

Clay Center Housing Authority Violence Against Women Act (VAWA) and Victims of Domestic Violence Policy and Procedure

1.0 Purpose

The purpose of this Policy is to reduce domestic violence, dating violence, sexual assault and stalking and to prevent homelessness by:

- a) protecting the safety of victims;
- b) providing housing options for victims
- c) assisting Clay Center Housing Authority (CCHA) to respond appropriately to the violence while maintaining a safe environment for CCHA employees, residents, and applicants.

This policy will assist the CCHA in providing rights under the Violence Against Women Act to applicants, public housing residents, Section 8 participants, program participants and others.

Notwithstanding its title, this policy is gender-neutral, and its protections are available to males who are victims of domestic violence, dating violence, sexual assault or stalking as well as lesbian, gay, bisexual and transgendered persons, as well as female victims of such violence.

2.0 Mission Statement

The policy of member agencies of Kansas Housing Resources Consortium is to comply with the 2005 VAWA pub.L. 109-162 Stat. 2960 signed into law on January 5, 2006 and to incorporate revisions per VAWA 2013 AND INCORPORATE FEDERAL REGISTER DATED NOVEMBER 1, 2016. CCHA shall not discriminate against applicants, public housing residents, Section 8 participants, or other program participants on the basis of rights or privileges provided under the VAWA.

The policy of member agencies of Kansas Housing Resources Consortium is to comply with the Safe at Home Program of the State of Kansas.

This policy is incorporated into the applicable Admissions and Continued Occupancy Plans for the administration of the public housing program and the Section 8 Administrative Plan and applies to all housing programs.

3.0 Definitions

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CCHA Resolution No. 12-2017
CCHA Resolution 5-2017-T
CCAH Resolution No. 11-2017

For the purposes of this policy the following definitions will apply

Affiliated Individual: With respect to an individual, as a spouse, parent, brother, sister, or child of that individual or an individual to whom that individual stands in loco parentis, or any individual, tenant or lawful occupant living in the household of that individual.

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.

Dating Violence: The term '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.

Internal Emergency Transfer: Emergency Relocation of Tenant/Participant to another unit where the tenant would not be categorized as a new applicant and may reside in the new unit without having to undergo an application process.

External Emergency Transfer: Emergency Relocation of Tenant/Participant to another unit where the tenant would be categorized as a new applicant and undergo an application process in order to reside in the new unit.

Safe Unit: A unit that the victim of domestic violence, dating violence, sexual assault, or stalking believes is safe.

Sexual Assault: any nonconsensual sexual act proscribed by Federal, tribal or State law, including when a victim lacks capacity to consent.

Stalking:

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(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) an affiliated individual of that person; or
- (iii) the spouse or intimate partner of that person

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

Victim: Is a person who is the victim of domestic violence, dating violence, sexual assault or stalking under this Policy and who has timely and completely completed the certification form as requested by the CCHA under Sections 4.2 and 4.3.

4.0 Certification and Confidentiality

4.1 Failure to Provide Certification Under Sections 4.2 and 4.3

The person seeking protections under VAWA shall provide complete and accurate certifications to the CCHA, owner or manager within 14 business days after the party request in writing that the person completes the certifications. If the person does not provide a complete and accurate certification within 14 business days, CCHA, the owner or manager, may take action to deny or terminate participation or tenancy. At the discretion of the agency an extension of time to complete the certification may be granted.

4.2 HUD Approved Certification

For each incident that a person is claiming is abuse, the person shall certify to the CCHA, the owner or manager their victim status by providing any one of the following:

- a. HUD approved certification form
- b. a federal, state, tribal, territorial, or local police or court record; or
- c. documentation signed by an and applicant or tenant and employee, agent or volunteer of a victim service provider, an attorney, mental health professional, record of an administrative agency or medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, sexual

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assault or stalking, or the effects of abuse, in which the professional attests under penalty of perjury (28 U.S.C 1746) to the professional believes that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, sexual assault or stalking has signed or attested to the documentation.

d. At the discretion of the housing provider, a statement or other evidence provided by the applicant or tenant.

If the conflicting information is received the applicant/tenant will be required to provide third party information as described above.

Only one (1) incident of domestic violence, dating violence, sexual assault or stalking is necessary to invoke protections under VAWA; however, *a separate certification is required for each incident.*

4.3 Confidentiality

CCHA, the owner and manager shall keep all information provided under this section confidential. The CCHA, owner or manager shall not enter the information into a shared database or provide to any related entity except to the extent that:

- (a) the victim requests or consents to the disclosure in writing;
- (b) the disclosure is required for:
 - (i) eviction from public housing (See Section 5 of this policy)
 - (ii) termination of Section 8 assistance (see Section 5 of this policy); or
- (c) the disclosure is required by applicable law
- (d) If the CCHA, owner or manager receives conflicting information, the CCHA, owner or manager may require an applicant to submit third- party documentation.

