner will also consider requests for reasonable accommodations for persons with disabilities. The HPHA acknowledges that because of these factors, the HPHA, owner, or manager might not be contacted by the victim with a request to extend the 14-business day period until after the 14-day period

has passed. Extensions may be granted for up to an additional 14-business days.

- C. Waiver of verification requirement. The HPHA Executive Director or his/her Designee, a Section 8 owner or manager, or other HPHA HUD-covered housing provider when applicable, 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/Designee, owner or manager. Any such waiver must be in writing. Waiver in a particular instance(s) shall not operate as precedent for, or create any right to, a waiver in any other case or cases, regardless of similarity in circumstances.
- D. Additional third-party documentation - If the HPHA or owner receives documentation that contains conflicting information, (including certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator), the HPHA, owner, or manager may require an applicant or tenant to submit third-party documentation, within 30 calendar days of the date of the request for the third-party documentation.

Per 24 CFR § 5.2007, and HUD PIH Notice 2017-08 Section 8.2(e), the applicant or tenant can submit any of the following to meet the third-party documentation request:

1. A document:
 - (a) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or mental health professional (collectively, "professional") from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse;
 - (b) Signed by the applicant or tenant; and
 - (c) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under the HUD Final Rule, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR § 5.2003; or
2. Police or court record – Producing a Federal, State, tribal, territorial, or local police, or court record describing the incident or incidents in question.

3. At the discretion of the HPHA or owner, a statement or other evidence provided by the applicant or tenant.

The Executive Director may designate an individual or a third party with experience with domestic violence cases to review documentation that contains conflicting information.

If the HPHA or owner requests, but does not receive third-party documentation, the HPHA or owner may deny VAWA protections and shall notify the applicant or tenant. If this results from the tenant(s) being terminated from assistance, the HPHA will hold a separate informational hearing for its Section 8 housing choice voucher tenants, or a grievance hearing for its public housing tenants.

VIII. TERMINATION OF TENANCY or ASSISTANCE

- A. Termination Notices. All termination of assistance or eviction notices will notify participants of VAWA's protections and that they may seek an informal hearing if a Section 8 tenant/participant pursuant to 24 CFR § 982.555, or a grievance hearing (including informal settlement of grievance) pursuant to 24 CFR Part 966, subpart B if a public housing tenant, if they believe that the termination is based on acts of domestic violence, dating violence, sexual assault or stalking committed against the participant.
- B. VAWA Protections. Under VAWA, public housing residents and persons assisted under the Section 8 program, have the following specific protections, which will be observed by the HPHA in administration of its programs:
 1. An incident(s) of actual or threatened domestic violence, dating violence, stalking or sexual assault 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, criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of a 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 of the tenant or affiliated individual of the tenant that is the victim or threatened victim of the domestic violence, dating violence, sexual assault, or stalking.

3. Where a live-in aide is a victim of domestic violence, dating violence, sexual assault, or stalking, and the tenant seeks to maintain the services of the live-in aide, the HPHA or owner shall not require that the live-in aide be removed from the household on the grounds of being a victim of abuse covered by the VAWA.

The aide resides in the unit as a reasonable accommodation for the tenant with a disability, and to require removal of the aide solely because they are a victim of abuse would violate Section 504 of the Rehabilitation Act, the Fair Housing Act, and the Americans with Disabilities Act, which require HPHA Management or owner to permit such reasonable accommodations. In addition, if a tenant requests and qualifies for an emergency transfer on the grounds that the live-in aide is a VAWA-victim, the tenant's entire household, which includes the live-in aide, can be transferred.

4. When an individual who is a victim of domestic violence, has an unreported member residing in their household and the individual is afraid of asking the unreported member to leave because of the individual's domestic violence experience, then terminating the individual's tenancy because of the unreported household member would be "premised on an act of domestic violence." Therefore, depending on the situation, a tenant who violates program regulations by housing a person not authorized to reside in the unit could be covered by VAWA's anti-discrimination provisions, and eligible for remedies provided under VAWA.
5. A tenant may invoke VAWA protections on more than on occasion and cannot be subjected to additional conditions that adversely affect their tenancy because they have invoked VAWA protections.

C. VAWA Limitations.

1. The HPHA or a Section 8 owner or manager may terminate tenancy, evict, or to terminate assistance, for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, stalking or sexual assault in question against the tenant or a member of the tenant's household. However, neither the HPHA nor a Section 8 manager or owner may apply a more demanding standard to the victim of domestic violence, dating violence, stalking or sexual assault than that applied to other tenants.
2. The HPHA or a Section 8 owner or manager may evict or terminate from assistance any tenant or lawful applicant if the owner, manager or the HPHA 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.

3. In cases where the presence of the perpetrator on the property will endanger others, not solely the unit in which the perpetrator resides, the HPHA or owner may evict or terminate assistance to a tenant if the HPHA or owner can demonstrate an actual and imminent threat to other tenants, or those employed at or providing services to the property, if the tenant is not evicted or assistance is not terminated. However, the HPHA or owner should only take such actions when there are no other actions that could be taken to reduce or eliminate the threat and must document all other actions taken and/or considered. A termination under this clause requires approval of the Executive Director.

D. *Bifurcation of Lease*. The HPHA or a Section 8 owner or manager, may bifurcate or divide a lease to 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.

1. Removal of the perpetrator of 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. Leases used for all public housing operated by the HPHA and leases for dwelling units occupied by families assisted with Section 8 rental assistance administered by the HPHA, shall contain provisions setting forth the substance of this paragraph or as required by the U.S. Department of Housing & Urban Development.
2. If a bifurcation or division occurs, and the removed tenant or lawful occupant was the sole tenant eligible to receive assistance under a covered housing program, the HPHA, owner, or manager shall provide any remaining tenant or household member/lawful occupant the opportunity and reasonable time to establish eligibility for the covered housing program. If the remaining tenant or household member/lawful occupant cannot establish eligibility, the HPHA, owner, or manager shall provide the remaining tenant 90 calendar days to find new housing or to establish eligibility under another covered housing program.

The 90-calendar-day period provided above will not be available to a remaining household member if the statutory requirements for the covered housing program prohibit it. The 90-day calendar period also

will not apply beyond the expiration of a lease, unless this is permitted by program regulations.

3. If the HPHA seeks to terminate the tenancy of a victim of domestic violence, dating violence, sexual assault, or stalking for lease violations unrelated to the domestic violence, dating violence, or stalking, the HPHA may not hold the individual to a more demanding set of rules than applied to tenants who are not victims of domestic violence, dating violence, sexual assault, or stalking.
 4. In cases where the HPHA receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, the HPHA may determine which is the true victim by requiring third-party documentation.
 5. The HPHA will recommend that the victim seek assistance from local service providers of domestic violence.
 6. When rent for a Section 8 unit has previously been determined based on the income of an abusive family member who has left the household or been excluded from the household by a domestic violence restraining order or injunction or other court order, rent for the unit will immediately be adjusted to reflect the household's changed circumstances.
 7. The HPHA will recommend that the victim contact police and obtain a temporary restraining order against the abuser.
- E. Prohibition of Terminating a Lease when a Victim Declines to Transfer. Under the VAWA law, if a victim declines to move to a proposed transfer unit, the tenant's rejection of such proposed transfer will not serve as a basis for good cause termination of the lease.
- F. Prohibition of Good Cause Termination due to VAWA Incident. Per 24 CFR § 5.2005(c), an incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as a serious or repeated violation of a lease by the victim or threatened victim of such incident, or be considered good cause for terminating the assistance, tenancy, or occupancy rights under a covered housing program of the victim or threatened victim of such incident.
- G. Prohibited Basis for Denial or Termination of Assistance or Eviction Due to Criminal Activity. A tenant of HUD-assisted housing program may not be denied tenancy or occupancy rights solely on the basis of criminal activity

directly relating to domestic violence, dating violence, sexual assault, or stalking if:

- The criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, and
- The tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault or stalking.

