

FALL RIVER HOUSING AUTHORITY

VIOLENCE AGAINST WOMEN ACT POLICY

1. PURPOSE AND APPLICABILITY

Notwithstanding its title, this statute makes clear that the protections are for all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, sexual orientation, or age.

The purpose of this policy is to implement the applicable provisions of the Violence Against Women Reauthorization Act of 2013, which reauthorizes and amends the Violence Against Women Act (VAWA) of 1994, as previously amended. VAWA 2013 protects qualified tenants, participants, and applicants, and affiliated individuals, who are victims of domestic violence, dating violence, sexual assault, or stalking from being denied housing assistance, evicted, or terminated from housing assistance based on acts of such violence against them.

This Policy shall be applicable to the administration by FRHA of all its federally subsidized public housing and Housing Choice Voucher (HCV) programs under the United States Housing Act of 1937 (42 U.S.C. §1437 et seq.).

2. DEFINITIONS

Affiliated 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 to a child (for example, the affiliated individual is a child in the care, custody, or control of that individual); or (2) any individual, tenant, or lawful occupant living in the household of that individual. Under VAWA 2013, the term “affiliated individual” replaces the term “immediate family member”.

Bifurcate. 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: 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 (i) length of the relationship; (ii) type of relationship; and (iii) frequency of interaction between the persons involved in the relationship.

Domestic violence: Felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim (as defined in 18 U.S.C. 2266), by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of 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.

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

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: (1) Fear for his or her safety or the safety of others; or (2) Suffer substantial emotional distress.

3. NOTIFICATION OF OCCUPANCY RIGHTS UNDER VAWA

In accordance with VAWA 2013, Fall River Housing Authority will provide written notice to public housing and Housing Choice Voucher applicants and tenants of their rights under VAWA (See Attachment A) at the time:

1. an applicant is denied assistance or admission;
2. the individual is provided assistance or admission under the covered housing program; and
3. that any notification of eviction or notification of termination of rental assistance is issued.

The notification will also include the VAWA Certification Form described in Section IV.A.1 below to be used as verification to the FRHA for any resident or applicant claiming protection under the Act.

4. VERIFICATION OF DOMESTIC VIOLENCE, DATING VIOLENCE OR STALKING

A. **Requirement for Verification:** For those seeking protection under this Policy, the law allows, but does not require, FRHA to verify that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. FRHA shall require verification in all cases where an individual claims protection against an action.

- i. *HUD-approved form:* The FRHA may request that an individual certify via a HUD-approved certification form (See Attachment B) that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incident in question are bona fide incidents of such actual or threatened abuse and meet the requirements set forth in the statute. Such certification shall include the name of the perpetrator. If there is reason to believe that verification is incomplete or inaccurate, the FRHA may require additional documentation of the incident(s). Such documentation requirement shall not place the victim in danger.
- ii. *Other Documentation:* An individual may also satisfy the certification requirement by providing FRHA staff with documentation signed by an employee, agent or volunteer of a victim service provider, an attorney, or a medical or mental health professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects the abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question meet the definition of the applicable abusive action(s) set forth in this policy. The victim of the described incident(s) of domestic violence, dating violence, or stalking must also sign and attest to the documentation;
- iii. *Police or Court Record:* An individual may provide FRHA with a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.

B. **Time Allowed to Provide Verification:** An individual that claims protection under this Act has **fourteen (14)** business days after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and

this policy against a proposed adverse action. Time for response will be extended upon a showing of good cause as determined by the Director of Field Operations.

5. CONFIDENTIALITY

All information (including the fact that an individual is a victim of domestic violence, dating violence or stalking) provided by the victim to the FRHA pursuant to the verification required under Section 4.A of this policy, shall be retained in confidence and not entered into any shared database nor provided to any related entity except when the disclosure is: (1) consented to by the individual in writing, (2) required for use in eviction proceedings, or (3) otherwise required by law.

6. TRAINING

Housing Choice Voucher, Public Housing Management and Tenant Selection staff employed by the FRHA will be encouraged to participate in training sessions dealing with issues of Violence Against Women, in order to recognize residents who are victims.

7. ADMISSIONS AND SCREENING

- A. **Denial of Assistance:** FRHA will not deny admission to Public Housing or Housing Choice Voucher (HCV) assistance to any person because that person is or has been a victim of domestic violence, dating violence, or stalking, provided that such person is otherwise qualified for such admission.
- B. **Admissions Preference:** Applicants for Public Housing and HCV assistance from FRHA will receive a priority in admission by virtue of their status as victims of domestic violence. This priority is described for Public Housing in the FRHA's ACOP and for HCV participants in its Administrative Plan.
- C. **Mitigation of Disqualifying Information:** When requested by an applicant for Public Housing and HCV assistance whose history includes incidents in which the applicant was a victim of domestic violence, dating violence and/or stalking, FRHA may take such information into account in mitigation of potentially disqualifying information, such as previous damage to a dwelling or criminal records. FRHA shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history and its probable relevance to the potentially disqualifying information. FRHA may disregard such mitigating circumstances if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence, dating violence and/or stalking.

