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Violence Against Women Act (VAWA) Policy

I. Purpose and Applicability

The purpose of this Policy Statement is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162) and more generally to describe the Houston Housing Authority's (HHA's) policies and procedures regarding domestic violence, dating violence, and stalking.

This policy is applicable to HHA's public housing and Housing Choice Voucher (Section 8) programs. Despite its title, this policy is gender-neutral, and its protections are available to female and male victims of domestic violence, dating violence, or stalking.

II. Goals and Objectives

This Policy has the following principal goals and objectives:

- A. Maintaining compliance with all applicable legal requirements imposed by VAWA;
- B. Insuring the physical safety of victims of actual or threatened domestic violence, dating violence, or stalking who are assisted by the Houston Housing Authority;
- C. Providing and maintaining housing opportunities for victims of domestic violence dating violence, or stalking;
- D. Creating and maintaining collaborative arrangements between the Houston Housing Authority, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence and stalking, who are assisted by the Houston Housing Authority; and
- E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, or stalking, affecting individuals assisted by the Houston Housing Authority.

III. Other Houston Housing Authority Policies and Procedures

This Policy is referenced in and attached to the HHA's Five-Year Public Housing Agency Plan and is part of the HHA's Admissions and Continued Occupancy Policy (ACOP) for public housing and Housing Choice Voucher Program Administrative Plan (Admin Plan).

To the extent any provision of this policy varies or contradicts any previously adopted HHA policy or procedure, the provisions of this Policy prevail.

IV. Definitions

- A. **Domestic Violence** – The term 'domestic violence' includes felony or misdemeanor crimes of violence committed by a current or former spouse of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, 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.
- B. **Dating Violence** – means: 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.
 - iii. The frequency of interaction between the persons involved in the relationship.
- C. **Stalking** – means:
 - a. to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (b) 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 the spouse or intimate partner of that person.

- D. **Immediate Family Member** - means, with respect to a person:
 - a. a spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or
 - b. any other person living in the household of that person and related to that person by blood or marriage.
- E. **Perpetrator** – means person who commits an act of domestic violence, dating violence or stalking against a victim.

V. Admissions and Screening

- A. **Non-Denial of Assistance.** The Houston Housing Authority does not deny admission to public housing or to the Housing Choice Voucher Program to any person because that person is or has been a victim of domestic violence, dating violence, or stalking, provided that such person is otherwise qualified for such admission.
- B. **Mitigation of Disqualifying Information.** When so requested in writing by an applicant for assistance whose history includes incidents in which the applicant was a victim of domestic violence, the HHA, may but is not be obligated to, take the information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling. If requested by an applicant to take mitigating information into account, the HHA is entitled to conduct inquiries as are reasonably necessary to verify the claimed history of domestic violence and its probable relevance to the potentially disqualifying information. The HHA does not disregard or mitigate potentially disqualifying information if the applicant household includes a perpetrator of a previous incident or incidents of domestic violence.

VI. 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:
 - a. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking is not considered to be a “serious or repeated” violation of the lease by the victim or threatened victim of that violence and is not considered good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.
 - b. HHA does not terminate tenancy or assistance 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 an immediate family member is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:

- i. Nothing contained in this paragraph limits any otherwise available authority of the HHA or a Section 8 owner or manager to 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, or stalking in question against the tenant or a member of the tenant's household. However, in taking any such action, neither the HHA nor a Section 8 owner or manager can apply a more demanding standard to the victim of domestic violence dating violence or stalking than is applied to other tenants.
 - ii. Nothing contained in this paragraph is construed to limit the authority of the HHA or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or the HHA can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the property, if the tenant is not evicted or terminated from assistance.
- B. **Removal of Perpetrator.** Further, notwithstanding anything in paragraph VI.A.2. or Federal, State or local law to the contrary, the HHA or a Section 8 owner or manager can 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 engages in acts of physical violence against family members or others. Action can be taken against the perpetrator of physical violence without evicting, removing, terminating assistance to, or otherwise penalizing the victim of the violence who is also the tenant or a lawful occupant. Eviction, removal, termination of occupancy rights, or termination of assistance is effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by the HHA. Leases used for all public housing operated by the HHA and leases for dwelling units occupied by households in the Housing Choice Voucher Program administered by the HHA, contain provisions setting forth the substance of this paragraph.

