

Worcester Housing Authority

Violence Against Women Act (VAWA) Policy

1. PURPOSE AND APPLICABILITY

The Worcester Housing Authority (“WHA”) is concerned about the safety of its tenants, participants, and applicants and such concern extends to those who are victims of domestic violence, dating violence, sexual assault, or stalking. The purpose of this policy is to implement the requirements of the Violence Against Women Reauthorization Act of 2013 (VAWA) with respect to the responsibilities of the WHA regarding domestic violence, dating violence, sexual assault and stalking. This policy shall be applicable to all of the federally-subsidized housing programs administered by the WHA and shall be incorporated by reference into the Leased Housing Administrative Plan and the Admission and Continued Occupancy Policy. Protections under this policy are available to all victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation. This policy will be applied consistent with all nondiscrimination, equal opportunity, and fair housing requirements.

2. DEFINITIONS

2.1 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.

2.2 Affiliated Individual:

With respect to an individual; a spouse, parent, brother, sister, or child of that individual, or stands in the place of a parent or guardian (for example, the affiliated individual is a person in the care, custody, or control of that individual); or any individual, tenant, or lawful occupant living in the household of that individual.

2.3 Bifurcate:

To divide a lease as a matter of law, subject to the permissibility of such process under the requirements of the applicable HUD-covered program and State or local 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.

2.4 Dating Violence:

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

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determined based upon a consideration of the following factors: length of relationship; type of relationship; and the frequency of interaction between the persons involved in the relationship.

2.5 Domestic Violence:

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 of family violence laws of Massachusetts, or by any other person against an adult or youth victim who is protected from the person's acts under the domestic of family violence laws of Massachusetts. The term "spouse or intimate partner of the victim" includes a person who is or has been in a social relationship or a romantic or intimate nature with the victim, as determined by the length of the relationship, the type of the relationship, and the frequency of interaction between the persons involved in the relationship.

2.6 Perpetrator:

A person who commits an act of domestic violence, dating violence, sexual assault or stalking assault against a victim.

2.7 Sexual Assault:

Any nonconsensual sexual act proscribed by Federal, tribal or State law, including when the victim lacks capacity to consent.

2.8 Stalking:

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to: fear for the person's individual safety or the safety of others; or suffer substantial emotional distress.

3. NOTIFICATIONS PROVIDED

All applicants, tenants, and participants of WHA's federally-subsidized housing programs with the Notice of Occupancy Rights under the Violence Against Women Act (Form HUD-5380) and the Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking (Form HUD-5382) at the following times:

- a. At the time the applicant is denied assistance or admission;
- b. At the time the individual is provided assistance or admission;

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- c. With any notification of eviction or notification of termination of assistance; and,
- d. During the 12-month period following December 16, 2016, either during the annual recertification or lease renewal process, whichever is applicable.

These forms shall be made available in multiple languages, consistent with guidance issued by HUD in accordance with Executive Order 13166.

3. VAWA PROTECTIONS

An applicant for assistance, tenant, or participant shall not be denied admission to, denied assistance under, terminated from participation in, or evicted from the housing on the basis or as a direct result of the fact that the applicant, tenant, or participant is or has been a victim of domestic violence, sexual assault, or stalking, if the applicant or tenant otherwise qualifies for admission, assistance, participation, or occupancy.

A tenant may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking if: the criminal activity is engaged in by a member of the household of a tenant or any guest or other person under the control of the tenant, and the tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault, or stalking.

An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking shall not be construed as: a serious or repeated violation of a lease executed under a covered housing program by the victim or threatened victim of such incident; or good cause for terminating the assistance, tenancy, or occupancy rights under a covered housing program of the victim or threatened victim of such incident.

4. LIMITATIONS OF VAWA PROTECTIONS

Nothing in the above section, limits the WHA, when notified of a court order, to comply with a court order with respect to: the rights of access or control of property, including civil protection orders issued to protect a victim of domestic violence, dating violence, sexual assault or stalking; or the distribution or possession of property among members of a household.