8. TERMINATION OF TENANCY OR ASSISTANCE

- A. **VAWA Protections.** Under VAWA, public housing residents, and persons assisted under the Housing Choice Voucher program, have the following specific protections, which will be observed by FRHA in administration of its programs:
 - i. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be considered to be a "serious or repeated" violation of the lease by the

victim or threatened victim of that violence and will not be good cause for terminating tenancy or assistance to the victim of that violence.

- ii. Further, tenancy or assistance will not be terminated by FRHA as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence or stalking engaged in by a member of the assisted household, a guest, or another person under the tenant's control, and the tenant or a member of the household is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:
 - a) FRHA may evict or terminate assistance to a tenant for good cause when it is not premised on the act or acts of domestic violence, dating violence, or stalking in question against the tenant or a member of the tenant's household so long as the same standards apply equally to victims and non-victims.
 - b) FRHA may evict or terminate from assistance any tenant or lawful applicant if the FRHA can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the property, if the tenant is not evicted or terminated from assistance.

B. Lease Bifurcation (Removal of the Perpetrator). Notwithstanding anything in paragraph 8.B (ii) above, or Federal, State or local law to the contrary, FRHA may bifurcate a lease, or remove a household member from a lease, without regard to whether a household member is a signatory to a lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any individual who is a tenant or lawful occupant and who perpetrates acts of physical violence against family members or others. Such action against said perpetrator (1) 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, and (2) shall be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by FRHA.

9. TRANSFER TO NEW RESIDENCE

The opportunity to transfer in Public Housing or relocate in the Housing Choice Voucher program due to incidents of domestic violence, dating violence and/or stalking is described in the FRHA Admissions and Continued Occupancy Policy (ACOP) and FRHA Administrative Plan, respectively. FRHA will incorporate reasonable confidentiality measures to ensure that it does not disclose the location of the dwelling unit of a tenant to a person that commits an act of domestic violence, dating violence, sexual assault, or stalking against the tenant.

10. COURT ORDERS

When notified of a court order, FRHA will comply with a court order with respect to: (a) 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 (b) The distribution or possession of property among members of a household in a case.

11. GRIEVANCE PROCEDURE

All residents have the right to have a Grievance Hearing after a Private Conference is made. Upon filing a written request, as provided by the Fall River Housing Authority grievance procedure, any resident who disagrees with any FRHA action will be afforded this opportunity.

FALL RIVER HOUSING AUTHORITY NOTICE OF OCCUPANCY RIGHTS UNDER VAWA

A federal law that went into effect in 2013 protects individuals who are victims of domestic violence, dating violence, sexual assault, or stalking. The name of the law is the Violence Against Women Act, or “VAWA.” This notice explains your rights under VAWA.

Protections for Victims

If you are eligible for public housing, the housing authority cannot refuse to admit you to the public housing program solely because you are a victim of domestic violence, dating violence, sexual assault, or stalking.

If you are the victim of domestic violence, dating violence, sexual assault, or stalking, the housing authority cannot evict you based on acts or threats of violence committed against you. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a member of your household or a guest can’t be the reason for evicting you if you were the victim of the abuse.

Reasons You Can Be Evicted

The housing authority can still evict you if the housing authority can show there is an *actual and imminent* (immediate) threat to other tenants or housing authority staff if you are not evicted. Also, the housing authority can evict you for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking against you. The housing authority cannot hold you to a more demanding set of rules than it applies to tenants who are not victims.

Removing the Abuser from the Household

The housing authority may split the lease to evict a tenant who has committed criminal acts of violence against family members or others, while allowing the victim and other household members to stay in the public housing unit. If the housing authority chooses to remove the abuser, it may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, the housing authority must follow federal, state, and local eviction procedures.

Proving That You Are a Victim of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

The housing authority can ask you to prove or “certify” that you are a victim of domestic violence, dating violence, sexual assault, or stalking. It must give you at least 14 business days (i.e., Saturdays, Sundays, and holidays do not count) to provide this proof. The housing authority is free to extend the deadline. There are three ways you can prove that you are a victim:

1. Complete the certification form given to you by the housing authority. The form will ask for your name, the name of your abuser, the abuser’s relationship to you, the date, time, and location of the incident of violence, and a description of the violence. You are only required to provide the name of the abuser if it is safe to provide and you know their name.
2. Provide a statement from a victim service provider, attorney, or medical professional who has helped you address incidents of domestic violence, dating violence, sexual assault, or stalking. The professional must state that he or she believes that the incidents of abuse are real. Both you and the professional must sign the statement, and both of you must state that you are signing “under penalty of perjury.”
3. Provide a police or court record, such as a protective order.