- H. Management's Right to Evict or Terminate Assistance due to Serious or Repeated Lease Violations. A tenant of HUD-assisted housing can be evicted and/or assistance terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking. However, the HPHA shall not hold tenants who have been victims of VAWA-related crimes to a more demanding set of rules than it applies to tenants who have not been victims of VAWA-related crimes. Protections for VAWA-victims may not apply if the HPHA can demonstrate that not evicting or terminating assistance would present a real physical danger that would occur within an immediate timeframe, and could result in death or serious bodily harm to other tenants or those who work on the property. However, the HPHA will only terminate assistance or evict if there are no other actions that could be taken to reduce or eliminate the threat.
- I. Tenant's Right to Have their Lease Bifurcated rather than Requesting a Transfer. The HPHA may bifurcate a tenant's lease in order to evict or terminate the assistance of the individual who has engaged in VAWA-related criminal activity (the abuser or perpetrator). If a tenant chooses to have the abuser or perpetrator removed, the HPHA may not take away the rights of eligible tenants to the unit or otherwise penalize the remaining tenants or lawful occupants.

IX. HPHA EMERGENCY TRANSFER PLAN: EMERGENCY TRANSFER & PORTABILITY

- A. All tenants in the HPHA's HUD-covered housing programs will be made aware of their rights regarding emergency transfers through the *Notice of Occupancy Rights*. Also, tenants will have the right to review this VAWA Policy which contains the HPHA Emergency Transfer Plan, obtain a copy upon request, and to ask questions regarding the Policy. If a victim feels that there has been an unfair denial of an emergency transfer and is unable to resolve this situation with his/her Property Manager or the HPHA, the victim should contact HUD. This HPHA Emergency Transfer Plan shall be made available upon request. See 24 CFR 5.2005(e)(11).

- B. Number of Members in Family Desiring an Emergency Transfer. The HPHA will not deny or limit transfers to a safe and available unit based on the number of household members who request transfers, provided the victims meet the statutory and regulatory requirements for the transfer.
- C. Prohibition of Requiring Transfers to Other Properties or Programs. The HPHA will allow tenants to transfer to available and safe units within the property to avoid undergoing an application process at another property that is outside of the HPHA's control. However, when the HPHA does not have a safe and available unit to which the tenant can immediately make a transfer, the HPHA will assist such victims by providing appropriate referrals to other housing providers.
- D. Owners of assisted housing or Section 8 housing programs (including project-based voucher properties) administered by the HPHA are not required to adopt an Emergency Transfer Plan. If an owner receives a request for an emergency transfer, the owner shall explain to the victim that the HPHA is the covered housing provider for this activity, and to contact the HPHA directly.
- E. Eligibility for transfer. A tenant, or a tenant on behalf of an affiliated individual, who is a victim of domestic violence, dating violence, sexual assault, or stalking, is eligible for an emergency transfer, if:
1. The tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit; or
 2. The tenant is a victim of a sexual assault, and the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains in the same dwelling unit that the tenant is currently occupying, or the sexual assault occurred on the premises within the 90-day period preceding a request for an emergency transfer.

If a victim was attacked by a perpetrator on the grounds of the HUD-covered housing provider, but was moved from the property and sexually assaulted elsewhere, this is considered as meeting the VAWA requirements for a sexual assault occurring on the premises.

A tenant's reasonable belief that there is a threat of imminent harm from further violence may stem from an incident of domestic violence, dating violence, sexual assault, or stalking of a household member.

The ability of the HPHA to honor such request for tenants currently receiving assistance may depend upon:

1. a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking; and
2. whether the HPHA has another dwelling unit that is available and is safe to offer the tenant for a temporary or permanent transfer.

F. Emergency transfer request. To request an emergency transfer, the tenant in any HPHA HUD-covered housing program shall notify the HPHA's property management and submit a written request for a transfer. The tenant may use form HUD-5383, *Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking* (Attachment D). The tenant's request for an emergency transfer should include either:

1. A statement expressing why the tenant reasonably believes that there is a threat of imminent harm of further violence if the tenant were to remain in the same dwelling unit, and this includes a sexual assault victim; or
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-day period preceding the tenant's request for an emergency transfer.

G. Emergency transfer timing and availability. HPHA cannot guarantee that an emergency transfer request will be approved or how long it will take to process a transfer request. The HPHA 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.

Qualifying for an emergency transfer does not guarantee continued assistance under the program or a transfer to another covered housing program. Further, the emergency transfer requirements do not supersede any eligibility or occupancy requirements that may apply under a covered housing program. See 24 CFR 5.2005(e)(13).

The HPHA shall not be required to move a family out of an occupied unit in order to transfer a VAWA individual into that unit.

If an available unit is not readily available, the tenant, who is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be placed on the HPHA's tenant transfer list as a high priority transfer. The HPHA, however, shall not be required to supersede occupancy eligibility requirements as described below.

H. Internal Emergency Transfers and External Emergency Transfers.

1. An internal emergency transfer is moving a tenant to another unit assisted under the same program where the tenant would not be categorized as a new applicant. Examples include moving from one public housing unit to another public housing unit owned by the HPHA, or moving from a public housing unit at the Towers of Kuhio Park Terrace owned and operated by KPT Towers 1, LLC, to a public housing unit owned by the HPHA.
 - a. The tenant may make an internal emergency transfer under VAWA if a safe unit is immediately available.
 2. An external emergency transfer is an emergency transfer of a tenant to another unit or form of assistance where the tenant would be categorized as a new applicant. Examples include moving from a public housing unit owned by HPHA to the Section 8 housing program administered by HPHA, which includes a project-based voucher housing project under the HPHA, or moving from a public housing unit owned by HPHA to a Section 8 housing program administered by a local public housing authority, such as the City and County of Honolulu.
 3. If an internal safe unit is not immediately available, a tenant may seek an internal and external emergency transfer concurrently. For example, if an internal safe unit is not immediately available and there are no vacancies in the foreseeable future, the HPHA may provide the victim a Section 8 voucher or make referrals to other HUD-covered housing providers.
- I. Portability. Even if moving would otherwise constitute a violation of the lease, a Section 8 voucher family may move to another dwelling and continue to receive rental assistance if the family has complied with all program obligations and is moving to protect the health or safety of an individual who is or has been a victim of domestic violence, dating violence, or stalking. The HPHA may request that the family provide the HUD-approved certification form or other documentation to verify the family's claim that the request to move is prompted by incidences of abuse.

If it is necessary for a family member to break a lease in order to escape domestic violence, dating violence, or stalking, the HPHA shall not terminate the victim from the Section 8 program.

Under extraordinary circumstances, including situations involving domestic violence, dating violence, sexual assault or stalking, the HPHA may allow more than one move in a 12-month period.

