

Violence Against Women Act Policy

The Lynn Housing Authority and Neighborhood Development (LHAND) has adopted all requirements to implement applicable provisions of the Violence Against Women Reauthorization Act of 2013 (Pub. L. 113-4, 127 Stat. 54).

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.

LHAND's goals, objectives and policies are to enable LHAND to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, and stalking, as defined in VAWA 2013, and stated in the LHAND Notice of Occupancy Rights Under the Violence Against Women Act (VAWA), a copy of which is distributed to all program participants. In addition, LHAND shall operate programs to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, and stalking as and to the extent such programs are described from time to time in LHAND's Annual Public Housing Agency Plan.

BACKGROUND

A federal law that went into effect in 2006, and was reauthorized and amended in 2013, provides legal protections to tenants and affiliated individuals of tenants (male or female) who are victims of domestic violence, dating violence, sexual assault, or stalking from being evicted or terminated from housing assistance based on acts of such violence against them. The provisions apply to victims of violence who receive publicly assisted housing benefits.

DEFINITIONS

Domestic Violence: Includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim share a child in common, by a person who is cohabitated with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

Dating Violence: Violence committed by a person:

- (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- (B) (where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Sexual Assault: an involuntary sexual act in which a person is coerced or physically forced to engage against their will, or any non-consensual sexual touching of a person.

Stalking: to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate; or to place under surveillance with the intent to kill, injure, harass, or intimidate another person; and in the course of, or as a result of, such following, pursuit, surveillance, or repeatedly committed acts, to place a person in reasonable fear of the death of, or serious bodily injury to, or to cause substantial emotional harm to (i) that person, (ii) a member of the immediate family of that person; or (iii) the spouse or intimate partner of that person.

Affiliated Individual: a 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.

PROTECTIONS FOR APPLICANTS

If an applicant otherwise qualifies for assistance under one of LHAND's federally-subsidized housing programs covered by VAWA, the applicant cannot be denied admission or denied assistance because the applicant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

PROTECTIONS FOR TENANTS

In general, the law provides in part that criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of a tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the victim or threatened victim of domestic violence, dating violence, sexual assault, or stalking.

The law also provides that any incidents or threats of domestic violence, dating violence, sexual assault, or stalking will not be construed as serious or repeated violations of the lease by the victim or threatened victim of that violence and will not be "good cause" for termination of the assistance, tenancy, or occupancy rights of a victim of such violence.

REMOVING THE ABUSER OR PERPETRATOR FROM THE HOUSEHOLD

The LHAND may divide (bifurcate) the 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 LHAND chooses to remove the abuser or perpetrator, LHAND 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, LHAND 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.

EMERGENCY TRANSFERS

If it is necessary for the victim to move to another dwelling to receive protection, the LHAND shall execute an emergency transfer for the victim to another available and safe dwelling under a covered housing program. Reasonable confidentiality measures shall be implemented to ensure that the LHAND does not disclose the location of the new dwelling unit of a participant to a person that commits an act of domestic violence, dating violence, sexual assault, or stalking.

REASONS A TENANT ELIGIBLE FOR OCCUPANCY RIGHTS UNDER VAWA MAY BE EVICTED OR ASSISTANCE MAY BE TERMINATED

A tenant can be evicted and 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 the tenant. However, LHAND 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 policy might not apply, and the tenant could be evicted and assistance terminated, if LHAND can demonstrate that not evicting the tenant or terminating 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 LHAND can demonstrate the above, LHAND should only terminate assistance or evict the tenant if there are no other actions that could be taken to reduce or eliminate the threat.

DOCUMENTATION OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING

The LHAND may ask the victim to prove or “certify” that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. A person can prove that he or she is a victim by submitting one of the following:

- A HUD-approved certification form provided by the LHAND;
- A document that is signed by the applicant or participant and an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional who assisted the victim relating to domestic violence, dating violence, sexual assault, or stalking. The professional must state, under penalty of perjury, that he or she believes that the abuse meets the requirements under VAWA;
- A Federal, State, tribal, territorial, or local police or court record;
- A statement or other evidence provided by the applicant or participant, at the discretion of the LHAND.

The LHAND should be mindful that the delivery of the certification form to the tenant in response to an incident via mail may place the victim at risk, e.g., the abuser may monitor the mail. Therefore, the LHAND may require that the tenant come into the office to pick up the certification form and is encouraged to work with tenants to make delivery arrangements that do not place the tenant at risk.

The victim of domestic violence, dating violence, sexual assault, or stalking is required to provide the name of the perpetrator on the HUD-approved certification form only if the name of the perpetrator is safe to provide and is known to the victim.

The applicant or participant must provide the documentation within 14 business days after the date that the LHAND requests for documentation. An extension of the 14-day deadline is at the LHAND’s discretion. If the applicant or participant fails or refuses to provide one of these documents within the 14 business days, LHAND does not have to provide the applicant or participant with the protections contained in this notice.

If LHAND 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), LHAND has the right to request that the members claiming to be a victim provide third-party documentation within thirty 30 calendar days in order to resolve the conflict. If the members fail or refuse to provide third-party documentation where there is conflicting evidence, LHAND does not have to provide the members with the protections contained in this policy.

CONFIDENTIALITY

All information provided to the LHAND regarding domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence and must neither be entered into any shared database nor provided to a related entity, except to the extent that the disclosure is (i) requested or consented by the individual in writing; (ii) required for use in an eviction proceeding or termination of assistance; or, (iii) otherwise required by applicable law. The HUD-approved certification form provides notice to the tenant of the confidentiality of the form and the limits thereof.