If you fail to provide one of these documents within the required time, the housing authority may evict you.

Confidentiality

The housing authority must keep confidential any information you provide about the violence against you, unless:

- You give written permission to the housing authority to release the information.
- The housing authority needs to use the information in an eviction proceeding, such as to evict your abuser.
- A law requires the housing authority to release the information.
- If release of the information would put your safety at risk, you should inform the housing authority.

VAWA and Other Laws

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

Definitions

For purposes of determining whether a public housing applicant or tenant may be covered by VAWA, the following list of definitions applies:

VAWA defines **domestic violence** to include felony or misdemeanor crimes of violence committed by any of the following: a current or former spouse of the victim; a person with whom the victim shares a child in common; a person who is cohabitating with or has cohabitated with the victim as a spouse; a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; or any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction

VAWA defines **dating violence** as 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: the length of the relationship; the type of relationship; and the frequency of interaction between the persons involved in the relationship.

VAWA defines **sexual assault** as "any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent" (42 U.S.C. 13925(a)).

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

For help and advice on escaping an abusive relationship, call the National Domestic Violence Hotline at 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).

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

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0249
Exp. (07/31/2017)

Purpose of Form: The Violence Against Women Reauthorization Act of 2013 (“VAWA”) protects qualified tenants, participants, and applicants, and affiliated individuals, who are victims of domestic violence, dating violence, sexual assault, or stalking from being denied housing assistance, evicted, or terminated from housing assistance based on acts of such violence against them.

Use of Form: This is an optional form. A PHA, owner or manager presented with a claim for continued or initial tenancy or assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking (herein referred to as “Victim”) has the option to request that the victim document or provide written evidence to demonstrate that the violence occurred. The Victim has the option of either submitting this form or submitting third-party documentation, such as:

- (1) A record of a Federal, State, tribal, territorial, or local law enforcement agency (e.g. police), court, or administrative agency; or
- (2) Documentation signed by the Victim and signed by an employee, agent or volunteer of a victim service provider, an attorney, a medical professional, or a mental health professional from whom the Victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C. 1746) that he or she believes that the incident of domestic violence, dating violence, sexual assault, or stalking is grounds for protection under 24 Code of Federal Regulations (CFR) § 5.2005 or 24 CFR § 5.2009.

If this form is used by the Victim, the Victim must complete and submit it within 14 business days of receiving it from the PHA, owner or manager. This form must be returned to the person and address specified in the written request for the certification. If the Victim does not complete and return this form (or provide third-party verification) by the 14th business day or by an extension of the date provided by the PHA, manager or owner, the Victim cannot be assured s/he will receive VAWA protections.

If the Victim submits this form or third-party documentation as listed above, the PHA, owner or manager cannot require any additional evidence from the Victim.

Confidentiality: All information provided to a PHA, owner or manager concerning the incident(s) of domestic violence, dating violence, sexual assault, or stalking relating to the Victim (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking) shall be kept confidential by the PHA, owner or manager, and such information shall not be entered into any shared database. Employees of the PHA, owner, or manager are not to have access to these details unless to afford or reject VAWA protections to the Victim; and may not disclose this information to any other entity or individual, except to the extent that disclosure is: (i) requested or consented to by the Victim in writing; (ii) required for use in an eviction proceeding; or (iii) otherwise required by applicable law.

TO BE COMPLETED BY THE VICTIM OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, OR STALKING:

Date Written Request Received by Victim: _____

Name of Victim: _____

Names of Other Family Members Listed on the Lease: _____

Name of the Perpetrator*: _____

*Note: The Victim is required to provide the name of the perpetrator only if the name of the perpetrator is safe to provide, and is known to the victim.

Perpetrator’s Relationship to Victim: _____

Date(s) the Incident(s) of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Occurred: _____

**CERTIFICATION OF DOMESTIC
VIOLENCE, DATING VIOLENCE,
SEXUAL ASSAULT OR STALKING**

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0249
Exp. (07/31/2017)

Location of
Incident(s): _____

Description of Incident(s) (This description may be used by the PHA, owner or manager for purposes of evicting the perpetrator. Please be as descriptive as possible.):

[INSERT TEXT LINES HERE]

I hereby certify that the information that I have provided is true and correct and I believe that, based on the information I have provided, that I am a victim of domestic violence, dating violence, sexual assault or stalking. I acknowledge that submission of false information is a basis for denial of admission, termination of assistance, or eviction.

Signature _____ Executed on (Date) _____

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. Information provided is to be used by PHAs and Section 8 owners or managers to request a tenant to certify that the individual is a victim of domestic violence, dating violence or stalking. The information is subject to the confidentiality requirements of

**CERTIFICATION OF DOMESTIC
VIOLENCE, DATING VIOLENCE,
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the HUD Reform Legislation. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number. **Form HUD-50066 (07/2014)**