

VIOLENCE AGAINST WOMEN'S ACT

I. VAWA Self-Petitioners

Documents Required

All family members claiming status as an eligible immigrant or VAWA self-petitioner must declare their status in the same manner as U.S. citizens and nationals.

PHAs must obtain verification of the declaration by requiring presentation of appropriate documentation, as provided by Section 214 of the Housing and Community Development Act of 1980, as amended.

SFHA Policy

Family members who claim status as an eligible immigrant or VAWA self-petitioner will be required to provide Section 214 documents listed in 24 CFR Section 5.508(b)(1) and referred to in Section 5.510. Exhibit 7-1 at the end of this chapter summarizes documents family members must provide.

II. VAWA tenants requesting an Emergency Transfer

A tenant can certify that he or she is a victim by providing any one of the following three documents:

- (1) A completed, signed HUD-approved certification form. The most recent form is HUD-5382. This form is available at the housing authority or online at <https://portal.hud.gov/hudportal/documents/huddoc?id=5382.docx>.
- (2) A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim 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 the victim and the professional must sign the statement under penalty of perjury.
- (3) A police or court record, such as a protective order, or administrative record.

III. VAWA Protections against Termination (24 C.F.R. § 5.2005(c).)

VAWA provides that no person may deny assistance, tenancy, or occupancy rights to public housing to a tenant solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking that is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, if the tenant or affiliated individual is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking. (FR Notice 8/6/13.).

VAWA further provides that incidents of actual or threatened domestic violence, dating violence, sexual assault, or stalking may not be construed either as serious or repeated violations of the lease by the victim or threatened victim of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence. (24 C.F.R. § 5.2005(c)(1); FR Notice 8/6/13.)

IV. Limits on VAWA Protections (24 C.F.R. §§ 5.2005(d), 5.2005 (e); FR Notice 8/6/13.)

While VAWA prohibits a PHA from using domestic violence, dating violence, sexual assault, or stalking as the cause for a termination or eviction action against a public housing tenant who is the victim of the abuse, the protections it provides are not absolute. Specifically:

- VAWA does not limit a PHA's otherwise available authority to terminate assistance to or evict a victim for lease violations not premised on an act of domestic violence, dating violence, sexual assault, or stalking providing that the PHA does not subject the victim to a more demanding standard than the standard to which it holds other tenants.
- VAWA does not limit a PHA's authority to terminate the tenancy of any public housing tenant if the PHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's tenancy is not terminated.

HUD regulations define *actual and imminent threat* to mean words, gestures, actions, or other indicators of a physical threat that (a) is real, (b) would occur within an immediate time frame, and (c) could result in death or serious bodily harm (24 C.F.R. § 5.2005(d)(2) and (e).) 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;
- The length of time before the potential harm would occur. (24 C.F.R. § 5.2005(e).)

Even when a victim poses an actual and imminent threat, however, HUD regulations authorize a PHA to terminate the victim's assistance "only when there are no other actions that could be taken to reduce or eliminate the threat, including but not limited to transferring the victim to a different unit, barring the perpetrator from the property, contacting law enforcement to increase police presence or develop other plans to keep the property safe, or seeking other legal remedies to prevent the perpetrator from acting on a threat" (24 C.F.R. 5.2005(d)(3).) Additionally, HUD regulations state that restrictions "predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents" (24 C.F.R. 5.2005(d)(3).)

SFHA Policy

In determining whether a public housing tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking is an actual and imminent threat to other tenants or those employed at or providing service to a property, the SFHA will consider the following, and any other relevant, factors:

- Whether the threat is toward an employee or tenant other than the victim of domestic violence, dating violence, sexual assault, or stalking;
- Whether the threat is a physical danger beyond a speculative threat;
- Whether the threat is likely to happen within a short period of time;
- Whether the threat to other tenants or employees can be eliminated in some other way, such as by helping the victim relocate to a confidential location, transferring the victim to another unit, or seeking a legal remedy to prevent the perpetrator from acting on the threat.

If the tenant wishes to contest the SFHA's determination that he or she is an actual and imminent threat to other tenants or employees, the tenant may do so as part of the grievance hearing or in a court proceeding.

