

Chapter 1

1.0 EQUAL OPPORTUNITY

1.1 FAIR HOUSING

It is the policy of IHFA to comply fully with all Federal, State, and local nondiscrimination laws; the Americans With Disabilities Act; and the U. S. Department of Housing and Urban Development regulations governing Fair Housing and Equal Opportunity.

No person shall, on the grounds of race, color, sex, religion, national origin, familial status, age, disability, gender identity, sexual orientation or marital status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under IHFA housing programs.

To further its commitment to full compliance with applicable Civil Rights laws, IHFA will provide Federal/State/local information to applicants for and participants in the Section 8 HCV Program regarding discrimination and any recourse available to them if they believe they may be victims of discrimination. Such information will be posted in each branch office and all applicable Fair Housing Information and Discrimination Complaint Forms will be made available at IHFA offices and discussed at all briefings. In addition, all appropriate written information and advertisements will contain the appropriate Equal Opportunity language and logo.

IHFA will assist any family that believes they have suffered illegal discrimination by providing them with copies of the housing discrimination form. IHFA will also assist them in completing the form, if requested, and will provide them with the address of the nearest HUD Office of Fair Housing and Equal Opportunity.

1.2 REASONABLE ACCOMMODATION

Sometimes people with disabilities may need a reasonable accommodation in order to take full advantage of IHFA housing programs and related services. When such accommodations are granted they do not confer special treatment or advantage for the person with a disability; rather, they make the program fully accessible to them in a way that would otherwise not be possible due to their disability. This policy clarifies how people can request accommodations and the guidelines IHFA will follow in determining whether it is reasonable to provide a requested accommodation. Because disabilities are not always apparent, IHFA will ensure that all applicants/participants are aware of the opportunity to request reasonable accommodations.

Reasonable accommodations are granted for a specific purpose due to a documented disability and the accommodation requested by the family to fully utilize the Section 8 program. IHFA's policy to approve an additional bedroom subsidy as a reasonable accommodation will continue only as long as necessary per the physician or as long as the additional bedroom is used for the purpose indicated by the accommodation request. If it is determined/demonstrated that the room

is not being used for the purpose intended, the accommodation will be revoked and an informal hearing will be offered regarding the decision. (See section 6.1)

COMMUNICATION

All pre-applications and formal applications will contain a notice to the applicant regarding reasonable accommodation.

Notifications of reexamination, inspection, appointment, or termination of assistance will include information about requesting a reasonable accommodation. Any notification requesting action by the participant will include information about requesting a reasonable accommodation.

Requests for a Reasonable Accommodation should be made in writing using a Reasonable Accommodation form. However, IHFA will consider the accommodation any time the family indicates that a Reasonable Accommodation is required even if it is not submitted on IHFA's form or is made verbally. IHFA will obtain additional information if necessary, and discuss viable options if a particular request is not feasible. All decisions granting or denying requests will be in writing.

1.3 QUESTIONS TO ASK IN GRANTING THE ACCOMMODATION

- A. Is the requestor a person with disabilities? For this purpose the definition of disabilities is different than the definition used for admission. The Fair Housing definition used for this purpose is:

A person with a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment. (The disability may not be apparent to others, i.e., a heart condition).

If the disability is readily observable or already documented, the answer to this question is yes. It is possible that the disability for which the accommodation is being requested is a disability other than the apparent disability. If the disability is not readily observable or documented, IHFA will obtain verification that the person is a person with disability.

- B. Is the requested accommodation related to the disability? If it is apparent that the request is related to the readily observable or documented disability, the answer to this question is yes. If it is not apparent, IHFA will obtain documentation that the requested accommodation is needed due to the disability. IHFA staff will not inquire as to the nature of the disability.
- C. Is the requested accommodation reasonable? In order to be determined reasonable, the accommodation must meet two criteria:

1. Would the accommodation constitute a fundamental alteration? IHFA's business is housing. If the request would alter the fundamental business that IHFA conducts, that would not be reasonable. For instance, IHFA would deny a request to have IHFA do grocery shopping for the person with disabilities
2. Would the requested accommodation create an undue financial hardship or administrative burden? Frequently the requested accommodation costs little or nothing. If the cost would be an undue burden, IHFA may request a meeting with the individual to investigate and consider equally effective alternatives.

Generally the individual knows best what they need; however, IHFA retains the right to be shown how the requested accommodation enables the individual to access or use IHFA's programs or services.

If more than one accommodation is equally effective in providing access to IHFA's programs and services, IHFA retains the right to select the most efficient or economic choice.

If the participant requests, as a reasonable accommodation, that he or she be permitted to make physical modifications to their dwelling unit, at their own expense, the request should be made to the property owner/manager. IHFA does not have responsibility for the owner's unit and does not have responsibility to make the unit accessible.

Any request for an accommodation that would enable a participant to materially violate family obligations will not be approved.

1.4 VIOLENCE AGAINST WOMEN ACT (VAWA)

It is the policy of IHFA to comply fully with the provisions of the Violence Against Women and Department of Justice Reauthorization Act of 2005 (Pub. L.109-162) regarding domestic violence, dating violence, and stalking, as hereinafter defined.