Nothing in the above sections limits any available authority of the WHA to evict or terminate assistance to a tenant or participant for any violation not premised on an act of domestic violence, dating violence, sexual assault, or stalking that is in question against the tenant or participant or an affiliated individual of the tenant or participant. However, the WHA must not subject the tenant or participant, who is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, or is affiliated with 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 or participants in determining whether to evict or terminate assistance.

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Nothing in the above section limits the authority of the WHA to terminate assistance to or evict a tenant or participant if the WHA can demonstrate an actual and imminent threat to other tenants, or those employed at or providing service to property of the WHA would be present if that tenant or lawful occupant is not evicted or terminated from assistance. In this context, words, gestures, actions, or other indicators will be considered an “actual and imminent threat” if they meet the standards provided in the definition of “actual and imminent threat” in §2.1 above. However, there must be 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. Restrictions predicated on public safety cannot be based on stereotypes, but must be tailored to particularized concerns about individual residents.

5. DOCUMENTATION REQUIRED

If an applicant, tenant, or participant represents to the WHA that they are entitled to the protections or remedies of VAWA, they must provide acceptable documentation to document the occurrence of domestic violence, dating violence, sexual assault, or stalking to the WHA.

Acceptable documentation to document the occurrence of domestic violence, dating violence, sexual assault, or stalking are:

1. The Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking Form (Form HUD-5382);
2. A document signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional (collectively, “professional”) from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking, or the effects of abuse; signed by the tenant or participant; and that specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and remedies under 24 CFR part 5, subpart L, and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking under §5.2003; or
3. A record of Federal, State, tribal, territorial, or local law enforcement agency, court, or administrative agency.

The WHA will inform the applicant, tenant, or participant in writing that such acceptable documentation is required and that such documentation must be submitted to the WHA within fourteen (14) business days. If acceptable documentation is not provided within the fourteen (14) business days the protections and remedies of VAWA shall be waived.

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If the WHA receives documentation containing conflicting information, the WHA may require the tenant or participant to submit third-party documentation as described in paragraphs 2 or 3 above within thirty (30) calendar days of the date of such request.

Documentation is not required if the applicant, tenant, or participant has already previously provided acceptable documentation of the occurrence of domestic violence, dating violence, sexual assault, or stalking to the WHA.

Any information submitted to the WHA concerning the occurrence(s) of domestic violence, dating violence, sexual assault, or stalking relating to the victim (including the fact that an individual is a victim of domestic violence, dating violence, sexual assault or stalking) shall be maintained in strict confidence by the WHA. The WHA shall not allow any persons within its employ to have access to such confidential information unless explicitly authorized by the WHA for reasons that specifically call for these individuals to have access to this information under applicable Federal, State, or local law. The WHA shall not enter such confidential information into any shared database or disclose such information to any other entity or individual, except to the extent that the disclosure is: requested or consented to in writing by the individual in a 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.

6. EMERGENCY TRANSFER PLAN

The WHA allows tenants and participants who are victims of domestic violence, dating violence, sexual assault, or stalking to request an emergency transfer from their current unit or program to another unit or program. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation.¹ The ability of the WHA to honor such request for those currently receiving assistance, however, may depend upon a preliminary determination that the tenant or participant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking, and on whether the WHA has another dwelling unit that is available and is safe to offer the tenant or participant for temporary or more permanent occupancy.

This plan identifies tenants and participants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance to tenants and participants on safety and security. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that the WHA is in compliance with VAWA.

¹ 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.

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The WHA shall not bear the moving costs that tenants or participants generally pay, including application fees, deposits, or the costs to physically move households and their belongings. The provisions in VAWA on emergency transfer requests do not supersede eligibility requirements for HUD housing serving specific populations, or for any HUD housing covered by VAWA 2013.

6.1 Eligibility for Emergency Transfers

A tenant or participant 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 or participant reasonably believes that there is a threat of imminent harm from further violence if they remain within the same unit. If the tenant or participant is a victim of sexual assault, they may also be eligible to transfer if the sexual assault occurred on the premises within the ninety (90) calendar day period preceding a request for an emergency transfer.