V. Victim Notification (Notice PIH 2006-42.)

VAWA requires SFHA to notify tenants of their rights under VAWA Notice PIH 2006-42 identifies two ways that a SFHA may fulfill this requirement in the event of a termination or start of an eviction proceeding.

It may enclose the form with the termination Notice PIH 2006-42 points out that mailing the certification form in response to an incident could place the victim at risk, since the abuser may be monitoring the mail. In such cases, the notice recommends that SFHA's work with tenants to make other delivery arrangements.

SFHA Policy

The SFHA will follow the lease termination notice policy in section 13-IV.D. If the SFHA has reason to suspect that the notice might place victim of domestic violence at risk, it will attempt to deliver the notice by hand directly to the victim. The SFHA will use the same caution if it decides to deliver VAWA information to a victim at any other time following an incident of domestic violence.

VI. Victim Documentation (Notice PIH 2006-42.)

VAWA authorizes SFHAs responding to incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking to request in writing that a tenant complete, sign, and submit a HUD-approved certification form (form HUD-5382).

In lieu of a certification form, or in addition to the certification form, a tenant may provide one of the following:

- A federal, state, tribal, territorial, or local police, court, or administrative record documenting the domestic violence, dating violence, sexual assault or stalking;
- Documentation signed by an employee, agent, or volunteer of a victim service provider; an attorney; medical professional, or a mental health professional from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse, in which the professional attests under penalty of

perjury to the professional's belief that the victim has experience an incident of domestic violence, dating violence, sexual assault, or stalking that meets the grounds for protection under the statute.

A SFHA is not required to demand that an individual produce official documentation or physical proof of an individual's status as a victim of domestic violence, dating violence, sexual assault or stalking in order to receive the protections of VAWA. A SFHA may, at its discretion, provide assistance to an individual based solely upon the individual's statement or other corroborating evidence.

VAWA specifies that a victim of domestic violence, dating violence, sexual assault or stalking must provide documentation of abuse within 14 business days after receipt of a written request for such documentation by a SFHA. The SFHA may extend the time to provide documentation of abuse. If the victim does not provide the documentation within that time frame, or any extension approved by the SFHA, the victim forfeits the protections against termination afforded by VAWA, and the SFHA is free to evict or terminate the assistance of the victim in accordance with otherwise applicable law and lease provisions.

SFHA Policy

When a tenant family is facing lease termination because of the actions of a tenant, household member, guest, or other person under the tenants control and a tenant or affiliated individual of the tenant claims that they are the victim of such actions that that the actions are related to domestic violence, dating violence, sexual assault or stalking, the SFHA will request in writing that the individual submit documentation affirming that claim. The written request will include explicit instructions on where, when, and to whom the documentation must be submitted. It will also state that the SFHA may grant a reasonable time extension for the victim to provide documentation and the consequences for failure to submit the documentation by the deadline.

The documentation will consist of a completed and signed form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking. In lieu of the certification form, the SFHA will accept either of the following forms of documentation:

- A police, court, or administrative record documenting the actual or threatened abuse;
- Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider, an attorney, mental health, or a medical or other knowledgeable professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the victim has experienced an incident of domestic violence, dating violence, sexual assault, or stalking that meets the grounds for protection under the statute. The victim must also sign the documentation.

The SFHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice.

The individual claiming victim status must submit the requested documentation within 14 business days after receipt of the SFHA's written request or must request an extension within that time frame. The SFHA may, at its discretion, extend the deadline for a reasonable amount of time.

If the individual provides the requested documentation within 14 business days, or any SFHA-approved extension, the SFHA will reconsider its termination decision in light of the documentation.

If the individual does not provide the requested documentation within 14 business days, or any SFHA approved extension, the SFHA will proceed with termination of the family's lease in accordance with applicable local, state, and federal law and the policies in this ACOP.

VII. Documentation of Abuse (24 C.F.R. § 5.2007.)

SFHA Policy

When an individual facing termination of tenancy for reasons related to domestic violence, dating violence, sexual assault, or stalking claims protection under VAWA, the PHA will request in writing that the individual provide documentation supporting the claim in accordance with the policies in section 16-VII.D of this ACOP.

