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(b) Applicants. Admission to the pro-
gram shall not be denied on the basis
that the applicant is or has been a vic-
tim of domestic violence, dating vio-
lence, or stalking, if the applicant oth-
erwise qualifies for assistance or ad-
mission.

c) Tenants—(1) Domestic violence, dat-
ing violence, or stalking. An incident or
incidents of actual or threatened do-
mestic violence, dating violence, or
stalking will not be construed as a seri-
ous or repeated lease violation by the
victim or threatened victim of the do-
mestic violence, dating violence, or
stalking, or as good cause to terminate
the tenancy of, occupancy rights of, or
assistance to the victim.

(2) Criminal activity related to domestic
violence, dating violence, or stalking.
Criminal activity directly related to
domestic violence, dating violence, or
stalking, engaged in by a member of a
tenant’s household or any guest or
other person under the tenant’s con-
trol, shall not be cause for termination
of tenancy of, occupancy rights of, or
assistance to the victim, if the tenant
or immediate family member of the
tenant is the victim.

d) Limitations of VAWA protections.
(1) Nothing in this section limits the
authority of the PHA, owner, or man-
agement agent to evict a tenant or ter-
minate assistance for a lease violation
unrelated to domestic violence, dating
violence, or stalking, provided that the
PHA, owner, or management agent
does not subject such a tenant to a
more demanding standard than other
tenants in making the determination
whether to evict, or to terminate as-
sistance or occupancy rights;

(2) Nothing in this section may be
construed to limit the authority of a
PHA, owner, or management agent to
evict or terminate assistance to any
tenant or lawful occupant if the PHA,
owner, or management agent can dem-
onstrate an actual and imminent
threat to other tenants or those em-
ployed at or providing service to the
public housing or Section 8 assisted
property if that tenant or lawful occu-
pant is not terminated from assistance.
In this context, words, gestures, ac-
tions, or other indicators will be con-
sidered an “actual imminent threat” if
they meet the standards provided in
paragraph (e) of this section.

(3) Any eviction or termination of as-
sistance, as provided in paragraph
(d)(3) of this section, should be utilized
by a PHA, owner, or management
agent only when there are no other ac-
tions that could be taken to reduce or
eliminate the threat, including, but
not limited to, transferring the victim
to a different unit, barring the perpe-
trator 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 perpe-
trator from acting on a threat. Restric-
tions predicated on public safety can-
not be based on stereotypes, but must
be tailored to particularized concerns
about individual residents.

e) Actual and imminent threat. An ac-
tual and imminent threat consists of a
physical danger that is real, would
occur within an immediate time frame,
and could result in death or serious
bodily harm. In determining whether
an individual would pose an actual an
imminent threat, the factors to be con-
sidered include: The duration of the
risk, the nature and severity of the po-
tential harm, the likelihood that the
potential harm will occur, and the
length of time before the potential
harm would occur.

§ 5.2007 Documenting the occurrence
of domestic violence, dating vio-
lence, or stalking.

