

The Violence Against Women Act of 2005 (VAWA): A Fact Sheet for Public Housing Agencies

When did VAWA become effective, and who is required to comply with the law?

VAWA's housing provisions became effective January 5, 2006. HUD has issued notices instructing public housing agencies (PHAs) to implement the law without waiting for HUD to issue regulations. PHAs administering the public housing and Section 8 voucher programs and all landlords, owners, and managers participating in the Section 8 voucher and project-based programs must comply with VAWA.

What types of housing does VAWA cover, and whom does VAWA protect?

VAWA applies to public housing, the Section 8 voucher program, and project-based Section 8. VAWA protects anyone who is:

- (1) A victim of actual or threatened domestic violence, dating violence, or stalking, or an immediate family member of the victim (spouse, parent, sibling, child, or any other person living in the household who is related by blood or marriage); AND
- (2) Living in, or seeking admission to, public, Section 8 voucher, or project-based Section 8 housing.

How does VAWA affect admissions and terminations?

An individual's status as a victim of domestic violence, dating violence, or stalking is not an appropriate basis for denial of admission or denial of housing assistance.

VAWA establishes an exception to the "one-strike" criminal activity eviction rule. Actual or threatened criminal activity directly relating to domestic violence, dating violence, or stalking does not constitute grounds (either as a "serious or repeated violation of lease", or as "good cause") for terminating assistance, tenancy, or occupancy rights of the victim or an immediate family member of the victim.

Despite the protections described above, a PHA may still evict the victim if the PHA can demonstrate an "actual and imminent threat" to other tenants or employees of the property if the victim is not evicted. VAWA does not define "actual and imminent threat" or explain what evidence a PHA must provide.

What about criminal activity unrelated to abuse?

VAWA does not protect tenants if the criminal incident for which they are being evicted or denied admission is unrelated to domestic violence, dating violence, or stalking. In determining whether to evict, a PHA or owner may not hold a victim of abuse to a more demanding standard than other tenants.

Can the abuser alone be evicted or terminated?

A PHA may bifurcate a lease to evict or terminate assistance to a tenant who commits acts of violence against family members. This action may be taken without evicting or terminating assistance to the victim who is also a tenant. Bifurcation is applicable to all leases in the public housing or Section 8 programs. The eviction or termination must comply with federal, state, and local law.

How does VAWA affect portability?

A PHA may permit a family with a Section 8 voucher to relocate if the family is moving to protect the health or safety of an individual who is or has been the victim of abuse. A PHA may permit the family to move even if the family's lease term has not yet expired. A PHA may ask for documentation regarding the family's desire to move.

Can a PHA ask for proof of the abuse?

PHAs may, but are not required to, ask an individual for certification that he or she is a victim of abuse if the individual seeks to assert VAWA's protections. At their discretion, PHAs may apply VAWA to an individual based solely on the individual's statement.

A PHA may request that the individual certify that he or she is a victim of abuse by filling out a HUD-approved certification form. Instead of the certification form, the victim may provide:

- Documentation signed by the victim and a victim service provider, an attorney, or a medical professional in which the professional attests under penalty of perjury to the professional's belief that the victim has experienced bona fide incidents of abuse.
- A federal, state, tribal, territorial, or local police or court record.

After a PHA requests certification, an individual has fourteen business days to respond. If an individual fails to respond, a PHA may terminate assistance. However, a PHA is free to extend this timeframe.

Any information provided must be kept confidential. PHAs may not enter the information into any shared database or provide it to any related entity. The only exceptions are: (1) the victim consents to disclosure in writing; (2) the information is required for use in an eviction proceeding; or (3) disclosure is otherwise required by law.

Must a PHA provide notice of VAWA to tenants and owners?

PHAs must inform tenants and owners of their rights and obligations under VAWA. The information also must be included in public housing leases, Housing Assistance Payments contracts for the Section 8 Voucher program, tenancy addendums for the voucher program, and Project-Based Section 8 contracts.

How does VAWA affect the PHA planning process?

A PHA must include in its annual plan a description of any activities, services, or programs being undertaken to assist victims of domestic violence, dating violence, stalking, or sexual assault. A PHA must include in its five-year plan a description of any goals, objectives, policies, or programs it uses to serve victims' housing needs.

What guidance is available?

- VAWA's public housing provisions are located at 42 U.S.C. § 1437d; the project-based Section 8 provisions are at 42 U.S.C. § 1437f(c), (d); the voucher provisions are at 42 U.S.C. § 1437f(o).
- HUD Notice PIH 2006-23: Directs PHAs to notify tenants and owners of VAWA.
- HUD Notice PIH 2006-42: Transmits Certification Form HUD-50066 and provides guidance to PHAs and owners regarding certification and confidentiality.
- Form HUD-50066: The HUD-approved certification form that applicants and tenants in public housing and the Section 8 voucher program may use to certify that they are victims of abuse.
- HUD Notice PIH 2007-5: Transmits the revised Housing Assistance Payments contract and Tenancy Addendum; provides guidance to PHAs and owners on bifurcation and portability.
- Form HUD-52641, Form HUD-52641A: The HAP contract and tenancy addendum as revised by HUD to reflect tenants' protections under VAWA.

- 72 Fed. Reg. 12,696 (Mar. 16, 2007): Identifies VAWA's provisions affecting HUD programs; identifies provisions that require program participants to take action to be in compliance.