The SFHA reserves the right to waive the documentation requirement if it determines that a statement or other corroborating evidence from the individual will suffice. In such cases the SFHA will document the waiver in the individual's file.

SFHA Policy

Refer to Chapter 12 for Emergency Transfer Process.

VIII. Terminating or Evicting a Perpetrator of Domestic Violence

Although VAWA provides protection from termination for victims of domestic violence, it does not provide such protection for perpetrators. In fact, VAWA gives the PHA the explicit authority to bifurcate a lease, or remove a household member from a lease, "in order to evict, remove, or terminate assistance to any individual who is a tenant or lawful occupant of the housing and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual, without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant of the housing" (FR Notice 8/6/13.) Moreover, HUD regulations impose on the PHA the obligation to consider lease bifurcation in any circumstances involving domestic violence, dating violence, or stalking (24 C.F.R. § 966.4(e)(9).)

Specific lease language affirming the PHA's authority to bifurcate a lease is not necessary, and the authority supersedes any local, state, or federal law to the contrary. However, if the PHA chooses to exercise its authority to bifurcate a lease, it must follow any procedures prescribed by

HUD or by applicable local, state, or federal law for eviction, lease termination, or termination of assistance. This means that the PHA must follow the same rules when terminating or evicting an individual as it would when terminating or evicting an entire family (FR Notice 3/16/07.)

SFHA Policy

The SFHA will bi-furcate a family's lease and terminate the tenancy of a family member if the SFHA determines that the family member has committed criminal acts of physical violence against other family members or others. This action will not affect the tenancy or program assistance of the remaining, nonculpable family members.

In making its decision, the SFHA will consider all credible evidence, including, but not limited to, a signed certification (form HUD-5382) or other documentation of abuse submitted to the PHA by the victim in accordance with this section and section 16-VII.D. The SFHA will also consider the factors in section 13.III.E. Upon such consideration, the SFHA may, on a case-by-case basis, choose not to bifurcate the lease and terminate the tenancy of the culpable family member.

If the SFHA does bi-furcate the lease and terminate the tenancy of the culpable family member, it will do so in accordance with the lease, applicable law, and the policies in this ACOP. If the person removed from the lease was the only tenant eligible to receive assistance, the SFHA must provide any remaining individuals who are not on the lease, 90 calendar days to vacate the premises and find alternate housing. The individual(s) not on the lease must enter into a License Agreement within fifteen (15) calendar days that the household members exited the unit. The Authority has the discretion to determine whether the License Agreement will require a monthly fee. All License Agreements will require a minimum payment of \$50.00 per month. Failure to vacate the premises within the designated time frame will result in the eviction of the remaining individuals who are not on the lease.

IX. SFHA Confidentiality Requirements (24 CR 5.2007(a)(1)(v).)

All information provided to the PHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such violence or stalking must be retained in confidence and may not be entered into any shared data base and may not be provided to any related entity, except to the extent that the disclosure (a) is requested or consented to by the individual in writing, (b) is required for use in an eviction proceeding, or (c) is otherwise required by applicable law.

SFHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the SFHA will inform the victim before disclosure occurs so that safety risks can be identified and addressed.

The SFHA will not disclose confidential information to any entity or individual except to the extent that the disclosure is:

- Requested or consented to in writing by the individual in a 180 calendar day time-limited release;
- Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
- Otherwise required by applicable law.

X. Notification, Documentation, and Confidentiality

VAWA provides special protections for victims of domestic violence, dating violence, sexual assault, and stalking who are applying for or receiving assistance under the public housing program. If your state or local laws provide greater protection for such victims, those apply in conjunction with VAWA.

In addition to definitions of key terms used in VAWA, this part contains general VAWA requirements and PHA policies in three areas: notification, documentation, and confidentiality. Specific VAWA requirements and PHA policies are located in Chapter 3, “Eligibility” (Sections 3-I.C and 3-III.F); Chapter 5, “Occupancy Standards and Unit Offers” (Section 5-II.D); Chapter 8, “Leasing and Inspections” (Section 8-I.B); Chapter 12, “Transfer Policy” (Sections 12-III.C, 12-III.F, and 12-IV.D); and Chapter 13, “Lease Terminations” (Sections 13-III.F and 13-IV.D).

