

# Domestic Violence Protections (VAWA)

The Violence Against Women Reauthorization Act of 2013 (VAWA 2013) expands housing protections for victims of domestic violence, dating violence, sexual assault, or stalking. Changes under VAWA 2013 include extending protections to survivors of sexual assault; allowing survivors who remain in the unit to establish eligibility or find new housing when a lease is bifurcated; providing survivors with emergency transfers; and additional notification to applicants and tenants of housing rights under VAWA. While these changes substantially extend VAWA's coverage to include most affordable housing programs, they provide no protection to tenants in private market-rate housing but do apply to tenants with vouchers in private market housing.

LOHA will provide all protection under VAWA 2013 as described below to program participants and family members of program participants who are victims of domestic violence, dating violence, sexual assault, or stalking from being evicted or terminated from housing assistance based on acts of such violence against them.

**Parties whom VAWA protects** - VAWA 2013 expands the housing protections to cover survivors of sexual assault and protects anyone who:

- Is a victim of actual or threatened domestic violence, dating violence, sexual assault, or stalking, or an "affiliated individual" of the victim (spouse, parent, brother, sister, or child of that victim; or an individual to whom that victim stands in loco parentis; or an individual, tenant or lawful occupant living in the victim's household); and,
- Is living in, or seeking admission to, any of the covered housing programs

VAWA 2013 eliminates the requirement that the household member be related by blood or marriage to the victim. Therefore, VAWA 2013 protects individuals who simply live in the victim's household, regardless of whether they are related by marriage or blood to the victim.

**Definitions** - The new law revises the definition of "domestic violence" to include crimes of violence committed by an intimate partner of the victim or by a person who has

cohabitated with the victim as an intimate partner. VAWA 2013 further amends the definition of "stalking" by including a more general definition than had been provided by VAWA 2005. VAWA 2013 defines the terms in the following manner:

**Domestic violence includes** felony or misdemeanor crimes of violence committed by:

- A current or former spouse or intimate partner of the victim;
- A person with whom the victim shares a child;
- A person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner;
- A person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies; or
- Any other person who committed a crime against an adult or youth victim who is protected under the domestic or family violence laws of the jurisdiction

**Dating violence** is violence committed by a person:

- Who is or has been in a social relationship of a romantic or intimate nature with the victim; and
- The existence of such a relationship is determined based on the following factors:
  - Length of the relationship
  - Type of relationship
  - Frequency of interaction between the persons involved in the relationship.

**Sexual assault** means any non-consensual sexual act proscribed by Federal, tribal, or State law, including when the victim lacks the capacity to consent.

**Stalking** is defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- Fear for his or her safety or others; or
- Suffer substantial emotional distress

**Denials of Admissions, Termination of Tenancy or Assistance** - An applicant or tenant shall not be denied admission to, denied assistance under, terminated from participation in, or evicted from housing on the basis that the applicant or tenant is or has been a victim of domestic violence, dating violence, sexual assault, or stalking. An incident of actual or threatened domestic violence, dating violence, sexual assault, or stalking will

not be construed as a serious or repeated violation of the lease by the victim and will not be a good cause for terminating the assistance or tenancy of the victim.

**Criminal Activity Directly Related to the Abuse** - No person shall be denied assistance, tenancy, or occupancy rights to housing solely on the basis of criminal activity if that activity is directly related to domestic violence, dating violence, sexual assault, or stalking engaged in by a household member, guest or any person under the tenant's control if the tenant or affiliated individual of the tenant is the victim.

**Actual and Imminent Threat** - LOHA may terminate assistance to a victim if LOHA can demonstrate an actual and imminent threat to other tenants or employees at the property in the event that the tenant is not evicted or terminated from assistance.

An actual and imminent threat shall include a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm. In determining the existence of an "actual or imminent threat," LOHA will consider 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. Termination of a victim's assistance under this provision will occur only when there are no other actions that could be taken to reduce or eliminate the threat, including, but not limited to, permitting a participant to move to another location, 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.

**Victims Held to Same Standard** - For program violations unrelated to the abuse, LOHA will not subject a participant who is a victim of domestic violence, dating violence, sexual assault, or stalking to a more demanding standard than other participants in determining whether to terminate assistance.

**Bifurcation** - LOHA may bifurcate a lease to terminate assistance to any tenant or lawful occupant who engages in criminal acts of violence against an affiliated individual or others. This action may be taken without penalizing the survivor who is also a tenant or lawful participant.

If LOHA terminates assistance to a participant because of criminal acts of violence against family members or others, and that individual is the only family member eligible to receive the housing assistance, then any remaining family member will have the opportunity to establish eligibility for the assistance. If no family member can establish such eligibility, then LOHA will provide the participant 60 days to find new housing.

~~**Portability** – NCFRHA will permit a family with a Housing Choice voucher to move to another jurisdiction if the family has complied with all other obligations of the program and is moving to protect the health or safety of an individual who is or has been the victim of domestic violence, dating violence or stalking. NCFRHA will permit the family to move even if the family's lease term has not yet expired.~~

**Court orders** - LOHA will honor court orders addressing rights of access to or control of property, including civil protection orders issued to protect the victim, as well as orders addressing the distribution or possession of property among household members in a case.

**Certification** - LOHA will request that an individual certifies via the applicable HUD form or other such written documentation as defined in this section. This certification will: (1) state that an applicant or tenant is a victim of domestic violence, dating violence, sexual assault, or stalking; (2) state that the incident that is the ground for protection meets the requirements under the statute; and (3) include the name of the perpetrator if the name is known and safe to provide. In lieu of the certification form, the applicant or participant may provide:

- Documentation signed by the victim and a victim service provider, an attorney, a medical professional, or a mental health professional in which the professional attests under penalty of perjury to his or her belief that the victim has experienced an incident of domestic violence, dating violence, sexual assault or stalking that meets the grounds for protection under the statute; or
- A federal, state, tribal, territorial, or local law enforcement, court, or administrative record

**Timeline** - After LOHA has requested certification in writing, an applicant or participant shall have 30 days to respond to the request. If an individual does not provide the documentation within 30 days, LOHA will deny admission or terminate assistance.

**Conflicting Certification** - In situations where LOHA receives documentation with conflicting information, LOHA will require an applicant or participant to submit any of the above-mentioned third-party documentation.

**Confidentiality** - LOHA will keep confidential the information an individual provides to certify victim status, including the individual's status as a victim. This information will not be entered into a shared database or disclosed to another entity or individual unless the disclosure is: requested or consented to by the individual in writing; required for use in a termination proceeding to determine whether the incident qualifies as a serious or repeated violation of the lease, good cause to terminate assistance or tenancy, or criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking; or otherwise required by law.

No LOHA employee shall access the information regarding domestic violence unless they are specifically and explicitly authorized to access this information because it is necessary for their work.

[Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking HUD Form](#)