

# **BROOKLINE 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 Brookline Housing Authority’s (BHA) policies and procedures regarding domestic violence, dating violence, and stalking, as hereinafter defined.

This Policy shall be applicable to the administration by BHA 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 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, or stalking who are assisted by BHA;
- C. Providing and maintaining housing opportunities for victims of domestic violence dating violence, or stalking;
- D. Creating and maintaining collaborative arrangements between BHA, 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 BHA; and
- E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, or stalking, affecting individuals assisted by BHA.

### **III. Other BHA Policies and Procedures**

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

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

#### **IV. Definitions**

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—

- (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) (i) to follow, pursue, or repeatedly commit acts with the intent to kill, injure, harass, or intimidate another person; and (ii) 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
  - (iii) 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**

*Non-Denial of Assistance.* BHA 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, or stalking, provided that such person is otherwise qualified for such admission.

Where the BHA receives adverse information about an applicant/household member and is aware that domestic violence might be involved, the BHA 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 BHA determines that there is such a connection, then the BHA 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**

A. *VAWA Protections.* Under VAWA, public housing residents and persons assisted under the Section 8 rental assistance program have the following specific protections, which will be observed by BHA:

1. An incident or incidents of actual or threatened domestic violence, dating violence, 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 BHA 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:
  - (a) Nothing contained in this paragraph shall limit any otherwise available authority of BHA' 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, or stalking in question against the tenant or a member of the tenant's household. However, in taking any such action, neither BHA 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 BHA or a Section 8 owner or manager to evict or terminate from assistance any tenant or lawful applicant if the owner, manager or BHA, 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. For public housing tenancies, where property damage is caused by a perpetrator, the BHA shall not terminate the Section 8 subsidy or evict from public housing the victim of domestic violence, dating violence, or stalking because of such property damage.
4. Where nonpayment of rent or other charges due the BHA is caused by the perpetrator, and where the victim of domestic violence, dating violence or stalking removes said perpetrator from the lease, the BHA 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.

B. *Removal of Perpetrator.* Further, notwithstanding anything in paragraph VI.A.2. or Federal, State or local law to the contrary, BHA 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. 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 BHA. Leases used for all public housing operated by BHA and, at the option of Section 8 owners or managers, leases for dwelling units occupied by families assisted with Section 8 rental assistance administered by BHA, may 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, BHA 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 set forth in this policy. Subject only to waiver as provided in paragraph VII. C., BHA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by BHA. Section 8 owners or managers receiving rental assistance administered by BHA 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 or stalking may be accomplished in one of the following three ways:

1. *HUD-approved form* - by providing to BHA 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) 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.

2. *Other documentation* - by providing to BHA 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 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 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 BHA 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 BHA, 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 BHA, 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 or stalking) provided to BHA 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 BHAded 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 BHA shall be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

## **IX. 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 BHA 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 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 BHA to cooperate with organizations and entities, both private and governmental, that provide shelter and/or services to victims of domestic violence. If BHA staff become aware that an individual assisted by BHA is a victim of domestic violence, dating violence or stalking, BHA 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 BHA 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. BHA's annual public housing agency plan shall describe providers of shelter or services to victims of domestic violence with which BHA has referral or other cooperative relationships.

## **XI. Notification**

BHA 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 or stalking.

## **XIII. Amendment**

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