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

Tenants or participants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

6.2 Emergency Transfer Request Documentation

To request an emergency transfer, the tenant shall notify WHA's Management Office, or the participant shall notify WHA's Leased Housing Department, of the need to transfer and shall complete and submit the Emergency Transfer Request Form (Form HUD-5383). The tenant or participant shall also provide acceptable documentation to document the occurrence of domestic violence, dating violence, sexual assault, or stalking to the WHA within fourteen (14) business days of the submission of the Emergency Transfer Request Form, unless the tenant or participant has already provided acceptable documentation of the occurrence to the WHA. Acceptable documentation is described in Section 5, above.

The written request for an emergency transfer should include either:

1. A statement expressing that the tenant or participant reasonably believes that there is a threat of imminent harm from further violence if they were to remain in the same dwelling unit assisted under WHA's program; OR
2. A statement that the tenant or participant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the request for an emergency transfer.

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The WHA will provide reasonable accommodations to this policy for individuals with disabilities.

6.3 Confidentiality

The WHA will keep confidential any information that the tenant or participant submits in requesting an emergency transfer, and information about the emergency transfer, unless the tenant or participant gives the WHA written permission to release the information on a time limited basis, or disclosure of the information is required by law or 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 or participant, 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 Women Act for All Tenants for more information about WHA's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking.

6.4 Emergency Transfer Timing and Availability

The WHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. The WHA will, however, act as quickly as possible to process such a request.

For the purposes of this plan, the following definitions apply:

1. *Internal emergency transfer:* An emergency relocation of a tenant or participant to another unit where they would not be categorized as a new applicant; that is, they may reside in the new unit without having to undergo an application process; and
2. *External emergency transfer:* An emergency relocation of a tenant or participant to another unit where they would be categorized as a new applicant; that is they must undergo an application process in order to reside in the new unit.

6.4.1 Emergency Transfers for Public Housing Tenants

The WHA will act as quickly as possible to make an internal transfer to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to

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which the tenant has been transferred. The WHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for that unit.

If a safe unit is not immediately available, the WHA shall place the tenant on the Administrative Transfer wait list. This Administrative Transfer wait list may include other individuals as described in the Admission and Continued Occupancy Policy. Individuals will be placed on the waiting list in chronological order regardless of the reason for the Administrative Transfer.

If a safe unit is not immediately available, the WHA shall make reasonable efforts, as described below, to assist the tenant in making an external emergency transfer, upon the tenant's request. The WHA will assist such tenants in applying for WHA's Leased Housing Rental Assistance Programs. If such a tenant is determined eligible for such program(s), they shall be granted a Super Priority Preference on the WHA's waiting list(s). However, the issuance of a Housing Choice Voucher or Project Based Voucher is subject to the availability of such vouchers. In addition, the WHA will also assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, the WHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Nothing in this plan shall preclude a tenant from seeking an internal and external emergency transfer concurrently if a safe unit is not immediately available.

6.4.2 Emergency Transfers for Leased Housing Rental Assistance Program Participants

In General:

Participants who are, or have been, the victim of domestic violence, dating violence, sexual assault, or stalking are not required to notify the WHA prior to leaving the assisted unit, if such a move is needed to protect the health or safety of the family or family member, or if any family member has been the victim of sexual assault that occurred on the premises during the ninety (90) calendar day period preceding the family's request to move.

If a participant qualifies for an emergency transfer under this Plan, the WHA will allow the participant family to move within the initial lease term and/or more than once during any twelve (12) month period.

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Nothing in this plan shall preclude a participant from seeking an internal and external emergency transfer concurrently if a safe unit is not immediately available.

Project-Based and Moderate Rehabilitation Participants:

For participants in the project-based voucher program and the moderate rehabilitation program, the WHA will act as quickly as possible to make an internal transfer to move a participant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a participant reasonably believes a proposed transfer would not be safe, the participant may request a transfer to a different unit.