XI. Definitions (24 C.F.R. § 5.2003; FR Notice 8/6/13.)

As used in VAWA:

- The term *affiliated individual* means, with respect to a person:
 - A spouse, parent, brother or sister, or child of that individual, or an individual to whom that person stands in the position or place of a parent; or
 - Any individual, tenant or lawful occupant living in the household of the victim of domestic violence, dating violence, sexual assault, or stalking.
- The term *bifurcate* means, with respect to a public housing or Section 8 lease, to divide a lease as a matter of law such that certain tenants can be evicted or removed while the remaining family members’ lease and occupancy rights are allowed to remain intact.
- The term *dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:
 - The length of the relationship
 - The type of relationship
 - The frequency of interaction between the persons involved in the relationship
- The term *domestic violence* includes felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person

with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated 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.

- The term *sexual assault* means:
 - Any nonconsensual sexual act proscribed by Federal, Tribal, or State law, including when the victim lacks the capacity to consent
- The term *stalking* means:
 - To engage in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

XII. Notification (24 C.F.R. § 5.2005(a).)

Notification to Public

The SFHA adopts the following policy to help ensure that all actual and potential beneficiaries of its public housing program are notified about their rights under VAWA.

SFHA Policy

The SFHA will post the following information regarding VAWA in its offices and on its Web site. It will also make the information readily available to anyone who requests it.

A summary of the rights and protections provided by VAWA to public housing applicants and residents who are or have been victims of domestic violence, dating violence, sexual assault or stalking (see sample notice in Exhibit 16-1)

The definitions of *domestic violence*, *dating violence*, *sexual assault*, and *stalking* provided in VAWA (included in Exhibit 16-1)

An explanation of the documentation that the PHA may require from an individual who claims the protections provided by VAWA (included in Exhibit 16-1)

A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

A statement of the SFHA's obligation to keep confidential any information that it receives from a victim unless (1) the PHA has the victim's written permission to release the information; (2) it needs to use the information in an eviction proceeding; or (3) it is compelled by law to release the information (included in Exhibit 16-1)

The National Domestic Violence Hot Line: 1-800-799-SAFE (7233), or 1-800-787-3224 (TTY) (included in Exhibit 16-1)

San Francisco based victim advocacy group: La Casa de las Madres Safe Housing Project: 1815 Egbert Avenue, San Francisco CA 94124. (415) 715-3129 and (415) 715-3225

Notification to Applicants and Tenants (24 C.F.R. § 5.2005(a)(1).)

PHAs are required to inform public housing applicants and tenants of their rights under VAWA, including their right to confidentiality and the limits thereof, when they are denied assistance, when they are admitted to the program, and when they are notified of an eviction or termination of housing benefits.

The PHA must distribute a notice of VAWA rights, along with the VAWA self-certification form (HUD-5382) at each of these three junctures.

SFHA Policy

The VAWA information provided to applicants and tenants will consist of the notice of VAWA rights in Exhibit 16-1 and a copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, and Stalking.

The SFHA will provide all applicants with information about VAWA at the time they request an application for housing assistance. The PHA will also include such information in all notices of denial of assistance (see Section 3-III.F).

The SFHA will provide all tenants with information about VAWA at the time of admission and at annual reexamination. The PHA will also include such information in all lease termination notices (see Section 13-IV.D).

The PHA is not limited to providing VAWA information at the times specified in the above policy. If the PHA decides to provide VAWA information to a tenant following an incident of domestic violence, Notice PIH 2006-42 cautions against sending the information by mail, since the abuser may be monitoring the mail. The notice recommends that in such cases the PHA make alternative delivery arrangements that will not put the victim at risk.