- J. Project-Based Voucher. The HPHA Emergency Transfer Plan applies to project-based voucher (PBV) participants.
1. If the victim makes an emergency transfer request and has been in living in the PBV unit **for one year or more**, the HPHA shall provide the victim priority to receive the next available opportunity for tenant-based rental assistance. See 24 CFR § 983.261.
 2. The HPHA will refer the victim to other housing opportunities in the community if the victim has been living in the PBV unit for **less than one year**, tenant-based assistance is not immediately available, or another safe PBV unit is not immediately available.
 3. The family or member of the family is not required to give advanced written notice, with a copy to the HPHA, of intent to vacate the PBV unit if the family moved to protect the health or safety of the victim.
 4. If the victim seeks to move sooner than a tenant-based voucher will be available, then the HPHA will give the family priority to receive the next available opportunity for tenant-based assistance, even if they have left the unit to protect the family's safety.
- K. The HPHA shall not be responsible for the costs that tenants and their household members generally pay, including those associated with moving, application fees, deposits, in addition to costs to physically move households and their belongings. The HPHA's Executive Director may make assistance available to the victim such as through the execution of a repayment plan or through referrals to local victim service providers who may be able to help with funding transfers.
- L. The HPHA shall keep a record of all emergency transfers requested under its emergency transfer plan, and the outcomes of such requests, and retain these records for a period of three years. Requests and outcomes of such requests must be reported to HUD annually.
- M. Occupancy Eligibility Requirements May Not be Superseded
Emergency transfer obligations do not supersede any eligibility or other occupancy requirements that may apply under this housing program. For example, the tenancy priority for an available accessible unit required to be accessible under HUD's Section 504 regulation must still be applied to maximize the utilization of accessible units by individuals who need the accessibility features. The objective of the emergency transfer plan is to develop a plan for how to fill an available unit and still recognize the need to transfer an individual who qualifies for an emergency transfer as quickly as possible while meeting other obligations and balancing competing

needs. Emergency transfers under this policy are considered a high priority transfer.

1. Accessible Units or Other Reasonable Accommodation Units. HUD's Section 504 regulations describe the process by which accessible units must be occupied. In order to maximize the utilization of such units by eligible individuals who require the accessibility features of the particular unit, the HPHA will offer such a unit to an eligible qualified individual on the waiting list needing such features. After this, HPHA may then offer the unit to individuals without disabilities, including individuals who need an emergency transfer under VAWA.
 2. Timeframe for Establishing Eligibility for Emergency Transfers HUD has not set a time period for victims seeking emergency transfers to establish eligibility for other programs. In the case of bifurcation, a time period applies so that tenants may be protected from immediate eviction when a perpetrator leaves a unit. In the case of tenants requesting emergency transfers, the tenant is not facing eviction, and although it may be unsafe for tenants to remain in their units, emergency transfers are subject to whether there is a safe and available unit to which the tenant may transfer.
 3. Physical Condition Standards for Safe Units. Identification of the location of a safe dwelling unit should be determined by the VAWA victim who is requesting the transfer, based on the tenant's personal knowledge and reasonable belief about what is safe. Program regulations and policies for physical condition standards will apply for emergency transfers in the same manner that they apply to other housing.
- N. The HPHA is unable to guarantee the safety of a specific unit or property. Although the HPHA may believe that a unit or property is safe, the HPHA will not force a VAWA-victim to transfer to a site where the tenant does not feel safe.
- O. Examples of emergency transfer situations are set forth in HUD PIH Notice 2017-08, Section 12.

X. CONFIDENTIALITY

- A. Right of confidentiality. All information (including the fact that an individual is a victim of domestic violence, dating violence, stalking or sexual assault) provided to the HPHA or to a Section 8 owner or manager in connection with a verification required under section V 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 not be entered in any shared database nor provided to any other entity or individual, 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.

When communicating with an applicant, participant, or tenant who has requested VAWA protections, the HPHA and its agents or owner will take precautions to avoid inadvertent disclosure of confidential information to another individual or entity in violation of 24 CFR § 5.2007(c). Unless given permission from the victim to do so, the HPHA and/or its agents, or the owner must not leave messages that contain confidential information or refer to VAWA, the VAWA protections, or the domestic violence, dating violence, sexual assault, or stalking (e.g., asking the victim to come to the management office to pick up the form HUD-5382) on the victim's voicemail system or with other individuals, including members of the victim's household. Leaving a voicemail requesting that the victim contact the HPHA or owner without referencing VAWA, VAWA protections, or the domestic violence, dating violence, sexual assault, or stalking, is not prohibited.

Best practice is for housing providers not to send mail regarding the domestic violence, dating violence, sexual assault, or stalking (e.g., a written request to complete form HUD-5382, or written extension of the 14-business day timeframe to respond to the HPHA's or owner's request for documentation) to the victim's address if the perpetrator may have access to the victim's mail (e.g. the perpetrator is the co-head of household, or the perpetrator is employed at the residency of the victim).

B. Confidentiality in Regard to VAWA-Related Incidents

All information provided to the HPHA, HPHA Management, or the owner concerning incidents of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. HHA Management or the owner, however, may disclose the information provided if:

- The tenant or applicant gives written permission to Management or the owner to release the information on a time limited basis;
- Management or the owner needs to use the information in an eviction or termination of assistance proceeding against the victim's abuser or perpetrator;
- A law requires Management or the owner to release the information.

- C. Confidentiality in Regard to Emergency Transfers
HPHA Management or the owner will keep confidential any information that the tenant submits in requesting an emergency transfer, unless the tenant gives written permission to release the information on a time limited basis, or disclosure of the information is required by law, or required for use in an eviction proceeding or hearing regarding termination of assistance. This includes keeping confidential the new location of a transfer unit from the perpetrator of the VAWA-related crime.

See the *Notice of Occupancy Rights under the Violence Against Women Act* in the Attachments -of this plan for more information about Management's responsibility to maintain the confidentiality of information related to VAWA crimes.

XI. COURT ORDERS

- A. Court orders. The HPHA or the owner shall honor orders entered by courts of competent jurisdiction affecting individuals assisted by the HPHA. 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.

XII. NOTICE

The HPHA shall provide and/or make available the following:

HUD-5380, Notice of Occupancy Rights under the Violence Against Women Act

Each adult applicant and tenant shall be provided a copy of the Notice of Occupancy Rights. The Notice shall be accompanied by HUD Form 5382, which must be attached to the notice. Tenants can fill out form HUD-5382 to show that they are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that they wish to use their rights under VAWA.

Forms HUD-5380 and 5382 must be distributed at the following times:

- When an individual is denied assistance or admission under an assisted program;
- When an individual is admitted to a dwelling unit assisted under the covered housing program; and
- When a current resident is notified of an eviction proceeding or termination of housing assistance.

HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation

For any tenant of a HUD-covered housing program seeking VAWA protections, Management may ask in writing for the tenant to submit documentation about the

incident(s) of domestic violence, dating violence, sexual assault, or stalking. In response to this request, the tenant or someone on their behalf may complete the optional form HUD-5382, and submit it to Management, or the tenant may submit one of several other types of third-party documentation listed on form HUD-5382.

HUD-5383, *Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking*

If a tenant is a victim of domestic violence, dating violence, sexual assault, or stalking, and is seeking an emergency transfer, the tenant may use form HUD-5383 to request an emergency transfer and certify that they meet the requirements of eligibility for an emergency transfer under VAWA. Using the form does not necessarily mean that the tenant will receive an emergency transfer. Form HUD-5383 includes:

- The requirements that victims of domestic violence, dating violence, sexual assault, and stalking must meet to qualify for an emergency transfer under VAWA;
- Information about other types of documentation that those requesting a transfer may submit if the victim has such documentation and it is safe to provide;
- Information on maintaining confidentiality of facts the victim submits to the housing provider;
- Requests of information from victims about their households, the accused perpetrators, if this is known and can be safely disclosed, and about why the victims qualify for an emergency transfer under VAWA; and
- A statement that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Tenants are not required to use form HUD-5383 to request an emergency transfer, and may notify Management and submit a written request for a transfer that includes either:

- A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under Management's program; OR
- A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer

The Notice shall be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 13166.

Notice to Owners: The HPHA shall provide this Policy, form HUD-5382 *Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation*, and "Owner Notification Of Rights and Obligations"

notice to owners participating in the Section 8 Housing Choice Voucher Program of their rights and obligations under VAWA.

