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**NEW BEDFORD HOUSING AUTHORITY**

**OPERATIONS MANUAL**

**DATE:** December 3, 2015 **Release No. 38**  
Revised 01/06/2020  
**TO:** Residents  
**SUBJECT:** VAWA Policy

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**PROHIBITION AGAINST TERMINATING TENANCY OF VICTIMS OF DOMESTIC VIOLENCE, DATING VIOLENCE, SEXUAL ASSAULT, AND STALKING**

This policy applies to all residents who are victims of domestic violence, dating violence, sexual assault, and stalking, regardless of sex, gender identity, or sexual orientation, and must be applied consistent with all nondiscrimination and fair housing requirements. No person will be required to leave or have assistance terminated solely on the basis that the person is or has been a victim of domestic violence, dating violence, sexual assault, or stalking as these are VAWA covered crimes.

The Violence Against Women Reorganization Act of 2013 (VAWA), provides that "criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking, engaged in by a member of the tenant's household or any guest or other person under the tenant's control, shall not be cause for termination of the tenancy or occupancy rights, if the tenant or immediate family member of the tenant's family is the victim or threatened victim of that abuse." 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 of such violence or as good cause for terminating the tenancy or occupancy rights of the victim of such violence.

VAWA does not limit the NBHA's authority to terminate the tenancy of any tenant if the NBHA can demonstrate an actual and imminent threat to other tenants or those employed at or providing service to the property. In circumstances when the NBHA can demonstrate an actual or imminent threat to other participants or those employed at or providing services to the property if the participant's (including the victim's) tenancy is not terminated, the NBHA will bypass the standard process and proceed with the immediate termination of the family's assistance.

## **KEY TERMINOLOGY**

### **Affiliated Individual**

- (A) A spouse, parent, brother, sister, or child of that individual, or an individual to whom that individual stands in loco parentis (in place of a parent) or
- (B) Any individual, resident, or lawful occupant living in the household of that individual.

### **Bifurcate**

Divide a lease such that certain residents or lawful occupants can be evicted or removed, and the remaining residents 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 residents and lawful occupants.

### **Dating Violence**

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:
  - 1. The length of the relationship.
  - 2. The type of relationship.
  - 3. The frequency of interaction between the persons involved in the relationship.

### **Domestic Violence**

Includes felony or misdemeanor crimes of violence committed by:

- a. a current or former spouse or intimate partner of the victim.
- b. by a person with whom the victim shares a child in common.
- c. by a person cohabitating with or has cohabitated with the victim as a spouse or intimate partner.
- d. by a person similarly situated to a spouse of the victim under domestic or family violence laws of the jurisdiction receiving grant monies, or
- e. 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.

### **Sexual Assault**

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

## **Stalking**

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (A) Fear for his or her safety or the safety of others; or
- (B) Suffer substantial emotional distress.

## **NOTICE OF OCCUPANCY RIGHTS**

VAWA Notice of Occupancy Rights is HUD form 5380. This notice must be provided to:

- Adult applicants of public housing, HCV and PBV; and
- Each adult tenant of public housing, HCV and PBV adult participation.

The VAWA Notice of Occupancy Rights must be provided no later than each of the following times:

For applicants:

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

For tenants / participants:

- With the NBHA notification of eviction or termination of assistance; and
- At annual recertification if the tenant has not already received the notice at admission.

## **LEASE BIFURCATION**

New Bedford Housing Authority may bifurcate a lease in public housing in order to evict or remove an abuser, while allowing the person being victimized to stay. NBHA may ask an individual to document or certify that he or she is or has been a victim of domestic violence, dating violence, sexual assault or stalking. The certification must be provided within 14 days of the NBHA request. If the victim does not provide the certification and supporting documentation, as required, NBHA may proceed with termination of the family's lease. This deadline may be extended with extenuating circumstances.

NBHA will provide reasonable and appropriate assistance to household members in public housing who are victims of domestic violence, including changing locks for those who have obtained abuse prevention orders and waiving the cost to change the locks.

When a lease is bifurcated under VAWA, the remaining members of the household will need to establish their continued eligibility for assistance and/or tenancy, depending on the public housing and housing choice voucher regulations. If a tenant described above cannot establish eligibility, NBHA will provide the tenant thirty (30) days to find new housing or to establish eligibility for housing under another covered housing program.

## EMERGENCY TRANSFERS

NBHA will require that tenants requesting transfers due to domestic violence, dating violence, sexual assault, and stalking document an occurrence and submit a written request before a transfer occurs certifying that they meet the criteria of an emergency transfer. NBHA cannot require the victim to provide third party verification but can take the third-party verification if offered. A resident may provide a self-certification in lieu of any other documentation to document an occurrence of a VAWA covered incident.

Transfers will be made in order of received written request and unit availability. NBHA will keep a record of all emergency transfer request and residents who have been transferred under said emergency for term of tenancy plus a period of three years. There is no limit to the number of times a resident can be transferred due to VAWA related crimes. VAWA emergency transfers do not supersede requirements for HUD housing serving specific populations.

### Conflicting Information

**If NBHA receives conflicting information, it can require third party verification as documentation. Conflicting information can be but is not limited to more than one household member claiming the other one is the perpetrator. The same 14-day deadline as mentioned above will apply to this third-party verification.**

## VICTIM CONFIDENTIALITY

All information provided to the NBHA regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is a victim of such, must be retained in confidence and may neither be entered into any shared database nor provided to any related entity, except to the extent the disclosure is:

- Requested or consented to by the individual in writing.
- Required for use in an eviction proceeding.
- Otherwise required by applicable law.

## CONTACT INFORMATION FOR HELP

Domestic Violence and Sexual Assault Hotline (New Bedford) 508-999-6636.

Women's Center, 405 County St., New Bedford, MA 02740 505-996-3343.

Center for Health & Human Services (CHHS) 1287 Acushnet Ave, New Bedford, MA 02746 508-996-0546. Complete outreach services for woman at risk.

National Domestic Violence Hotline 800-799-7233 or 800-787-3224 (TTY).

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Steven A. Beauregard  
Executive Director