XIII. DOCUMENTATION (24 C.F.R. § 5.2007.)

A PHA presented with a claim for initial or continued assistance based on status as a victim of domestic violence, dating violence, sexual assault, or stalking, or criminal activity related to any of these forms of abuse may—but is not required to—request that the individual making the claim document the abuse. Any request for documentation must be in writing, and the individual must be allowed at least 14 business days after receipt of the request to submit the documentation. The PHA may extend this time period at its discretion. (24 C.F.R. § 5.2007(a).)

The individual may satisfy the PHA's request by providing any one of the following three forms of documentation (24 C.F.R. § 5.2007(b).):

- 1) A completed and signed HUD-approved certification form (HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking), which 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) A federal, state, tribal, territorial, or local police report or court record, or an administrative record;
- 3) Documentation signed by a person who has assisted the victim in addressing domestic violence, dating violence, sexual assault, or stalking, or the effects of such abuse. This person may be an employee, agent, or volunteer of a victim service provider; an attorney; a mental health professional; or a medical professional. The person signing the documentation must attest under penalty of perjury to the person's belief that the incidents in question are bona fide incidents of abuse. The victim must also sign the documentation.

The PHA may not require third-party documentation (forms 2 and 3) in addition to certification (form 1), except as specified below under "Conflicting Documentation," nor may it require certification in addition to third-party documentation (VAWA 2005 final rule.)

SFHA Policy

Any request for documentation of domestic violence, dating violence, sexual assault, or stalking will be in writing, will specify a deadline of 14 business days following receipt of the request, will describe the three forms of acceptable documentation, will provide explicit instructions on where and to whom the documentation must be submitted, and will state the consequences for failure to submit the documentation or request an extension in writing by the deadline.

The PHA may, in its discretion, extend the deadline for 10 calendar days. Any extension granted by the PHA will be in writing.

Conflicting Documentation (24 C.F.R. § 5.2007(e).)

In cases where the PHA 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 PHA may determine which is the true victim by requiring each to provide acceptable third-party documentation, as described above (forms 2 and 3). The PHA must honor any court orders issued to protect the victim or to address the distribution of property.

SFHA Policy

If presented with conflicting certification documents (two or more forms HUD-5382) from members of the same household, the PHA will attempt to determine which is the true victim by requiring each of them to provide third-party documentation in accordance with 24 C.F.R. § 5.2007(e) and by following any HUD guidance on how such determinations should be made.

Discretion to Require No Formal Documentation (24 C.F.R. § 5.2007(d).)

The PHA has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence, i.e., without requiring formal documentation of abuse in accordance with 24 C.F.R. § 5.2007(b).

SFHA Policy

If the SFHA accepts an individual's statement or other corroborating evidence of domestic violence, dating violence, sexual assault, or stalking, the PHA will document acceptance of the statement or evidence in the individual's file.

Failure to Provide Documentation (24 C.F.R. § 5.2007(c).)

In order to deny relief for protection under VAWA, a PHA must provide the individual requesting relief with a written request for documentation of abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt, or such longer time as the PHA may allow, the PHA may deny relief for protection under VAWA.

XIV. Confidentiality (24 C.F.R. § 5.2007(b)(4).)

All information provided to the PHA regarding domestic violence, dating violence, sexual assault, or stalking, including the fact that an individual is a victim of domestic violence, dating violence, sexual assault, or stalking, must be retained in confidence. This means that the PHA (1) may not enter the information into any shared database; (2) may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work; and (3) may not provide the information to any other entity or individual, 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.

SFHA Policy

If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the SFHA will follow the process in Chapter 13.

EXHIBIT 1-1: VAWA EMERGENCY TRANSFER

In accordance with the Violence Against Women Act (VAWA),¹ the SFHA allows tenants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from the tenant's current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.² The ability of the SFHA to honor such request for tenants currently receiving assistance, however, may depend upon a preliminary determination that the tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the SFHA has another dwelling unit that is available and is safe to offer the tenant for temporary or more permanent occupancy.

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer, if: the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

A tenant requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan.

Tenants who are not in good standing may qualify for an emergency transfer if they meet the eligibility requirements in this section. A tenant is not in good standing if they owe a debt to the SFHA, are not current on a repayment agreement, have been served with a legal notice within the previous 30 days or have an Unlawful Detainer action that has been filed against their household.