If a safe unit is not immediately available, the WHA shall make reasonable efforts, as described below, to assist the participant in making an external emergency transfer, upon the participant's request. The WHA will assist such participants in applying for the WHA's other Leased Housing Rental Assistance Programs and Public Housing Program. If such a participant is determined eligible for such program(s), they shall be granted a Super Priority Preference on the WHA's waiting list(s). However, the issuance of a Housing Choice Voucher is subject to the availability of such vouchers. Upon request, the WHA shall place the participant on the Administrative Transfer wait list for a Public Housing unit. This Administrative Transfer wait list may include other individuals as described in the Admission and Continued Occupancy Policy. Individuals will be placed on the waiting list in chronological order regardless of the reason for the Administrative Transfer. The WHA will also assist the participant in identifying other housing providers who may have safe and available units to which they could move. At the participant's request, the WHA will also assist participants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Participants with Tenant-Based Vouchers:

For participants in the tenant-based housing choice voucher program, the WHA will act as quickly as possible to make an internal transfer to move a participant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. The WHA will accomplish such an internal transfer by first issuing the participant a tenant-based voucher. The WHA will provide the participant with a listing of known available units. The WHA will also quickly process Requests for Tenancy Approval and rapidly inspect the unit. The WHA will also assist participants who would like to move to an area outside the WHA's jurisdiction by utilizing the portability process.

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If a safe unit is not immediately available, the WHA shall make reasonable efforts, as described below, to assist the participant in making an external emergency transfer, upon the participant's request. The WHA will assist such participants in applying for the WHA's Project-Based Program and Public Housing Program. If such a participant is determined eligible for such program(s), they shall be granted a Super Priority Preference on the WHA's waiting list(s). However, the issuance of a Project Based Voucher is subject to the availability of such vouchers. Upon request, the WHA shall place the participant on the Administrative Transfer wait list for a Public Housing unit. This Administrative Transfer wait list may include other individuals as described in the Admission and Continued Occupancy Policy. Individuals will be placed on the waiting list in chronological order regardless of the reason for the Administrative Transfer. In addition, the placement into a Public Housing unit is subject to the availability of such a unit. At the participant's request, the WHA will also assist participants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

6.5 Safety and Security of Tenants

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

Tenants or participants 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 or participants 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 or participants 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>.

Local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking are:

- YWCA/Daybreak

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(508) 755-9030

- W.I.N. Program
(508) 799-8610

- Pathways for Change (Formerly Rape Crisis Center of Central Mass.)
(800) 870-5905

- Community Healthlink
(508) 791-3261

7. LEASE BIFURCATION

The WHA may bifurcate a lease, or remove a household member from a lease in order to evict, remove, terminate occupancy rights, or terminate assistance to such member who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individual: without regard to whether the household member is a signatory to the lease; and without evicting, removing, terminating assistance to, or otherwise penalizing a victim of such criminal activity who is also a tenant or lawful occupant. Lease bifurcation shall be carried out in accordance with any requirements or procedures as may be prescribed by Federal, State, or local law for termination of assistance or leases and in accordance with any requirements under the relevant housing program.

If the individual who was evicted or for whom assistance was terminated was the eligible tenant under the applicable housing program, the WHA shall provide to any remaining tenant or tenants that were not already eligible a period of ninety (90) calendar days from the date of bifurcation of the lease to: establish eligibility for the same housing program under which the evicted or terminated tenant was the recipient of assistance at the time of bifurcation of the lease; or establish eligibility under another covered housing program; or find alternative housing. The ninety (90) day calendar period will not be available to a remaining household member if the statutory requirements for the covered housing program prohibit it. The ninety (90) day calendar period also will not apply beyond the expiration of a lease, unless this is permitted by program regulations. The WHA may extend the ninety (90) day calendar period to an additional sixty (60) calendar days, unless prohibited from doing so by statutory requirements of the covered program or unless the time period would extend beyond expiration of the lease.