5.0 Appropriate Basis for Denial of Admission, Assistance or Tenancy

5.1 CCHA shall not deny participation or admission to a program on the basis of a persons victim status, if the person otherwise qualifies for admission or assistance.

5.2 An incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking will not be serious or repeated violation of

the lease by the victim and shall not be good cause for denying to a victim admission to a program, terminating Section 8 assistance or occupancy rights, or evicting a tenant.

5.3 Criminal activity directly related to domestic violence, dating violence, sexual assault or stalking engaged in by a member of a tenant's household or any guest or other person under the tenant's control shall not be cause of termination of assistance, tenancy, or occupancy rights if the tenant or an affiliated individual of the tenant is the victim of that domestic violence, dating violence, sexual assault or stalking.

5.4 Notwithstanding Sections 5.1, 5.2 or 5.3 CCHA, an owner or manager may bifurcate a lease to evict, remove or terminate assistance to any individual who is a tenant or lawful occupant and who engages in criminal activity directly relating to domestic violence, dating violence, sexual assault, or stalking against an affiliated individual or other individuals without evicting, removing, terminating assistance to or otherwise penalize the victim of the violence who is also a tenant or lawful occupant. If the removed tenant or lawful occupant was the sole tenant eligible to receive assistance, the CCHA, owner, or manager shall provide any remaining tenant the opportunity to establish eligibility for the covered housing program.

If the remaining tenant cannot establish eligibility, the CCHA, owner or manager will provide the tenant *90 calendar days* to find new housing or to establish eligibility. At the discretion of the agency an extension of no more than 60 calendar days be granted.

5.5 Nothing in Sections 5.1, 5.2 or 5.3 shall limit the authority of CCHA, an owner or manager, when notified, to honor court orders addressing rights of access to or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution of possession of property among the household members when the family breaks up.

5.6 Nothing in Sections 5.1, 5.2 or 5.3 limits CCHA, an owner or manager's authority to evict or terminate assistance to any tenant for any violation of the lease not premised on the act or acts of violence against the tenant or member of the tenant's household. However, the CCHA, owner or manager may not hold a victim to a more demanding standard.

5.7 Nothing in Sections 5.1, 5.2 or 5.3 limits the CCHA, an owner or manager's authority to evict or terminate assistance or deny admission to a program if the CCHA, owner or manager can show an actual and imminent threat to other tenants, neighbors, guests, employees, persons providing services to the property or others if the tenant family is not evicted or terminated from assistance or denied admission.

5.8 Nothing in Sections 5.1., 5.2 or 5.3 limits the CCHA, and owner or manager's authority to deny admission, terminate assistance or evict a person who engages in criminal acts including but not limited to acts of physical violence or stalking against family members or others.

5.9 A Section 8 recipient who moves out of a assisted dwelling unit to protect their health or safety and who; a) is a victim under this Policy; b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the unit; and c) has complied with all other obligations of the Section 8 program may receive a voucher and move to another Section 8 jurisdiction.

5.10 public housing tenant who wants to transfer to protect their health or safety and who; a) is a victim under this Policy; b) reasonably believes he or she was imminently threatened by harm from further violence if he or she remains in the unit; and 3) has complied with all other obligations of the public housing program may transfer to another CCHA unit.

6.0 Actions Against a Perpetrator

CCHA may evict, terminate assistance, deny admission to a program or debar a perpetrator from its property under this Policy. The victim shall take action to control or prevent domestic violence, dating violence, sexual assault or stalking. The action may include but is not limited to;

- a) obtaining and enforcing a restraining or no contact order or order for protection against the perpetrator;
- b) obtaining and enforcing a debarment/trespass against the perpetrator;
- c) enforcing CCHA or law enforcement's debarment/trespass of the perpetrator;
- d) preventing the delivery of the perpetrator's mail to the victim's unit;
- e) providing identifying information listed in Section 4.2; and
- f) other reasonable measures.

7.0 CCHA Right to Terminate Housing and Housing Assistance Under this Policy

7.1 Nothing in this Policy will restrict the CCHA, owner or manager's right to terminate tenancy for lease violations by a resident who claims VAWA as a defense if it is determined by the CCHA, owner or manager that such a claim is false.

7.2 Nothing in this Policy will restrict the CCHA right to terminate tenancy if the victim tenant (a) allows a perpetrator to violate a court order relating to the act or acts of violence; or (b) if the victim tenant allows a perpetrator

who has been barred from CCHA property to come onto LDCA property including but not limited to the victim's unit or any other area under their control.

