

E. VIOLENCE AGAINST WOMAN ACT (VAWA)

VAWA PROTECTIONS

Under the Violence Against Women Act (VAWA, notwithstanding the title of the statute, protections are not limited to women but cover victims regardless of sex, gender identity, or sexual orientation), Housing Choice Voucher participants have the following specific protections, which will be observed by the Raleigh Housing Authority (RHA):

A. An incident or incidents or actual or threatened domestic violence, dating violence, sexual assault, or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not in itself be good cause for terminating the assistance, tenancy, or occupancy rights of the victim of such violence by either the Raleigh Housing Authority or the owner or property manager.

B. The Raleigh Housing Authority shall provide each applicant and participant a HUD prescribed Notice of Occupancy Rights and Certification form. It shall also be provided with any notice of eviction. In addition, the Authority shall make an adopted Emergency Transfer Plan and Emergency Transfer Request available upon request.

C. The Raleigh Housing Authority shall keep a record of all emergency transfer requests requested under the Emergency Transfer Plan and the outcome of these requests for three years.

D. RHA may terminate the assistance to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence, dating violence, sexual assault, or stalking to affiliated individuals or others without terminating the assistance or evicting victimized lawful occupants. Also, the owner or property manager may evict a lawful occupant or tenant who engages in criminal acts or threatened acts of violence, sexual assault, or stalking to family members or affiliated individuals without evicting other victimized lawful occupants. This is also true even if the household member or affiliated individual is not a signatory to the lease. Under VAWA, both the Raleigh Housing Authority and the owner or property manager are granted the authority to bifurcate the lease. The VAWA victim must be the one who retains the assistance. If such bifurcation occurs and removed tenant or lawful occupant was the sole tenant eligible to receive assistance under the covered housing program, Raleigh Housing Authority will provide any remaining tenant the opportunity to establish eligibility for the covered housing program. If the remaining tenant cannot establish

eligibility, Raleigh Housing Authority will provide the tenant 30 days to find new housing or establish eligibility under another covered housing program.

E. RHA and owner or property manager may honor court orders regarding the rights of access or control of the property.

F. There is no limitation on the ability of RHA to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence, sexual assault, or stalking, other than the victim may not be subject to a “more demanding standard” than non-victims. Likewise, an owner or property manager can evict for good cause unrelated to the incident or incidents of domestic violence, dating violence, sexual assault, or stalking. This is provided that neither subjects such a tenant to a more demanding standard than other tenants in making the determination whether to evict, or to terminate assistance or occupancy rights.

G. There is no prohibition on the owner evicting if it “can demonstrate an actual and imminent threat to other tenants or those employed at or providing goods or services to the property if that tenant’s (victim’s) tenancy is not terminated.” An actual and imminent threat consists of a physical danger that is real, would occur within an immediate timeframe, 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.

H. Any protections provided by law which give greater protection to the victim are not superseded by these provisions.

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

The Raleigh Housing Authority shall require and the owner or property manager may require verification in all cases where an individual claims protection under VAWA against an action involving such individual proposed to be taken by RHA.

A. Requirement for Verification. The law allows, but does not require, the Raleigh Housing Authority or a Section 8 owner or

property 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. RHA will require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by the RHA. Section 8 owners or managers receiving rental assistance administered by RHA 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** - By providing to RHA or to the requesting Section 8 owner or property manager a written certification, on the form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence, sexual assault, 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) set forth 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, only if the name of the perpetrator is safe to provide and is known to the victim.
2. **Other documentation** - by providing to RHA or to the requesting Section 8 owner or property 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.
2. **Police or court record** – by providing to RHA or to the requesting Section 8 owner or property manager a Federal,

State, tribal, territorial, or local law enforcement 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 RHA, or a Section 8 owner or property manager to provide verification, must provide such verification within 14 business days after receipt of the written 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. The submission of false information may be the basis for the termination of assistance or for eviction.

C. Managing conflicting documentation. In cases where the Raleigh Housing Authority 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 Raleigh Housing Authority may determine which is the true victim by requiring third-party documentation as described in 24 CFR 5.2007 and in accordance with any HUD guidance as to how such determinations will be made. RHA shall honor any court orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household.

VAWA SELF-PETITIONER (NON-CITIZEN)

VAWA self-petitioners are those who claim to be victims of “battery or extreme cruelty.” VAWA covers the following types of battery or extreme cruelty: domestic violence, dating violence, sexual assault, and stalking. HUD has determined that self-petitioners can indicate that they are in “satisfactory immigration status” when applying for assistance or continued assistance from Section 214-covered housing providers. “satisfactory immigration status” means an immigration status which does not make the individual ineligible for financial assistance.

Applicability to other VAWA Housing Protections. Not every non citizen victim who has been subjected to battery or extreme cruelty will qualify under these procedures. In order to qualify, the noncitizen victim must have been battered or subjected to extreme cruelty by their spouse or parent, who is a U.S. citizen or LPR. RHA may receive a petition at any time, but submissions will most likely be related to a request for VAWA protections pursuant to 24 CFR Part 5 Subpart L (e.g. with a request for an emergency transfer or family breakup resulting from domestic violence, dating violence,

sexual assault, or stalking). Once RHA receives a self-petition (INS Form I-360 or I-130) or INS Form 797, it is prohibited from requesting any additional information from the VAWA self-petitioner, other than what is required to complete the verification.

CONFIDENTIALITY

All information provided under VAWA including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, shall be retained in confidence and shall not be entered into any shared database or provided to any related entity except to the extent that the disclosure is:

- A. Requested or consented to by the individual in writing;
- B. Required for use in an eviction proceeding; or
- C. Otherwise required by applicable law.

An emergency transfer to another available and safe dwelling under a covered housing program may be available to a tenant if the tenant requests a transfer, and either the tenant reasonably believes he or she is threatened with imminent harm from further violence if he or she remains in the unit or, if the tenant is a sexual assault victim, and the sexual assault occurred on the premises during the 90 day period preceding the transfer request.

The Raleigh Housing Authority shall provide its participants notice of their rights under VAWA including their right to confidentiality and the limits thereof.