Confidentiality of VAWA Clients

The SFHA will keep confidential any information that the tenant submits in requesting an emergency transfer, and information about the emergency transfer, unless (1) the tenant gives the SFHA written permission to release the information on a time limited basis; (2) disclosure of the information is required by law or (3) disclosure is required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program. This includes keeping confidential the new location of the dwelling unit of the tenant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, or stalking against the tenant. See the Notice of Occupancy Rights under the Violence Against

¹ Despite the name of this law, VAWA protection is available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation.

² Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age. HUD-assisted and HUD-insured housing must be made available to all otherwise eligible individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

Women Act For All Tenants for more information about the SFHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

Safety and Security of Tenants

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

Tenants who are or have been victims of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

Tenants who have been victims of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE, or visit the online hotline at <https://ohl.rainn.org/online/>.

Tenants who are or have been victims of stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at <https://www.victimsofcrime.org/our-programs/stalking-resource-center>.

EXHIBIT 1-2: SAMPLE NOTICE TO LOW INCOME PUBLIC HOUSING PROGRAM PARTICIPANTS REGARDING THE VIOLENCE AGAINST WOMEN ACT (VAWA)

This sample notice was adapted from a notice prepared by the National Housing Law Project.

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

Protections for Victims

You cannot refuse to rent to an applicant solely because he or she is or has been a victim of domestic violence, dating violence, sexual assault, or stalking.

You cannot evict a tenant who is or has been the victim of domestic violence, dating violence, sexual assault, or stalking based on acts or threats of violence committed against the victim. Also, criminal acts directly related to the domestic violence, dating violence, sexual assault, or stalking that are caused by a household member or guest cannot be cause for evicting the victim of the abuse.

Permissible Evictions

You can evict a victim of domestic violence, dating violence, sexual assault, or stalking if you can demonstrate that there is an *actual and imminent* (immediate) threat to other tenants or employees at the property if the victim is not evicted. Also, you may evict a victim for serious or repeated lease violations that are not related to the domestic violence, dating violence, sexual assault, or stalking. You cannot hold a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than you hold tenants who are not victims.

Removing the Abuser from the Household

You may bifurcate (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 unit. If you choose to remove the abuser, you may not take away the remaining tenants’ rights to the unit or otherwise punish the remaining tenants. In removing the abuser from the household, you must follow federal, state, and local eviction procedures.

Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

If a tenant asserts VAWA’s protections, you can ask the tenant to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You are not required to demand official documentation and may rely upon the victim’s statement alone. If you choose to request certification, you must do so in writing and give the tenant at least 14 business days to provide documentation. You are free to extend this deadline. A tenant can certify that he or she is a victim by providing any one of the following three documents:

- (4) A completed, signed HUD-approved certification form. The most recent form is HUD-5382. This form is available at the housing authority or online at <https://portal.hud.gov/hudportal/documents/huddoc?id=5382.docx>.

- (5) A statement from a victim service provider, attorney, mental health professional, or medical professional who has helped the victim 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 the victim and the professional must sign the statement under penalty of perjury.
- (6) A police or court record, such as a protective order, or administrative record.

If the tenant fails to provide one of these documents within 14 business days, you may evict the tenant if authorized by otherwise applicable law and lease provisions.

Confidentiality

You must keep confidential any information a tenant provides to certify that he or she is a victim of domestic violence, dating violence, sexual assault, or stalking. You cannot enter the information into a shared database or reveal it to outside entities unless:

- The tenant provides written permission releasing the information.
- The information is required for use in an eviction proceeding, such as to evict the abuser.
- Release of the information is otherwise required by law.

The victim should inform you if the release of the information would put his or her safety at risk.

VAWA and Other Laws

VAWA does not limit your obligation to honor court orders regarding access to or control of the property. This includes orders issued to protect the 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.

Additional Information

If you have any questions regarding VAWA, please contact 415-715-5200.

Definitions

For purposes of determining whether a 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 or intimate partner 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 or intimate partner

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 engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.