XIII. PROCEDURES FOR DEALING WITH INCIDENTS OR CLAIMS OF DOMESTIC VIOLENCE

In addition to the foregoing provisions and requirements, the HPHA shall adhere to the following procedures:

- A. The HPHA manager will encourage victims to seek professional assistance by referring them to the appropriate victim service providers.
- B. If police are involved, the HPHA manager should obtain a copy of the police report for its files, and recommend that the perpetrator is issued a temporary restraining order.
- C. Once a temporary restraining order is issued, and the victim has provided a certification of domestic violence, the HPHA or manager may remove the abuser from the lease. The HPHA or manager will make available to the victim the option to change existing unit entry locks at their cost, if desired.
- D. In cases where the facts are unclear, staff may liberally apply VAWA procedures and then seek immediate consultation with the Property Management and Maintenance Services Branch.
- E. The HPHA or manager may issue a written "Trespass Warning Notice" when deemed appropriate. Staff shall cooperate and coordinate with police and on-site security, if any, to the issuance and enforcement of trespass notices.
- F. The manager will keep written log of actions taken, including referrals to social service organizations, to police, or to other state agencies; to document efforts made to assist victims assisted under VAWA.
- G. The HPHA or manager may issue a Notice of Violation to one of the tenants of a lease in order to evict, remove, or 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.
- H. The HPHA and managers are required to maintain confidential information in separate files and stored in a locked restricted access cabinet.

- I. It is the policy of the HPHA to cooperate with organizations and entities, both private and government, that provide shelter and/or services to victims of domestic violence. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring the HPHA either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence or to make a referral in any particular case.

XIV. REFERENCE INFORMATION

Additional guidance can be found below:

HUD Final Rule: Violence Against Women Reauthorization Act of 2013:
Implementation in HUD Housing Programs

<https://www.federalregister.gov/documents/2016/11/16/2016-25888/violence-against-women-reauthorization-act-of-2013-implementation-in-hud-housing-programs>

PIH Notice 2017-08 (HA). dated May 19, 2017, Violence Against Women Reauthorization Act of 2013 Guidance (which supersedes: PIH Notice 2007-5, PIH Notice 2006-42; PIH Notice 2006-23).

<https://portal.hud.gov/hudportal/documents/huddoc?id=PIH-2017-08VAWRA2013.pdf>

24 CFR Part 5, Subpart L – Protection for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.

<https://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=ce96c347060e2e521a8a83fcc2c432cf&rqn=div6&view=text&node=24:1.1.1.1.5.12&idno=24>

24 CFR 960 – Admission To, and Occupancy of, Public Housing

https://www.ecfr.gov/cgi-bin/text-idx?node=pt24.4.960&rqn=div5#se24.4.960_1103

24 CFR 966 – Public Housing Lease and Grievance Procedure

<https://www.ecfr.gov/cgi-bin/text-idx?SID=e8589b529b3e8993430a924ea7257b5b&mc=true&node=pt24.4.966&rqn=div5>

24 CFR 982 – Section 8 Tenant Based Assistance Housing Choice Voucher Program

<https://www.ecfr.gov/cgi-bin/text-idx?SID=e8589b529b3e8993430a924ea7257b5b&mc=true&node=pt24.4.982&rqn=div5>

24 CFR 983 – Project-Based Voucher (PBV) Program

<https://www.ecfr.gov/cgi-bin/text-idx?SID=e8589b529b3e8993430a924ea7257b5b&mc=true&node=pt24.4.983&rqn=div5>

Attachments:

- Attachment A: Local Resources for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking
- Attachment B: Notice of Occupancy Rights Under the Violence Against Women Act, Form HUD-5380 for Public Housing, including Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation, Form HUD-5382
- Attachment C: Notice of Occupancy Rights Under the Violence Against Women Act, HUD 5380 for Section 8, including Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation, Form HUD-5382
- Attachment D: Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, Form HUD-5383
- Attachment E: Owner Notification of Rights and Obligations (based on HUD PIH Notice 2017-08, Model Owner Notification of Rights and Obligations)

Attachment A

Local Resources for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

Domestic Violence Help

For help regarding an abusive relationship, you may contact:

- National Domestic Violence Hotline at **1-800-799-7233** or, for persons with hearing impairments, **1-800-787-3224 (TTY)**.

- Hawaii State Coalition Against Domestic Violence at **(808) 832-9316**.
1164 Bishop St. Ste. 1609
Honolulu, HI 96813
Website: www.hscadv.org
Email: mrocca@hscadv.org

- Domestic Violence Action Center at **(808) 531-3771**
P.O. Box 3198
Honolulu, HI 96801-3198
Website: www.domesticviolenceactioncenter.org/
Email: dvac@stoptheviolence.org

Domestic Violence Shelter Services (24-hr)

- Oahu
 - Child and Family Service: **(808) 841-0822**
Confidential Address
Website: www.childandfamilyservice.org

 - Parents and Children Together: **(808) 526-2200**
(Ohia Domestic Violence Shelter)
Confidential Address
Website: www.pacthawaii.org

 - Hale Ola Windward Abuse Shelter: **(808) 528-0606**
PO BOX 1955
Kailua, HI 96734
Email: aviswsas@yahoo.com

United Church of Christ Transition House: **(808) 943-2837**
Confidential Address
Email: megm1@hawaii.rr.com

○ Hawaii (Big Island)

Hale Ohana Shelter: **(808) 959-8864**
Confidential Address

Domestic Abuse Shelter – West Hawaii: **(808) 322-7233**
Confidential Address

○ Kauai

YWCA Family Violence Program and Shelter: **(808) 245-6362**
3094 Elua St.
Lihue, HI 96766
Email: diane.wada@ywcakauai.org

○ Maui

Women Helping Women Hale Lokomaika'i Shelter: **(808) 579-9581**
1935 Main St. Ste. 202
Wailuku, HI 96793
Website: www.whwmaui.net
Email: info@whwmaui.net

○ Lanai

Women Helping Women: **(808) 565-6700**
PO BOX 631067
Lanai City, HI 96763
Email: lanai@whwmaui.net

○ Molokai

Hale Ho`omalua Shelter: **(808) 567-6888**
PO BOX 839
Kaunakakai, HI 96748
Email: hhs@wave.hicv.net

Programs & Intervention Services

- Oahu

PACT Family Peace Center: **(808) 585-7944**

(Pu'uhonua DV Crisis Counseling)

1485 Linapuni St. Ste. 105

Honolulu, HI 96819

Website: www.pacthawaii.org

Email: fpc@pacthawaii.org

PACT Family Visitation Center: **(808) 847-0015**

Various locations

Website: www.pacthawaii.org

Email: fpc@pacthawaii.org

Catholic Charities Hawai'i (DV Therapy & Intervention)

Men: **(808) 527-4471**

Women: **(808) 527-4476**

1822 Keeaumoku St.

Honolulu, HI 96822

Website: www.catholiccharitieshawaii.org

Email: jbloom@catholiccharitieshawaii.org

Child and Family Service – DOV: **(808) 841-0822**

1130 North Nimitz Highway Ste. C-301

Honolulu, HI 96817

Website: www.childandfamilyservice.org

Salvation Army Family Treatment Services: **(808) 739-4952**

845 22nd Ave.

