

**SOMERVILLE HOUSING AUTHORITY
VIOLENCE AGAINST WOMEN ACT POLICY**

I. Purpose and Applicability:

The purpose of this policy (herein called "Policy") is to implement the applicable provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L. 109-162) (VAWA) and more generally to set forth Somerville Housing Authority's (SHA) policies and procedures regarding domestic violence, dating violence, sexual assault and stalking, as hereinafter defined.

This Policy shall be applicable to the administration by SHA of all federally subsidized public housing and Section 8 rental assistance under the United States Housing Act of 1937 (42 U.S.C. §1437 *et seq.*). Notwithstanding its title, this policy is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, or stalking and sexual assault as well as female victims of such violence.

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. Ensuring the physical safety of victims of actual or threatened domestic violence, dating violence, sexual assault or stalking who are assisted by SHA;
- C. Providing and maintaining housing opportunities for victims of domestic violence, dating violence, stalking and sexual assault;
- D. Creating and maintaining collaborative arrangements between SHA, law enforcement authorities, victim service providers, and others to promote the safety and well-being of victims of actual and threatened domestic violence, dating violence, sexual assault and stalking, who are assisted by SHA; and
- E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, sexual assault or stalking, affecting individuals assisted by SHA.

III. Other SHA Policies and Procedures:

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

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

IV. Definitions 24 CFR 5.2001 and 2003:

As used in this Policy:

- 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:
- (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.
 - (iii) The frequency of interaction between the persons involved in the relationship.
- C. **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 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.
- D. **INTIMATE PARTNER (18 U.S.C. 2266)**: Is a spouse or former spouse of the abuser, a person who shares a child in common with the abuser, and a person who cohabits or has cohabited as a spouse with the abuser; or a person who is or has been in a social relationship of a romantic or intimate nature with the abuser, as determined by the length of the relationship, type of relationship, and the frequency of interaction between the persons involved in the relationship; and any other person similarly situated to a spouse who is protected by the domestic or family violence laws of the State or tribal jurisdiction in which the injury occurred or where the victim resides.
- E. **PERPETRATOR**: Means person who commits an act of domestic violence, dating violence, sexual assault or stalking against a victim.
- F. **SEXUAL ASSAULT** – means any nonconsensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks capacity to consent.

G. STALKING – means

(A)(i) to follow, pursue, or (ii) 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.

H. ACTUAL AND IMMINENT THREAT: 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.

I. BIFURCATE: Means to divide a lease as a matter of 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.

V. Admissions and Screening:

Non-Denial of Assistance. SHA 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, sexual assault or stalking, provided that such person is otherwise qualified for such admission.

Where the SHA receives adverse information about an applicant/household member and is aware that domestic violence might be involved, the SHA shall determine whether there is a substantial connection between the adverse information and the fact that the applicant/household member is a victim of domestic violence. If the SHA determines that there is such a connection, then the SHA shall disregard the adverse information (provided that the perpetrator will not be part of the applicant's household).

A substantial connection includes, but is not limited to, where a victim loses financial support (e.g. victim's job or perpetrator's wages) due to domestic violence and is evicted (or receives a negative landlord reference) for late or nonpayment of rent; where a victim is evicted or receives a negative landlord reference due to property damage and/or noise or other interference with neighbors caused by the perpetrator; and where a victim receives a negative landlord reference for breaking a lease prior to its expiration due to domestic violence.

VI. Termination of Tenancy or Assistance 24 CFR 5.2005(b) (2):

VAWA Protections. Under VAWA, public housing residents and persons assisted under the Section 8 rental assistance program and individuals participating in the following programs: HOME Investment partnerships program; 202 supportive housing for the elderly; Section 236

Rental Program; 811 supportive housing for people with disabilities; Section 221 (d) (3) Below Market Interest Rate (BMIR) Program; HOPWA housing program; HUD's McKinney-Vento homeless programs; Low-Income Housing Tax Credit properties; USDA Rural Housing properties have the following specific protections, which will be observed by SHA:

1. An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be considered to be a "serious or repeated" violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim of that violence.
 2. In addition to the foregoing, tenancy or assistance will not be terminated by SHA as a result of criminal activity, if that criminal activity is directly related to domestic violence, dating violence, sexual assault or stalking engaged in by a member of the assisted household, a guest or another person under the tenant's control, and the tenant or an immediate family member is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:
 - a. Nothing contained in this paragraph shall limit any otherwise available authority of SHA' or a Section 8 owner or manager to terminate tenancy, evict, or to terminate assistance, as the case may be, for any violation of a lease or program requirement not premised on the act or acts of domestic violence, dating violence, sexual assault or stalking in question against the tenant or a member of the tenant's household. However, in taking any such action, neither SHA nor a Section 8 manager or owner may apply a more demanding standard to the victim of domestic violence dating violence or stalking than that applied to other tenants.
 - b. Nothing contained in this paragraph shall be construed to limit the authority of SHA or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or SHA, as the case may be, can demonstrate an actual and imminent threat to other tenants or to those employed at or providing service to the property, if the tenant is not evicted or terminated from assistance.
 3. Where property damage is caused by a perpetrator, the SHA shall not terminate the Section 8 subsidy or evict from public housing the victim of domestic violence, dating violence, sexual assault or stalking because of such property damage.
 4. Where nonpayment of rent or other charges due the SHA is caused by the perpetrator, and where the victim of domestic violence, dating violence, sexual assault or stalking removes said perpetrator from the lease, the SHA shall offer the remaining household members a reasonable repayment plan (without charging late fees but may recover costs) and shall not evict the remaining members for such nonpayment so long as they substantially comply with said plan.
- A. *Removal of Perpetrator.* Further, notwithstanding anything in paragraph VI.A.2. or Federal, State or local law to the contrary, SHA or a Section 8 owner or manager, as the

case may be, 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 engages in acts of physical violence against family members or others. Such action against the perpetrator of such physical violence may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is also the tenant or a lawful occupant. If the victim cannot establish eligibility, the SHA or landlord must give a reasonable amount of time to find new housing or establish eligibility under another covered housing program. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by law applicable to terminations of tenancy and evictions by SHA.