7.3 Nothing in this Policy will restrict the CCHA's right to terminate housing and housing assistance if the victim tenant who claims as a defense to an eviction or termination action relating to domestic violence has engaged in fraud and abuse against a federal housing program. Such fraud and abuse includes, but is not limited to unreported income and ongoing boarders and lodgers' violations, or damage to property.

8.0 Statements of Responsibility of Tenant Victim, the CCHA to the Victim, and to the Larger Community.

8.1 A tenant victim has no less duty and responsibility under the lease to meet and comply with the terms of the lease than any other tenant not making such a claim. Ultimately all tenants must be take personal responsibility for themselves and exercise control over their households to continue their housing and housing assistance. The CCHA will continue to issue lease violation notices to all residents who violate the lease including those who claim a defense of domestic violence.

8.2 The CCHA recognizes the pathologic dynamic and cycle of domestic violence and will work with victims of domestic violence through local victim support service providers to help victims break the cycle of domestic violence through counseling and the development of an agreed to Safety Plan.

8.3 A tenant victim who claims as a defense to a lease violation that the violation is directly related to domestic violence will be referred to local professionals in the field of domestic violence, for counseling, referral and development of a Safety Plan.

8.4 A tenant victim whom refuses assistance or whom fails to comply with the Safety Plan such that subsequent lease violations occur where the tenant claims domestic violence as a defense, will be issued an eviction and provided a hearing and granted a second opportunity to retain their housing provided that the violations do not create an imminent threat to staff, other residents, manager or owner and where the victim tenant demonstrates a sincere desire to terminate the abusive relationship. If the victim tenant refuses to terminate the abusive relationship, the tenant's lease will be terminated.

9.0 Notice to Applicants, Participants, Tenants, Section 8 Managers and Owners

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CCHA shall provide notice to applicants of their rights and obligations under Section 4.4 Confidentiality and Section 5.0 Appropriate Basis for Denial of Admission, Assistance or Tenancy.

Notification will be provided at the following:

- a) With the certification form discussed in Section 4.2 of this policy.
- b) At the time of denial to applicants for tenancy.
- c) At the time of admission.
- d) With any notification of eviction or termination of assistance from any applicable housing programs.

10.0 Conflict and Scope

This Policy does not enlarge CCHA's duty under any law, regulation or ordinance. If this Policy conflicts with the applicable law, regulation or ordinance the law, regulation or ordinance shall control. If this Policy Conflicts with any other CCHA Policy such as the Admissions and Continued Occupancy Policy this Policy will control.

11.0 Emergency Transfer Plan

A tenant/participant qualifies for an emergency transfer if:

- a) The tenant/participant expressly requests the transfer; and
- b) The tenant/participant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that they are currently occupying; or
- c) In the case of tenant/participant who is a victim of sexual assault, either the tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that they are currently occupying, or the sexual assault occurred on the premises during the 90 calendar day period preceding the date of the request for transfer.

11.1 Tenant/Participants who qualify for the emergency transfer plan will be given a higher priority than other tenants/participants requesting transfers or placement on the waiting list.

11.2 CCHA, the owner and manager shall keep all information provided under this section confidential. All precautions will be taken to prevent the perpetrator from learning the location of the dwelling unit by the housing provider. Breaches

of information that allow the perpetrator to learn the location of the dwelling unit will be referred to the personnel policy.

11.3 Internal Emergency transfers will be allowed when a safe unit is immediately available.

11.4 When a safe unit is not immediately available for an Internal Emergency Transfer the family will be given the same priority as Category 1: Emergency transfers per the Unit Transfer Policy.

11.5 When a safe unit is not immediately available the housing provider will provide the family with information on vacancies within the other member agencies of the Kansas Housing Resources Consortium. The family can choose to pursue relocation to a member agency, this may vary on the type of assistance the family is provided. At the request of the family, file documentation will be provided, such as birth certificates, social security numbers, background results, etc. to the receiving agency in order to expedite the process. For families who choose to relocate to an area that is not a member of the Kansas Housing Resources Consortium, the housing provider will work with the family to locate the appropriate resources at the receiving agency and provide information as needed in order to expedite the process.

11.6 A family may request an Internal Emergency Transfer and an External Emergency Transfer simultaneously.

11.7 Certification for Emergency Transfers will follow Section 4.0 of this policy.

Any CCHA policy which restricts the timing or number of moves does not apply when the family or a member of the family is a VAWA victim and the move is needed to protect the health or safety of the family or family member.

The CCHA will not terminate assistance if the family, with or without prior notification from the participant, already moved out of a unit in violation of the lease, if such a move occurred to protect the health or safety of a family member who is a VAWA victim and who reasonably believed he or she was threatened with imminent harm if he or she remained in the unit.