

Housing Authority of the County of Contra Costa
PHA Plan FY 2009-2010
VAWA Attachment

On January 5, 2006, President Bush signed the Violence Against Women Act (VAWA) into law as Public Law 109-162. In response to VAWA, the Housing Authority of the County of Contra Costa (HACCC) has taken the following steps:

- HACCC partners with STAND! Against Domestic Violence (STAND!) to provide services to individuals and families caught in domestic violence. STAND! Is the only comprehensive domestic violence prevention agency in Contra Costa County and assists over 10,000 clients annually by providing prevention, intervention, and treatment services to end the cycle of violence. These services include: emergency shelter, 24-hour crisis line, legal support, transitional housing programs, clinical counseling, support groups, domestic violence treatment program for people who abuse, youth education and prevention programs, community education/speakers bureau, and volunteer training.
- HACCC refers child or adult victims of domestic violence, dating violence, sexual assault, or stalking to STAND! for assistance.
- HACCC has altered many of its policies and procedures so as to enable child or adult victims of domestic violence, dating violence, sexual assault, or stalking to obtain or maintain housing. Changes to HACCC's Administrative Plan and ACOP are highlighted below.
- STAND! provides numerous domestic violence prevention and intervention programs and classes. Clients are referred to these when there is a belief that they may be victims of domestic violence, or potential victims.

VAWA Components in the Housing Choice Voucher Administrative Plan

VAWA policies are incorporated throughout the Housing Choice Voucher Administrative Plan. Those policies are summarized below.

- HACCC may deny assistance to applicants if any household member is currently engaged in, or has engaged in violent criminal activity or criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity during the past five years. However, no applicant who has been a victim of domestic violence, dating violence or stalking will be denied assistance if they are otherwise qualified for the program.
- HACCC will deny a family permission to make an elective move during the family's initial lease term. This policy applies to moves within HACCC's jurisdiction or

outside it under portability. HACCC will also deny a family permission to make more than one elective move during any 12-month period. This policy applies to all assisted families residing in HACCC's jurisdiction. However, among other exceptions, HACCC will permit such moves in order to protect the health or safety of a family member(s) in cases of domestic violence.

- HACCC may terminate a participant family's assistance if any household member has violated the family's obligation not to engage in any violent criminal activity or criminal activity that may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents or persons residing in the immediate vicinity during participation in the HCV program. However, no applicant who has been a victim of domestic violence, dating violence or stalking will have their assistance terminated if they are otherwise qualified for the program.
- Any incident or incidents of actual or threatened domestic violence, dating violence or stalking will not be construed as a serious or repeated violation of the lease by the victim or threatened victim of that violence, and shall not be good cause for terminating the assistance, tenancy or occupancy rights of the victim.
- HACCC may terminate the assistance of an individual family member to remove a lawful occupant or tenant who engages in criminal acts or threatened acts of violence or stalking to family members or others without terminating the assistance or evicting victimized lawful occupants.
- There is no limitation on the ability of HACCC to terminate assistance for other good cause unrelated to the incident or incidents of domestic violence, dating violence or stalking, other than the victim may not be subject to a "more demanding standard" than non-victims.
- There is no prohibition on HACCC terminating assistance if it "can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property if that tenant's (victim's) assistance is not terminated."
- Any protections provided by law which give greater protection to the victim are not superseded by these provisions.
- HACCC will require certification by the victim of victim status on such forms as the HACCC and/or HUD shall prescribe or approve.
- In making its decision to terminate assistance, HACCC will consider alternatives as described in Section 12-II.C and other factors described in Section 12-II.D. Upon consideration of such alternatives and factors, HACCC may, on a case-by-case basis, choose not to terminate assistance.
- When a family on the waiting list breaks up into two otherwise eligible families, only one of the new families may retain the original application date. Other former family members may make a new application with a new application date if the waiting list is open.

- If a family breaks up into two otherwise eligible families while receiving assistance, only one of the new families will continue to be assisted.
- In the absence of a judicial decision, or an agreement among the original family members, HACCC will determine which family retains their placement on the waiting list, or will continue to receive assistance. Among the factors HACCC will take into consideration when making this determination will be any possible risks to family members as a result of domestic violence.
- HACCC may honor court orders regarding the rights of access or control of the property, including EPO's, DVO's, and other orders issued to protect the victim and used to address the distribution or possession of property among household members where the family "breaks up."

