

#### **10.4 DOMESTIC VIOLENCE POLICY/VAWA (Violence Against Women Act)**

The pervasiveness and seriousness of domestic violence has illuminated it as an issue of national importance. In many instances, victims of domestic violence suffer not only the physical abuse, but also the devastation of being displaced from their homes. As a result, affordable housing issues become a serious consequence of domestic violence.

As a provider of low income affordable housing, the Housing Authority recognizes the need to establish provisions to enable victims of Domestic Violence to attain decent, safe and sanitary housing in an environment and under conditions that would help them to address their housing needs while removing themselves and families member from the abusive situation.

- A. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking will not be construed as serious or repeated violations of the lease or other “good cause” for termination of the assistance, tenancy, or occupancy rights of such a victim.
- B. Criminal activity directly relating to abuse, 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 immediate member of the tenant’s family is the victim or threatened victim of domestic violence, dating violence, sexual assault, or stalking.
- C. Notwithstanding any restrictions on admission, occupancy, or terminations of occupancy or assistance, or any Federal, State or local law to the contrary, a PHA, owner or manager may “bifurcate” a lease, or otherwise remove a household member from a lease, without regard to whether a household member is a signatory to the 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 criminal acts of physical violence against family members or others. This action may be taken without evicting, removing, terminating assistance to, or otherwise penalizing the victim of the violence who is also a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, and local law for the termination of leases or assistance.
- D. Nothing in this section may be construed to limit the authority of a public housing agency, owner, or manager, when notified, to honor 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 members in cases where a family breaks up.
- E. Nothing in this section limits any authority of an owner or manager to evict, or the public housing agency to terminate assistance to a tenant for any violation of a lease not premised on the act or acts of violence in question against the tenant or a member

of the tenant's household providing the owner, manager, or public housing agency does not subject an individual who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than other tenants in determining whether to evict or terminate.

- F. Nothing in this section may be construed to limit the authority of an owner or manager to evict, or the public housing agency to terminate assistance to any tenant if the owner, manager, or public housing agency can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property.
- G. Nothing in this section shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section from victims of domestic violence, sexual assault, dating violence, or stalking.

**Applicability to other VAWA Housing Protections:** Not every noncitizen 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. PHAs 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). See PIH 2016-09. Once a PHA 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 below to complete the verification.

**Procedure:** When a PHA receives a self-petition or INS Form 797 Notice of Action, the PHA must initiate verification in the SAVE System:

1. Enter self-petitioner name, alien ID number, and date of birth in the SAVE System. The system will provide one of the following responses:
  - If the SAVE system responds with a match, no further action is necessary at this time. Skip to step 3.
  - If the SAVE system responds "no match," the PHA must complete the following additional steps. Continue to step 2.
2. Push the button for "Institute Additional Verification." In the next screen, in the memo field, type "verify VAWA self-petition." If the documentation provided by the applicant is a form I-130, type in the memo field "verify I-130." Upload one of the following documents from applicant:
  - I-360 VAWA Self-Petition
  - I-130 Family-Based Visa Petition

- I-797 Notice of Action

Steps undertaken by DIIS:

- receipt of I-130 or I-360
- prima facie determination
- approval of self-petition

3. Wait for a final determination from the SAVE System. You will receive one of two confirmations: (1) the VAWA self-petition is verified, in which case the applicant is immediately eligible for housing and no evidence of battery or extreme cruelty shall be requested or collected; (2) the I-130 is verified, in which case the petitioner submitting a family-based visa petition must provide to the PHA any evidence of “battery or extreme cruelty.” See 8 USC 1154(a)(1)(J). Housing assistance and all other VAWA protections will be granted to the self-petitioner throughout the verification process until a final determination of LPR status is made. If the final determination is to deny the VAWA self-petition or LPR petition, the PHA must alert the petitioner and take actions to terminate voucher assistance or evict the petitioner from public housing in accordance with the existing public housing requirements.