Honolulu, HI 96816

Website: www.hawaii.salvationarmy.org

Joyful Heart Foundation: **(808) 531-3520**

245 N. Kukui St. Ste. 102A

Honolulu, HI 96817

Website: www.joyfulheartfoundation.org

Email: info@joyfulheartfoundation.org

- Hawaii (Big Island)

Turning Point for Families:
East Hawaii: **(808) 935-2188** / West Hawaii: **(808) 323-2664**
1045A Kilauea Ave
Hilo, HI 96720
Website: www.childandfamilyservice.org

Hilo Family Visitation Centers at Hilo YMCA: **(808) 935-3721**
300 West Lanikaula St.
Hilo, HI 96720
Email: ymcafamilyvisitation@hawaii.rr.com

○ Kauai

YWCA Decision Point – Alternatives To Violence (ATV): **(808) 245-5959**
3094 Elua St.
Lihue, HI 96766
Email: dennis@ywcakauai.org

○ Maui

Child and Family Service: **(808) 877-6888**
392 N. Market St.
Wailuku, HI 96793
Website: www.childandfamilyservice.org

Women Helping Women (Lahaina): **(808) 661-7111**
392 N. Market St.
Wailuku, HI 96793
Website: www.childandfamilyservice.org

PACT – Maui Family Peace Center: **(808) 244-2330**
81 N. Market St.
Wailuku, HI 96793
Website: www.pacthawaii.org

○ Lanai

Women Helping Women: **(808) 565-6700**
PO BOX 631067
Lanai City, HI 96763
Email: lanai@whwmaui.net

- Molokai

Hale Ho`omalua ATV: **(808) 567-6888**
PO BOX 839
Kaunakakai, HI 96748
Email: hhs@wave.hicv.net

Stalking Resources

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at

www.victimsofcrime.org/our-programs/stalking-resource-center.

Sexual Assault & Human Trafficking

For help regarding sexual assault, you may contact resources available at the website for Hawaii Says No More at www.hawaiisaysnomore.org/resources.

- Oahu

Ala Kuola (Hawaii Family Law Clinic): **(808) 545-1880**
677 Ala Moana Blvd. Ste. 1005
Honolulu, HI 96813
Website: www.alakuolahawaii.com

Catholic Charities Hawai'i: **(808) 521-4357**
1822 Keeaumoku St.
Honolulu, HI 96822
Website: www.catholiccharitieshawaii.org

Hawaii Immigrant Justice Center: **(808) 536-8826**
Neighbor Islands: **1-800-499-4302 ext. 279**
Website: www.legalaidhawaii.org/immigrant-justice-center.html

Ho`ola Napua: **(808) 445-3131**
PO BOX 22551
Honolulu, HI 96823
Website: www.hoolanapua.org

Legal Aid Society of Hawaii (LASH): **(808) 536-4302**
924 Bethel St.

Honolulu, HI 96813
Website: www.legalaidhawaii.org

Pacific Survivor Center: **info@pschawaii.org**
PO BOX 3535
Honolulu, HI 96811
Website: www.pschawaii.org

The Sex Abuse Treatment Center: **(808) 535-7273**
Harbor Court 55 Merchant St. 22nd Floor
Honolulu, HI 96813
Website: www.satchawaii.org

University of Hawai'i (Manoa) – Office of Gender Equity: **(808) 956-4541**
2600 Campus Rd. QLCSS 210
Honolulu, HI 96822
Website: www.manoa.hawaii.edu/genderequity
Email: geneq@hawaii.edu

Children's Alliance of Hawai'i: **(808) 599-2955**
200 N. Vineyard Blvd. Ste. 410
Honolulu, HI 96817
Website: www.cahawaii.org
Email: cah@childrensalliancehawaii.org

808 Halt Coalition: **(808) 851-7010**
Pacific Gateway Center 723-C Umi St.
Honolulu, HI 96819
Website: www.808halt.com
Email: avt@pacificgateway.org

○ Hawaii (Big Island)

Lokahi Treatment Centers: **(808) 969-9292**
400 Hualani St. Bldg. 10 Ste. #195B
Waiakea Villas
Hilo, HI 96720
Website: www.lokahitreatmentcenters.net
Email: info@lokahitreatmentcenters.net

YWCA Hawai'i Island: **(808) 935-0677**
145 Ululani St.

Hilo, HI 96720

Website: www.ywcahawaiiisland.org

- Kauai

YWCA Family Violence Program and Shelter: **(808) 245-4144**

3094 Elua St.

Lihue, HI 96766

Email: diane.wada@ywcakauai.org

- Maui

Child & Family Service – Neighborhood Place of Wailuku: **(808) 873-8624**

392 N. Market Street

Wailuku, HI 96793

Website: www.childandfamilyservice.org

- Lanai

Women Helping Women – Lana'i: **(808) 579-9581**

1144 Ilima Ave.

Lana'I City, HI

Website: www.womenhelpingwomenmaui.com/programs/lanai/

- Molokai

Child & Family Service – Moloka'i Office: **(808) 553-5529**

20A Ala Malama St.

Kaunakakai, HI 96748

Hawaii Public Housing Authority

Notice of Occupancy Rights under the Violence Against Women Act¹

To all Tenants and Applicants:

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.² The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the federal low income public housing program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

Protections for Applicants

If you otherwise qualify for assistance under federal low income public housing program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under the HPHA’s federal low income public housing program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under federal low income public housing program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

¹ Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Removing the Abuser or Perpetrator from the Household

HPHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If HPHA chooses to remove the abuser or perpetrator, HPHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, HPHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, HPHA must follow Federal, State, and local eviction procedures. In order to divide a lease, HPHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, HPHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, HPHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA.

The criteria are:

- (1) **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your manager or the HPHA does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your manager may ask you for such documentation, as described in the documentation section below.
- (2) **You expressly request the emergency transfer.** Your manager or the HPHA may choose to require that you submit a form, or may accept another written or oral request.
- (3) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably

believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HPHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

HPHA's emergency transfer plan provides further information on emergency transfers, and HPHA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

HPHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HPHA must be in writing, and HPHA must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HPHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HPHA as documentation. It is your choice which of the following to submit if HPHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HPHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he

or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that HPHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HPHA does not have to provide you with the protections contained in this notice.

If HPHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HPHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HPHA does not have to provide you with the protections contained in this notice.

Confidentiality

HPHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HPHA must not allow any individual administering assistance or other services on behalf of HPHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HPHA must not enter your information into any shared database or disclose your information to any other entity or individual. HPHA, however, may disclose the information provided if:

- You give written permission to HPHA to release the information on a time limited basis.
- HPHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires HPHA or your landlord to release the information.

VAWA does not limit HPHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HPHA cannot hold tenants who have been victims of domestic violence,

dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HPHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If HPHA can demonstrate the above, HPHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with the Hawaii Public Housing Authority at 1002 N. School Street, Honolulu, HI 96817 or the Hawaii HUD Field Office at 1132 Bishop Street, Suite 1400 Honolulu, HI 96813-4918.

For Additional Information

You may view a copy of HUD's final VAWA rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, HPHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact your property manager or the HPHA's Property Management and Maintenance Services Branch at (808) 832-4696.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact the Hawaii State Coalition Against Domestic Violence at 808-832-9316.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact resources available at the website for Hawaii Says No More at <https://hawaiisaysnomore.org/resources/>. Service providers are listed by island on their website.

Victims of stalking seeking help may contact resources available at the website for The National Center for Victims of Crime at <https://victimsofcrime.org/our-programs/stalking-resource-center/help-for-victims/state-information/hawaii>.

Attachment: Certification form HUD-5382: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation

**CERTIFICATION OF
DOMESTIC VIOLENCE,
DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING,
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's) _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

Hawaii Public Housing Authority

Notice of Occupancy Rights under the Violence Against Women Act¹

To all Tenants and Applicants:

The Violence Against Women Act (VAWA) provides protections for victims of domestic violence, dating violence, sexual assault, or stalking. VAWA protections are not only available to women, but are available equally to all individuals regardless of sex, gender identity, or sexual orientation.² The U.S. Department of Housing and Urban Development (HUD) is the Federal agency that oversees that the federal section 8 program is in compliance with VAWA. This notice explains your rights under VAWA. A HUD-approved certification form is attached to this notice. You can fill out this form to show that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking, and that you wish to use your rights under VAWA.”