This policy is applicable to the administration by IHFA of all federally subsidized public housing and Section 8 rental assistance under the United States Housing Act of 1937. Notwithstanding its title, this policy is gender-neutral, and its protections are available to men who are victims of domestic violence, dating violence, or stalking as well as female victims of such violence.

As used in this Policy:

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 act under the domestic or family violence laws of the jurisdiction.

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

Stalking – means

- A. 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 cause substantial emotional harm to –
 - 1. that person;
 - 2. a member of the immediate family of that person' or
 - 3. the spouse or intimate partner of that person;

Immediate Family Member – means, with respect to a person –

- A. A spouse, parent, brother, sister, or child of that person, or an individual to whom that person stands in loco parentis; or
- B. Any other person living in the household of that person and related to that person by blood or marriage.

Perpetrator – means person who commits an act of domestic violence, dating violence or stalking against a victim.

Admissions and Screening

Non-Denial of Assistance. IHFA will not deny admission to public housing or to the Section 8 rental assistance program to any person because that person is or has been a victim of domestic violence, dating violence, or stalking, provided that such person is otherwise qualified for such admission.

Admissions Preference. Applicants for rental assistance from IHFA will **not** receive a preference in admissions by virtue of their status as victims of domestic violence.

- A. *Mitigation of Disqualifying Information.* When so requested in writing by an applicant for assistance whose history includes incidents in which that applicant was a victim of domestic violence, IHFA may but shall not be obligated to take such information into account in mitigation of potentially disqualifying information, such as poor credit history or previous damage to a dwelling. If requested by an applicant to take such mitigating information into account, IHFA shall be entitled to conduct such inquiries as are reasonably necessary to verify the claimed history of domestic violence and its probable relevance to the potentially disqualifying information. IHFA will not disregard or mitigate potentially disqualifying information if the household includes a perpetrator of a previous incident to incidents of domestic violence.

Termination of Tenancy or Assistance

- A. *VAWA Protections.* Under VAWA, public housing residents and persons assisted under the Section 8 rental assistance program have the following specific protections, which will be observed by IHFA:
1. An incident or incidents of actual or threatened domestic violence, dating violence, or stalking, will not be considered to be a “serious or repeated” violation of the lease by the victim or threatened victim of that violence and will not be good cause for terminating the tenancy or occupancy rights of or assistance to the victim for that violence.
 2. In addition to the foregoing, tenancy or assistance will not be terminated by IHFA as a result of criminal activity if that criminal activity is directly related to domestic violence, dating violence or stalking engaged in by a member of the assisted household, a guest or another person under the participant’s control, and the participant or an immediate family member is the victim or threatened victim of this criminal activity. However, the protection against termination of tenancy or assistance described in this paragraph is subject to the following limitations:
 - a. Nothing contained in this paragraph shall limit any otherwise available authority of IHFA or a Section 8 owner or manager to terminate tenancy, evict, or to terminate assistance, as the case may be, for any violation of a

lease or program requirement not premised on the act or acts of domestic violence, dating violence, or stalking in question against the participant or a member of the participant's household. However, in taking any such action, neither IHFA nor a Section 8 manager or owner may apply a more demanding standard to the victim of domestic violence, dating violence or stalking than that applied to other participants.

- b. Nothing contained in this paragraph shall be construed to limit the authority of IHFA or a Section 8 owner or manager to evict or terminate from assistance any participant or lawful applicant if the owner, manager or IHFA, as the case may be, can demonstrate an actual and imminent threat to other participants or to those employed at or providing service to the property, if the participant is not evicted or terminated from assistance.

Verification of Domestic Violence, Dating Violence or Stalking

- A. *Requirement for Verification.* The law allows, but does not require, IHFA or a Section 8 owner or manager to verify that an incident or incidents of actual or threatened domestic violence, dating violence, or stalking claimed by a participant or other lawful occupant is bona fide and meets the requirements of the applicable definitions set forth in this policy. Subject only to waiver as provided in paragraph C., IHFA shall require verification in all cases where an individual claims protection against an action involving such individual proposed to be taken by IHFA. Section 8 owners or managers receiving rental assistance administered by IHFA may elect to require verification, or not to require it as permitted under applicable law.

Verification of a claimed incident or incidents of actual or threatened domestic violence, dating violence, or stalking may be accomplished in one of the following three ways.

1. HUD-approved form – by providing to IHFA or to the requesting Section 8 owner or manager a written certification, on a form approved by the U.S. Department of Housing and Urban Development (HUD), that the individual is a victim of domestic violence, dating violence, or stalking that the incident or incidents in question are bona fide incidents of actual or threatened abuse meeting the requirements of the applicable definitions(s) set forth in this policy. The incident or incidents in question must be described in reasonable detail as required in the HUD-approved form, and the completed certification must include the name of the perpetrator.
2. Other documentation – by providing to IHFA or to the requesting Section 8 owner or manager documentation signed by an employee, agent, or volunteer of a victim service provider, an attorney, or a medical professional, from whom the victim has sought assistance in addressing the domestic violence, dating violence or stalking, or the effects of the abuse, described in such documentation. The professional providing the documentation must sign and

attest under penalty of perjury (28 U.S.C. 1746) to the professional's belief that the incident or incidents in question are bona fide incidents of abuse meeting the requirements of the applicable definitions(s) set forth in this policy. The victim of the incident or incidents of domestic violence, dating violence or stalking described in the documentation must also sign and attest to the documentation under penalty of perjury.