VII. Verification of Domestic Violence, Dating Violence, Sexual assault or Stalking 24CFR

5.2005 (a) (1) (ii): VAWA 2013:

A. *Requirement for Verification.* The law allows, but does not require, SHA or a section 8 owner or manager to verify that an incident or incidents of actual or threatened domestic violence, dating violence, **sexual assault** or stalking claimed by a tenant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. Subject only to waiver as provided in paragraph VII. C., SHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by SHA. Section 8 owners or managers receiving rental assistance administered by SHA may elect to require verification, or not to require it as permitted under applicable law.

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

1. HUD-approved form HUD-91066:

To be completed by the victim to document an incident of domestic violence, dating violence, sexual assault or stalking, and that:

- A. States that the applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking;
- B. States that the incident of domestic violence, dating violence, sexual assault or stalking that is the ground for protection under this subpart meets the applicable definition for such incident under 24CFR 5.2003; and
- C. Includes the name of the individual who committed the domestic violence, dating violence, sexual assault, or stalking, if the name is known and safe to provide.

- (a) Notice and Certification form provided:

At denial
At Admission
Notice of Termination

(b) Notice and Certification forms will be given in multiple languages.

2. *Other documentation* - by providing to SHA or to the requesting Section 8 owner or manager documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence, sexual assault or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definition(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence, sexual assault or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.
3. *Police or court record* – by providing to SHA 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, sexual assault or stalking, and who is requested by SHA, 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. Extensions may be granted for good cause.
 - C. *Waiver of verification requirement.* The Executive Director of SHA, or a Section 8 owner or manager, may, with respect to any specific case, waive the above-stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the Executive Director, owner or manager. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

VIII. Confidentiality

- A. *Right of confidentiality.* All information (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault or stalking) provided to SHA or to a Section 8 owner or manager in connection with a verification required under section VII of this policy or provided in lieu of such verification where a waiver of verification is

granted, shall be retained by the receiving party in confidence and shall neither be entered in any shared database nor provided to any related entity, except where disclosure is:

1. requested or consented to by the individual in writing, 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.
- B. *Notification of rights.* All tenants of public housing and tenants participating in the Section 8 rental assistance program administered by SHA shall be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

IX. Transfer to New Residence

- A. *Application for transfer.* In situations that involve significant risk of violent harm to an individual as a result of previous incidents or threats of domestic violence, dating violence, sexual assault or stalking, SHA will, if an approved unit size is available at a location that may reduce the risk of harm, approve transfer by a public housing or Section 8 tenant to a different unit in order to reduce the level of risk to the individual. A tenant who requests transfer must attest in such application that the requested transfer is necessary to protect the health or safety of the tenant or another member of the household who is or was the victim of domestic violence, dating violence, sexual assault stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit. Where appropriate, transfers may be granted from federal public housing to Section 8 and from Section 8 to federal public housing.
- B. *No right to transfer.* SHA will make every effort to accommodate requests for transfer when suitable alternative vacant units are available and the circumstances warrant such action. However, except with respect to portability of Section 8 assistance as provided in paragraph IX. D below the decision to grant or refuse to grant a transfer shall lie within the sole discretion of SHA, and this policy does not create any right on the part of any applicant to be granted a transfer.
- C. *Family rent obligations.* If the family occupying SHA public housing moves in order to protect the health or safety of a household member, the family's obligation to provide 30 days advance notice of its move shall be waived by the SHA.
- D. *Portability.* Notwithstanding the foregoing, a Section 8-assisted tenant will not be denied portability to a unit located in another jurisdiction (notwithstanding the term of the tenant's existing lease has not expired, the tenant has not provided the required notice of vacating to the SHA or the family has not occupied the unit for 12 months) so long as the tenant has complied with all other requirements of the Section 8 program and has moved from the unit in order to protect a health or safety of an individual member of the

household who is or has been the victim of domestic violence dating violence **sexual assault** or stalking and who reasonably believes that the tenant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

X. Relationships with Service Providers

It is the policy of SHA to cooperate with organizations and entities, both private and governmental that provides shelter and/or services to victims of domestic violence. If SHA staff becomes aware that an individual assisted by SHA is a victim of domestic violence, dating violence, sexual assault or stalking, SHA will refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this Policy does not create any legal obligation requiring SHA 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. SHA's annual public housing agency plan shall describe providers of shelter or services to victims of domestic violence with which SHA has referral or other cooperative relationships.

XI. Notification

SHA shall provide 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 implementing it shall preempt or supersede any provision of Federal, State or local law that provides greater protection than that provided under VAWA for victims of domestic violence, dating violence, sexual assault or stalking.

XIII. Amendment

This policy may be amended from time to time by SHA as approved by the SHA Board of Commissioners after consultation with the Resident Advisory Board.