Protections for Applicants

If you otherwise qualify for assistance under federal section 8 program, you cannot be denied admission or denied assistance because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

Protections for Tenants

If you are receiving assistance under the HPHA’s federal section 8 program, you may not be denied assistance, terminated from participation, or be evicted from your rental housing because you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Also, if you or an affiliated individual of yours is or has been the victim of domestic violence, dating violence, sexual assault, or stalking by a member of your household or any guest, you may not be denied rental assistance or occupancy rights under federal section 8 program solely on the basis of criminal activity directly relating to that domestic violence, dating violence, sexual assault, or stalking.

Affiliated individual means your spouse, parent, brother, sister, or child, or a person to whom you stand in the place of a parent or guardian (for example, the affiliated individual is in your care, custody, or control); or any individual, tenant, or lawful occupant living in your household.

¹ Despite the name of this law, VAWA protection is available regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Removing the Abuser or Perpetrator from the Household

HPHA may divide (bifurcate) your lease in order to evict the individual or terminate the assistance of the individual who has engaged in criminal activity (the abuser or perpetrator) directly relating to domestic violence, dating violence, sexual assault, or stalking.

If HPHA chooses to remove the abuser or perpetrator, HPHA may not take away the rights of eligible tenants to the unit or otherwise punish the remaining tenants. If the evicted abuser or perpetrator was the sole tenant to have established eligibility for assistance under the program, HPHA must allow the tenant who is or has been a victim and other household members to remain in the unit for a period of time, in order to establish eligibility under the program or under another HUD housing program covered by VAWA, or, find alternative housing.

In removing the abuser or perpetrator from the household, HPHA must follow Federal, State, and local eviction procedures. In order to divide a lease, HPHA may, but is not required to, ask you for documentation or certification of the incidences of domestic violence, dating violence, sexual assault, or stalking.

Moving to Another Unit

Upon your request, HPHA may permit you to move to another unit, subject to the availability of other units, and still keep your assistance. In order to approve a request, HPHA may ask you to provide documentation that you are requesting to move because of an incidence of domestic violence, dating violence, sexual assault, or stalking. If the request is a request for emergency transfer, the housing provider may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA.

The criteria are:

- (1) **You are a victim of domestic violence, dating violence, sexual assault, or stalking.** If your manager or the HPHA does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your manager may ask you for such documentation, as described in the documentation section below.
- (2) **You expressly request the emergency transfer.** Your manager or the HPHA may choose to require that you submit a form, or may accept another written or oral request.
- (3) **You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit.** This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably

believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you expressly request the transfer.

HPHA will keep confidential requests for emergency transfers by victims of domestic violence, dating violence, sexual assault, or stalking, and the location of any move by such victims and their families.

HPHA's emergency transfer plan provides further information on emergency transfers, and HPHA must make a copy of its emergency transfer plan available to you if you ask to see it.

Documenting You Are or Have Been a Victim of Domestic Violence, Dating Violence, Sexual Assault or Stalking

HPHA can, but is not required to, ask you to provide documentation to "certify" that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking. Such request from HPHA must be in writing, and HPHA must give you at least 14 business days (Saturdays, Sundays, and Federal holidays do not count) from the day you receive the request to provide the documentation. HPHA may, but does not have to, extend the deadline for the submission of documentation upon your request.

You can provide one of the following to HPHA as documentation. It is your choice which of the following to submit if HPHA asks you to provide documentation that you are or have been a victim of domestic violence, dating violence, sexual assault, or stalking.

- A complete HUD-approved certification form given to you by HPHA with this notice, that documents an incident of domestic violence, dating violence, sexual assault, or stalking. The form will ask for your name, the date, time, and location of the incident of domestic violence, dating violence, sexual assault, or stalking, and a description of the incident. The certification form provides for including the name of the abuser or perpetrator if the name of the abuser or perpetrator is known and is safe to provide.
- A record of a Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency that documents the incident of domestic violence, dating violence, sexual assault, or stalking. Examples of such records include police reports, protective orders, and restraining orders, among others.
- A statement, which you must sign, along with the signature of an employee, agent, or volunteer of a victim service provider, an attorney, a medical professional or a mental health professional (collectively, "professional") from whom you sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, and with the professional selected by you attesting under penalty of perjury that he

or she believes that the incident or incidents of domestic violence, dating violence, sexual assault, or stalking are grounds for protection.

- Any other statement or evidence that HPHA has agreed to accept.

If you fail or refuse to provide one of these documents within the 14 business days, HPHA does not have to provide you with the protections contained in this notice.

If HPHA receives conflicting evidence that an incident of domestic violence, dating violence, sexual assault, or stalking has been committed (such as certification forms from two or more members of a household each claiming to be a victim and naming one or more of the other petitioning household members as the abuser or perpetrator), HPHA has the right to request that you provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If you fail or refuse to provide third-party documentation where there is conflicting evidence, HPHA does not have to provide you with the protections contained in this notice.

Confidentiality

HPHA must keep confidential any information you provide related to the exercise of your rights under VAWA, including the fact that you are exercising your rights under VAWA.

HPHA must not allow any individual administering assistance or other services on behalf of HPHA (for example, employees and contractors) to have access to confidential information unless for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law.

HPHA must not enter your information into any shared database or disclose your information to any other entity or individual. HPHA, however, may disclose the information provided if:

- You give written permission to HPHA to release the information on a time limited basis.
- HPHA needs to use the information in an eviction or termination proceeding, such as to evict your abuser or perpetrator or terminate your abuser or perpetrator from assistance under this program.
- A law requires HPHA or your landlord to release the information.

VAWA does not limit HPHA's duty to honor court orders about access to or control of the property. This includes orders issued to protect a victim and orders dividing property among household members in cases where a family breaks up.

Reasons a Tenant Eligible for Occupancy Rights under VAWA May Be Evicted or Assistance May Be Terminated

You can be evicted and your assistance can be terminated for serious or repeated lease violations that are not related to domestic violence, dating violence, sexual assault, or stalking committed against you. However, HPHA cannot hold tenants who have been victims of domestic violence,

dating violence, sexual assault, or stalking to a more demanding set of rules than it applies to tenants who have not been victims of domestic violence, dating violence, sexual assault, or stalking.

The protections described in this notice might not apply, and you could be evicted and your assistance terminated, if HPHA can demonstrate that not evicting you or terminating your assistance would present a real physical danger that:

- 1) Would occur within an immediate time frame, and
- 2) Could result in death or serious bodily harm to other tenants or those who work on the property.

If HPHA can demonstrate the above, HPHA should only terminate your assistance or evict you if there are no other actions that could be taken to reduce or eliminate the threat.

Other Laws

VAWA does not replace any Federal, State, or local law that provides greater protection for victims of domestic violence, dating violence, sexual assault, or stalking. You may be entitled to additional housing protections for victims of domestic violence, dating violence, sexual assault, or stalking under other Federal laws, as well as under State and local laws.

Non-Compliance with The Requirements of This Notice

You may report a covered housing provider's violations of these rights and seek additional assistance, if needed, by contacting or filing a complaint with the Hawaii Public Housing Authority at 1002 N. School Street, Honolulu, HI 96817 or the Hawaii HUD Field Office at 1132 Bishop Street, Suite 1400 Honolulu, HI 96813-4918.

For Additional Information

You may view a copy of HUD's final VAWA rule at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-16/pdf/2016-25888.pdf>.

Additionally, HPHA must make a copy of HUD's VAWA regulations available to you if you ask to see them.

For questions regarding VAWA, please contact your property manager or the HPHA's Property Management and Maintenance Services Branch at (808) 832-4696.