VAWA Components in the Public Housing Admissions and Continued Occupancy Plan

HACCC has prepared an extensive revision of its Admissions and Continued Occupancy Plan (ACOP). This draft revision of the ACOP has a separate section dedicated to VAWA. This section is below.

HOUSING AUTHORITY OF THE COUNTY OF CONTRA COSTA VIOLENCE AGAINST WOMEN ACT (VAWA) 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) and more generally to set forth the Housing Authority of the County of Contra Costa's (HACCC) policies and procedures regarding domestic violence, dating violence, and stalking, as hereinafter defined.

This Policy shall be applicable to the administration by HACCC of all federally subsidized public housing 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 HACCC;

C. Providing and maintaining housing opportunities for victims of domestic violence dating violence, or stalking;

D. Creating and maintaining collaborative arrangements between HACCC, 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 HACCC; and

E. Taking appropriate action in response to an incident or incidents of domestic violence, dating violence, or stalking, affecting individuals assisted by HACCC.

III. Other HACCC Policies and Procedures

This Policy shall be referenced in and attached to HACCC's Five-Year Public Housing Agency Plan and shall be incorporated in and made a part of HACCC's Admissions and Continued Occupancy Policy. To the extent any provision of this policy shall vary or contradict any previously adopted policy or procedure of HACCC, 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

A. *Non-Denial of Assistance*. HACCC will not deny admission to public housing 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.

VI. TERMINATION OF TENANCY OR ASSISTANCE

A. *VAWA Protections*. Under VAWA, public housing residents have the following specific protections, which will be observed by HACCC:

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 HACCC 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 HACCC’ or 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, the HACCC 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 HACCC to evict or terminate from assistance any tenant or lawful applicant if the HACCC, 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.

B. Removal of Perpetrator. Further, notwithstanding anything in paragraph VI.A.2. or Federal, State or local law to the contrary, HACCC, 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 HACCC.

VII. Verification of Domestic Violence, Dating Violence or Stalking

A. Requirement for Verification. The law allows, but does not require, HACCC 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. HACCC shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by HACCC. 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 HACCC 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 HACCC 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 HACCC 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 HACCC, 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.

C. Waiver of verification requirement. The Executive Director of HACCC 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. 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 HACCC 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 shared 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, as permitted in VAWA, or
3. otherwise required by applicable law

B. *Notification of rights.* All tenants of public housing shall be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

VIII. Transfer to New Residence

A. *Application for transfer.* In situations that involve significant risk of violent harm to an individual as a result of previous incidents or threats of domestic violence, dating violence, or stalking, HACCC will, if an approved unit size is available at a location that may reduce the risk of harm, approve transfer by a public housing to a different unit in order to reduce the level of risk to the individual. A tenant who requests transfer must attest in such application that the requested transfer is necessary to protect the health or safety of the tenant or another member of the household who is or was 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.

B. *Action on applications.* HACCC will act upon such an application promptly.

C. *No right to transfer.* HACCC will make every effort to accommodate requests for transfer when suitable alternative vacant units are available and the circumstances warrant such action.

D. *Family rent obligations.* If a family occupying HACCC public housing moves before the expiration of the lease term in order to protect the health or safety of a household member, the family will remain liable for the rent during the remainder of the lease term unless released by HACCC. In cases where HACCC determines that the family's decision to move was reasonable under the circumstances, HACCC may wholly or partially waive rent payments and any rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a tenant subsequently occupying the unit.

X. COURT ORDERS/FAMILY BREAK-UP

A. *Court orders.* It is HACCC's policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by HACCC and their property. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.

B. *Family break-up.* Other HACCC policies regarding family break-up are contained in HACCC's Public Housing Admissions and Continuing Occupancy Plan (ACOP).

XI. NOTIFICATION

HACCC shall provide written notification to applicants, tenants, 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 HACCC as approved by the HACCC Board of Commissioners.