(a) Request for documentation. A PHA,
owner, or management agent presented
with a claim for continued or initial
tenancy or assistance based on status
as a victim of domestic violence, dat-
ing violence, stalking, or criminal ac-
tivity related to domestic violence,
dating violence, or stalking may re-
quest that the individual making the
claim document the abuse. The request
for documentation must be in writing.
The PHA, owner, or management agent
may require submission of documenta-
tion within 14 business days after the
date that the individual received the
request for documentation. However,
the PHA, owner, or management agent
may extend this time period at its dis-
cretion.
(b) Forms of documentation. The documentation required under this section:
(1) May consist of a HUD-approved certification form indicating that the individual is a victim of domestic violence, dating violence, or stalking, and that the incident or incidents in question are bona fide incidents of such actual or threatened abuse. Such certification must include the name of the perpetrator, and may be based solely on the personal signed attestation of the victim; or
(2) May consist of a Federal, State, tribal, territorial, or local police report or court record; or
(3) May consist of documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, from whom the victim has sought assistance in addressing domestic violence, dating violence, or stalking, or the effects of abuse, in which the professional attests under penalty of perjury under 28 U.S.C. 1746 to the professional’s belief that the incident or incidents in question are bona fide incidents of abuse, and the victim of domestic violence, dating violence, or stalking has signed or attested to the documentation; and
(4) Shall be kept confidential by the PHA, owner, or management agent. The PHA, owner, or management agent shall not:
(i) Enter the information contained in the documentation into any shared database;
(ii) Allow employees of the PHA, owner, or management agent, or those within their employ (e.g., contractors) to have access to such information unless explicitly authorized by the PHA, owner, or management agent for reasons that specifically call for these employees or those within their employ to have access to this information; and
(iii) Disclose this information to any other entity or individual, except to the extent that disclosure is:
(A) Requested or consented to by the individual making the documentation, in writing;
(B) Required for use in an eviction proceeding, or
(C) Otherwise required by applicable law.
(c) Failure to provide documentation. In order to deny relief for protection under VAWA, a PHA, owner, or management agent must provide the individual with a written request for documentation of the abuse. If the individual fails to provide the documentation within 14 business days from the date of receipt of the PHA’s, owner’s, or management agent’s written request, or such longer time as the PHA, owner, or management agent at their discretion may allow, VAWA protections do not limit the authority of the PHA, owner, or management agent to evict or terminate assistance of the tenant or a family member for violations of the lease or family obligations that otherwise would constitute good cause to evict or grounds for termination. The 14-business day window for submission of documentation does not begin until the individual receives the written request. The PHA, owner, or management agency has discretionary authority to extend the statutory 14-day period.
(d) Discretion to provide relief. At its discretion, a PHA, owner, or management agent may provide benefits to an individual based solely on the individual’s verbal statement or other corroborating evidence. A PHA’s, owner’s, or management agent’s compliance with this section, whether based solely on the individual’s verbal statements or other corroborating evidence, shall not alone be sufficient to constitute evidence of an unreasonable act or omission by a PHA, PHA employee, owner, or employee or agent of the owner. Nothing in this subparagraph shall be construed to limit liability for failure to comply with the requirements of 24 CFR part 5.
(e) Response to conflicting certification. In cases where the PHA, owner, or management agent receives conflicting certification documents from two or more members of a household, each claiming to be a victim and naming one or more of the other petitioning household members as the perpetrator, a PHA, owner, or management agent may determine which is the true victim by requiring third-party documentation as described in this section and in accordance with any HUD guidance as to how such determinations will be made. A PHA, owner, or management agent shall honor any court
orders addressing rights of access or control of the property, including civil protection orders issued to protect the victim and issued to address the distribution or possession of property among the household.

§ 5.2009 Remedies available to victims of domestic violence, dating violence, or stalking in HUD-assisted housing.

(a) Lease bifurcation. Notwithstanding any Federal, State, or local law to the contrary, a PHA, owner, or management agent may bifurcate a lease, or remove a household member from a lease without regard to whether the household member is a signatory to the lease, in order to evict, remove, terminate occupancy rights, or terminate assistance to any tenant or lawful occupant who engages in criminal acts of physical violence against family members or others, without evicting, removing, terminating assistance to, or otherwise penalizing the victim of such violence who is a tenant or lawful occupant. Such eviction, removal, termination of occupancy rights, or termination of assistance shall be effected in accordance with the procedures prescribed by Federal, State, or local law for termination of assistance or leases under the relevant public housing, Section 8 Housing Choice Voucher, and Section 8 project-based programs.

(b) Court orders. Nothing in this subpart may be construed to limit the authority of a PHA, owner, or management agent, 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 to address the distribution of property among household members in a case where a family breaks up.

§ 5.2011 Effect on other laws.

Nothing in this subpart shall be construed to supersede any provision of any Federal, State, or local law that provides greater protection than this section for victims of domestic violence, dating violence, or stalking.

24 CFR Subtitle A (4–1–11 Edition)

PART 6—NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING ASSISTANCE UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Subpart A—General Provisions

§ 6.1 Purpose.

The purpose of this part is to implement the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. Section 109 does not directly prohibit discrimination on the bases of age or disability, and the regulations in this part 6 do not apply to age or disability discrimination in Title I programs. Instead, section 109 directs that the prohibitions against discrimination under any program or activity funded in whole or in part with Federal financial assistance. Section 109 does not directly prohibit discrimination on the bases of age or disability, and the regulations in this part 6 do not apply to age or disability discrimination in Title I programs. Instead, section 109 directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504) apply to programs or activities funded in whole or in part with Federal financial assistance. Thus, the