For help regarding an abusive relationship, you may call the National Domestic Violence Hotline at 1-800-799-7233 or, for persons with hearing impairments, 1-800-787-3224 (TTY). You may also contact the Hawaii State Coalition Against Domestic Violence at 808-832-9316.

For tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

For help regarding sexual assault, you may contact resources available at the website for Hawaii Says No More at <https://hawaiisaysnomore.org/resources/>. Service providers are listed by island on their website.

Victims of stalking seeking help may contact resources available at the website for The National Center for Victims of Crime at <https://victimsofcrime.org/our-programs/stalking-resource-center/help-for-victims/state-information/hawaii>.

Attachment: Certification form HUD-5382: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation

**CERTIFICATION OF
DOMESTIC VIOLENCE,
DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING,
AND ALTERNATE DOCUMENTATION**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: The Violence Against Women Act (“VAWA”) protects applicants, tenants, and program participants in certain HUD programs from being evicted, denied housing assistance, or terminated from housing assistance based on acts of domestic violence, dating violence, sexual assault, or stalking against them. Despite the name of this law, VAWA protection is available to victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

Use of This Optional Form: If you are seeking VAWA protections from your housing provider, your housing provider may give you a written request that asks you to submit documentation about the incident or incidents of domestic violence, dating violence, sexual assault, or stalking.

In response to this request, you or someone on your behalf may complete this optional form and submit it to your housing provider, or you may submit one of the following types of third-party documentation:

- (1) A document signed by you and an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom you have sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse. The document must specify, under penalty of perjury, that the professional believes the incident or incidents of domestic violence, dating violence, sexual assault, or stalking occurred and meet the definition of “domestic violence,” “dating violence,” “sexual assault,” or “stalking” in HUD’s regulations at 24 CFR 5.2003.
- (2) A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
- (3) At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

Submission of Documentation: The time period to submit documentation is 14 business days from the date that you receive a written request from your housing provider asking that you provide documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking. Your housing provider may, but is not required to, extend the time period to submit the documentation, if you request an extension of the time period. If the requested information is not received within 14 business days of when you received the request for the documentation, or any extension of the date provided by your housing provider, your housing provider does not need to grant you any of the VAWA protections. Distribution or issuance of this form does not serve as a written request for certification.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking shall be kept confidential and such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections to you, and such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

**TO BE COMPLETED BY OR ON BEHALF OF THE VICTIM OF DOMESTIC VIOLENCE,
DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING**

1. Date the written request is received by victim: _____

2. Name of victim: _____

3. Your name (if different from victim's) _____

4. Name(s) of other family member(s) listed on the lease: _____

5. Residence of victim: _____

6. Name of the accused perpetrator (if known and can be safely disclosed): _____

7. Relationship of the accused perpetrator to the victim: _____

8. Date(s) and times(s) of incident(s) (if known): _____

10. Location of incident(s): _____

In your own words, briefly describe the incident(s):

This is to certify that the information provided on this form is true and correct to the best of my knowledge and recollection, and that the individual named above in Item 2 is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Public Reporting Burden: The public reporting burden for this collection of information is estimated to average 1 hour per response. This includes the time for collecting, reviewing, and reporting the data. The information provided is to be used by the housing provider to request certification that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking. The information is subject to the confidentiality requirements of VAWA. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid Office of Management and Budget control number.

**EMERGENCY TRANSFER
REQUEST FOR CERTAIN
VICTIMS OF DOMESTIC
VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT, OR STALKING**

**U.S. Department of Housing
and Urban Development**

OMB Approval No. 2577-0286
Exp. 06/30/2017

Purpose of Form: If you are a victim of domestic violence, dating violence, sexual assault, or stalking, and you are seeking an emergency transfer, you may use this form to request an emergency transfer and certify that you meet the requirements of eligibility for an emergency transfer under the Violence Against Women Act (VAWA). Although the statutory name references women, VAWA rights and protections apply to all victims of domestic violence, dating violence, sexual assault or stalking. Using this form does not necessarily mean that you will receive an emergency transfer. See your housing provider's emergency transfer plan for more information about the availability of emergency transfers.

The requirements you must meet are:

(1) You are a victim of domestic violence, dating violence, sexual assault, or stalking.

If your housing provider does not already have documentation that you are a victim of domestic violence, dating violence, sexual assault, or stalking, your housing provider may ask you for such documentation. In response, you may submit Form HUD-5382, or any one of the other types of documentation listed on that Form.

(2) You expressly request the emergency transfer. Submission of this form confirms that you have expressly requested a transfer. Your housing provider may choose to require that you submit this form, or may accept another written or oral request. Please see your housing provider's emergency transfer plan for more details.

(3) You reasonably believe you are threatened with imminent harm from further violence if you remain in your current unit. This means you have a reason to fear that if you do not receive a transfer you would suffer violence in the very near future.

OR

You are a victim of sexual assault and the assault occurred on the premises during the 90-calendar-day period before you request a transfer. If you are a victim of sexual assault, then in addition to qualifying for an emergency transfer because you reasonably believe you are threatened with imminent harm from further violence if you remain in your unit, you may qualify for an emergency transfer if the sexual assault occurred on the premises of the property from which you are seeking your transfer, and that assault happened within the 90-calendar-day period before you submit this form or otherwise expressly request the transfer.

Submission of Documentation: If you have third-party documentation that demonstrates why you are eligible for an emergency transfer, you should submit that documentation to your housing provider if it is safe for you to do so. Examples of third party documentation include, but are not limited to: a letter or other documentation from a victim service provider, social worker, legal assistance provider, pastoral counselor, mental health provider, or other professional from whom you have sought assistance; a current restraining order; a recent court order or other court records; a law enforcement report or records; communication records from the perpetrator of the violence or family members or friends of the perpetrator of the violence, including emails, voicemails, text messages, and social media posts.

Confidentiality: All information provided to your housing provider concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking, and concerning your request for an emergency transfer shall be kept confidential. Such details shall not be entered into any shared database. Employees of your housing provider are not to have access to these details unless to grant or deny VAWA protections or an emergency transfer to you. Such employees may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) consented to by you in writing in a time-limited release; (ii) required for use in an eviction proceeding or hearing regarding termination of assistance; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY OR ON BEHALF OF THE PERSON REQUESTING A TRANSFER

1. Name of victim requesting an emergency transfer: _____

2. Your name (if different from victim's) _____

3. Name(s) of other family member(s) listed on the lease: _____

4. Name(s) of other family member(s) who would transfer with the victim: _____

5. Address of location from which the victim seeks to transfer: _____

6. Address or phone number for contacting the victim: _____

7. Name of the accused perpetrator (if known and can be safely disclosed): _____

8. Relationship of the accused perpetrator to the victim: _____

9. Date(s), Time(s) and location(s) of incident(s): _____

10. Is the person requesting the transfer a victim of a sexual assault that occurred in the past 90 days on the premises of the property from which the victim is seeking a transfer? If yes, skip question 11. If no, fill out question 11. _____

11. Describe why the victim believes they are threatened with imminent harm from further violence if they remain in their current unit.

12. If voluntarily provided, list any third-party documentation you are providing along with this notice: _____

This is to certify that the information provided on this form is true and correct to the best of my knowledge, and that the individual named above in Item 1 meets the requirement laid out on this form for an emergency transfer. I acknowledge that submission of false information could jeopardize program eligibility and could be the basis for denial of admission, termination of assistance, or eviction.

Signature _____ Signed on (Date) _____

Owner Notification of Rights and Obligations¹

Hawai'i Public Housing Authority

NOTIFICATION OF YOUR RIGHTS AND OBLIGATIONS UNDER THE VIOLENCE AGAINST WOMEN ACT (VAWA)

VAWA provides protections for Section 8 Housing Choice Voucher (HCV) 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.