VII. Verification of Domestic Violence, Dating Violence or Stalking

- A. **Requirement for Verification.** The law allows, but does not require, the HHA or a Section 8 owner or manager 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 described in this policy. Subject only to waiver as provided in paragraph VII. C., the HHA requires verification in all cases where an individual claims protection against a proposed HHA action involving the individual. Section 8 owners or managers receiving rental assistance from the HHA can elect to require verification, or not to require it as permitted under applicable law.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence or stalking can be accomplished in one of the following three ways:

- a. **HUD-approved form** - by providing to the HHA or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definition(s) described in this policy. 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. The HUD-approved form (Form 50066) is available from HHA upon request and from HUD's website (www.hud.gov).
 - b. **Other documentation** - by providing the HHA or the requesting Section 8 owner or manager documentation signed by an employee, agent, or volunteer of a victims' service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence or stalking, or the effects of the abuse, described in the documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to her/his belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) described in this policy. The victim of the incident or incidents of domestic violence, dating violence or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.
 - c. **Police or court record** – by providing to the HHA or to the requesting Section 8 owner or manager 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.** An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence or stalking, and who is requested by the HHA, or a Section 8 owner or manager to provide verification, must provide verification within fourteen (14) business days after receipt of the request for verification. Failure to provide verification, in proper form within fourteen (14) days results in loss of protection under VAWA and this policy against a proposed adverse action.
- C. **Waiver of verification requirement.** The HHA's President & Chief Executive Officer, a designee, or a Section 8 owner or manager, may, with respect to any specific case, waive the requirements for verification and provide the policy's benefits based on the victim's statement or other corroborating evidence. Waivers can be granted in the sole discretion of the President & Chief Executive Officer, a designee, Section 8 owner or manager. Any waiver must be in writing. A waiver in a particular instance or instances

does not operate as precedent for, or create any right to, a waiver in any other case or cases, regardless of similarity in circumstances.

VIII. Confidentiality

- A. **Right of confidentiality.** All information (including the fact that an individual is a victim of domestic violence, dating violence or stalking) provided to the HHA or to a Section 8 owner or manager in connection with a verification required under this policy or provided in lieu of verification where a waiver of verification is granted, is retained by the receiving party in confidence and is neither entered in any shared database nor provided to any related entity, except where disclosure is:
 - a. requested or consented to by the individual in writing, or
 - b. required for use in a public housing eviction proceeding or in connection with termination of Section 8 assistance, as permitted in VAWA, or
 - c. otherwise required by applicable law.
- B. **Notification of rights.** All tenants of public housing and tenants participating in the Housing Choice Voucher Program administered by the HHA are notified in writing concerning their right to confidentiality and the limits on rights to confidentiality.

IX. Court Orders/Family Breakup

- A. **Court orders.** It is the HHA's policy to honor orders entered by courts of competent jurisdiction affecting individuals' assisted by the HHA and their property. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.
- B. **Family break-up.** Other Houston Housing Authority policies regarding family break-up are contained in the HHA's ACOP and its Housing Choice Voucher Program Administrative Plan.

X. Relationships with Service Providers

It is HHA's policy to cooperate with organizations and entities, both private and governmental, which provide shelter and/or services to domestic violence victims. If the HHA staff becomes aware that an assisted individual is a victim of domestic violence, dating violence or stalking, the HHA will refer the victim to shelter or other service providers as appropriate. This Policy does not create any legal obligation requiring the HHA either to maintain a relationship with any particular shelter or service provider to victims or domestic violence or to make a referral in any particular case. The HHA's annual public housing agency plan shall describe shelter or

service providers to domestic violence victims with which the HHA has referral or other cooperative relationships.

XI. Notification

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

XII. Relationship with Other Applicable Laws

Neither VAWA nor this Policy preempts or supersedes any provision of Federal, State or local law that provides greater protection than that provided under VAWA for victims of domestic violence, dating violence or stalking.

XIII. Amendment

This policy may be amended from time to time by the HHA's Board of Commissioners.