Purpose

Many of VAWA's protections to victims of domestic violence, dating violence, sexual assault and stalking involve action by the public housing agency (PHA), but some situations involve action by owners of assisted housing. The purpose of this notice (herein called "Notice") is to explain your rights and obligations under VAWA, as an owner of housing assisted through the Hawai'i Public Housing Authority HCV program. Each component of this Notice also provides citations to HUD's applicable regulations.

Denial of Tenancy

Protections for applicants: Owners cannot deny tenancy based on the applicant having been or currently being a victim of domestic violence, dating violence, sexual assault, or stalking. However, the applicant must be otherwise eligible for tenancy. (See 24 Code of Federal Regulations (CFR) 982.452(b)(1).)

Eviction

Protections for HCV participants: Incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be considered a serious or repeated lease violation by the victim, or good cause to terminate the tenancy of the victim (24 CFR 5.2005(c)). Protection also applies to criminal activity related directly to domestic violence, dating violence, sexual assault, or stalking, conducted by a member of a tenant's household or any guest or other person under the tenant's control, if the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking (24 CFR 5.2005(b)(2)).

Limitations of VAWA protections:

a. Nothing in the VAWA Final Rule limits the authority of an owner, when notified of a court order, to comply with a court order with respect to (24 CFR 5.2005(d)(1)):

- 1) The rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault, or stalking; or
- 2) The distribution or possession of property among members of a household in a case.

¹ Based on HUD PIH Notice 2017-08, Appendix II, Model Owner Notification of Rights and Obligations.

b. Nothing in the VAWA Final Rule limits an owner from evicting a victim of domestic violence, dating violence, sexual assault, or stalking for a lease violation that is not premised on an act of domestic violence, dating violence, sexual assault, or stalking, as long as the owner does not subject the victim to more demanding standards than other tenants when deciding whether to evict. (See 24 CFR 5.2005(d)(2).)

c. Nothing in the VAWA Final Rule limits an owner from evicting a tenant (including the victim of domestic violence, dating violence, sexual assault, or stalking) if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to the HCV property would be present if the tenant or lawful occupant is not evicted. (See 24 CFR 5.2005(d)(3).)

i. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the following standards: An actual and imminent threat consists of 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. (See 24 CFR 5.2003.)

ii. Any eviction due to “actual and imminent threat” should be utilized by an owner only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents. (See 24 CFR 5.2005(d)(4).)

Documentation of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

If an applicant or tenant requests VAWA protection based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, the owner has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. However, nothing in HUD’s regulation requires a covered housing provider to request this documentation. (See 24 CFR 5.2007(b)(3).)

If the owner chooses to request this documentation, the owner must make such request in writing. The individual may satisfy this request by providing any one document type listed under 24 CFR 5.2007(b)(1):

a. Form HUD-55383 (Self-Certification Form); or

b. A document:

1) Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse:

- 2) Signed by the applicant or tenant; and
 - 3) That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under 24 CFR 5.2003; or
- c. A record of a Federal, State, tribal, territorial or local law enforcement agency, court, or administrative agency; or
 - d. At the discretion of a covered housing provider, a statement or other evidence provided by the applicant or tenant.

The owner must accept any of the above items (a – c). The owner has discretion to accept a statement or other evidence (d).

The owner is prohibited from requiring third-party documentation of the domestic violence, dating violence, sexual assault, or stalking, unless the submitted documentation contains conflicting information.

If the owner makes a written request for documentation, the owner may require submission of that documentation within 14 business days after the date that the individual received the written request for documentation. (24 CFR 5.2007(a)(2)). The owner may extend this time period at its discretion. During the 14 business day period and any granted extensions of that time, no adverse actions, such as evictions or terminations, can be taken against the individual requesting VAWA protection.

Once a victim provides documentation of domestic violence, dating violence, sexual assault, or stalking, the owner is encouraged to acknowledge receipt of the documentation in a timely manner.

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.

An individual's failure to timely provide documentation of domestic violence, dating violence, sexual assault, or stalking does not result in a waiver of the individual's right to challenge the denial of assistance or termination, nor does it preclude the individual's ability to raise an incident of domestic violence, dating violence, sexual assault, or stalking at eviction or termination proceedings.

Moves

A victim of domestic violence, dating violence, sexual assault, or stalking may move in violation of their lease if the move is required to protect their safety. If a move results in the termination of the Housing Assistance Payment Contract, the lease is automatically terminated.

Lease Bifurcation

Owners may choose to bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual. (See 24 CFR 5.2009(a).) If an owner chooses to bifurcate the lease, the owner must comply with the reasonable time to establish eligibility under the covered housing program or find alternative housing following lease bifurcation provision in 24 CFR 5.2009(b). VAWA protections, including bifurcation, do not apply to guests or unreported members of a household or anyone else residing in a household who is not a tenant.

Eviction, removal, termination of occupancy rights, or termination of assistance must be effected in accordance with the procedures prescribed by federal, state, or local law for termination of leases.

To avoid unnecessary delay in the bifurcation process, HUD recommends that owners seek court-ordered eviction of the perpetrator pursuant to applicable laws. This process results in the underlying lease becoming null and void once the owner regains possession of the unit. The owner would then execute a new lease with the victim.

Evictions Due to “Actual and Imminent Threat” or Violations Not Premised on Abuse

The VAWA Final Rule generally prohibits eviction on the basis 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, if the applicant or tenant otherwise qualifies for assistance, participation or occupancy. (See 24 CFR 5.2005.)

However, the VAWA Final Rule does not prohibit an owner from evicting a tenant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or an affiliated individual of the tenant. Nor does the VAWA Final Rule prohibit an owner from evicting a tenant if the owner can demonstrate an actual and imminent threat to other tenants or those employed at or providing services to property of the owner would be present if that tenant or lawful occupant is not evicted or terminated from assistance. (See 5.2005(d)(2) and (3).)

In order to demonstrate an actual and imminent threat to other tenants or employees at the property, the covered housing provider must have objective evidence of words, gestures, actions, or other indicators that meet the standards in the following definition:

Actual and imminent threat refers to 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.

(See 24 CFR 5.2003 and 5.2005(d)(2).)

Confidentiality

Any information submitted to a covered housing provider under 24 CFR 5.2007, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be maintained in strict confidence by the covered housing provider. (See 24 CFR 5.2007(c).)

Employees of the owner (or those within their employ, e.g., contractors) must not have access to the information unless explicitly authorized by the owner for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law (e.g., the information is needed by an employee to provide the VAWA protections to the victim). The owner must not enter this information into any shared database, or disclose this information to any other entity or individual, except to the extent that disclosure is:

- a. Requested or consented to in writing by the individual (victim) in a time-limited release;
- b. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- c. Otherwise required by applicable law.

When communicating with the victim, owners must take precautions to ensure compliance with these confidentiality requirements.

Service Providers

The Hawai'i Public Housing Authority staff are available to provide referrals to shelters, counselors, and advocates. These resources are also provided in the Hawai'i Public Housing Authority VAWA Policy, which lists the local service providers.

Definitions

Actual and imminent threat refers to 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.

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.

Bifurcate means to divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local law, such that certain tenants or lawful occupants can be evicted or removed and the remaining tenants or lawful occupants can continue to reside in the unit under the same lease requirements or as may

be revised depending upon the eligibility for continued occupancy of the remaining tenants and lawful occupants.

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.

Domestic violence includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated 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 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. The term "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.

Sexual assault means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

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.

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

Attached:

HPHA VAWA Policy

Form HUD-5382 Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

HPHA VAWA Notice of Occupancy Rights