3. Police or court record – by providing to IHFA or to the requesting Section 8 owner or manager a Federal, State, tribal, territorial, or local police or court record describing the incident or incidents in question.
- B. *Time allowed to provide verification/failure to provide.* An individual who claims protection against adverse action based on an incident or incidents of actual or threatened domestic violence, dating violence or stalking, and who is requested by IHFA or a Section 8 owner or manager to provide verification, must provide such verification within 14 business days (*i.e.*, 14 calendar days, excluding Saturdays, Sundays, and federally-recognized holidays) after receipt of the request for verification. Failure to provide verification, in proper form within such time will result in loss of protection under VAWA and this policy against a proposed adverse action.
- C. *Waiver of verification requirement.* The Rental Assistance Programs Manager of IHFA, or a Section 8 owner or manager, may, with respect to any specific case, waive the above stated requirements for verification and provide the benefits of this policy based on the victim's statement or other corroborating evidence. Such waiver may be granted in the sole discretion of the IHFA Rental Assistance Programs Manager, or property owner or manager. Any such waiver must be in writing. Waiver in a particular instance or instances shall not operate as precedent for, or create any right to, waiver in any other case or cases, regardless of similarity in circumstances.

Confidentiality

- A. *Right of confidentiality.* All information (including the fact that an individual is a victim of domestic violence, dating violence or stalking) provided to IHFA or to a Section 8 owner or manager in connection with a verification required under this policy or provided in lieu of such verification where a waiver of verification is granted, shall be retained by the receiving party in confidence and shall neither be entered in any shared database nor provided to any related entity, except where disclosure is:
1. Requested or consented to by the individual in writing, or
 2. Required for use in a public housing eviction proceeding or in connection with termination of Section 8 assistance, as permitted in VAWA, or
 3. Otherwise required by law.

- B. *Notification of rights.* All tenants of public housing and participants participating in the Section 8 HCV program administered by IHFA shall be notified in writing concerning their right to confidentiality and the limits on such rights to confidentiality.

Transfer to New Residence

- A. *Application for transfer.* In situations that involve significant risk or violent harm to an individual as a result of previous incidents or threats of domestic violence, dating violence, or stalking, IHFA will, if an approved unit size is available at a location that may reduce the risk of harm, approve transfer by a public housing or Section 8 participant to a different unit in order to reduce the level of risk to the individual. A participant who requests transfer must attest in such application that the requested transfer is necessary to protect the health or safety of the participant or another member of the household who is or was a victim of domestic violence, dating violence or stalking and who reasonably believes that the participant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.
- B. *Action on applications.* IHFA will act upon such an application promptly, which shall be defined as 10 business days.
- C. *No right to transfer.* IHFA will make every effort to accommodate requests for transfer when suitable alternative vacant units are available and the circumstances warrant such action. However, except with respect to portability of Section 8 assistance as provided in paragraph E. below the decision to grant or refuse to grant a transfer shall lie within the sole discretion of IHFA, and this policy does not create any right on the part of any applicant to be granted a transfer.
- D. *Family rent obligation.* If a family occupying IHFA public housing moved before the expiration of the lease term in order to protect the health or safety of a household member, the family will remain liable for the rent during the remainder of the lease term unless released by IHFA. In cases where IHFA determines that the family's decision to move was reasonable under the circumstances, IHFA will wholly or partially waive rent payments and any rent owed shall be reduced by the amounts of rent collected for the remaining lease term from a participant subsequently occupying the unit.
- E. *Portability.* Notwithstanding the foregoing, a Section 8 assisted participant will not be denied portability to a unit located in another jurisdiction (notwithstanding the term of the participant's existing lease has not expired, or the family has not occupied the unit for 12 months) so long as the participant has complied with all other requirements of the Section 8 program and has moved from the unit in order to protect the health and safety of an individual member of the household who is or has been the victim of domestic violence, dating violence, or stalking and who reasonably

believes that the participant or other household member will be imminently threatened by harm from further violence if the individual remains in the present dwelling unit.

Court Orders/Family Break-up

- A. Court orders. It is IHFA's policy to honor orders entered by courts of competent jurisdiction affecting individuals assisted by IHFA and their property. This includes cooperating with law enforcement authorities to enforce civil protection orders issued for the protection of victims and addressing the distribution of personal property among household members in cases where a family breaks up.
- B. Family break-up. Other IHFA policies regarding family break-up are contained in 12.7 of this Administrative Plan.

Relationships with Service Providers

It is the policy of IHFA to cooperate with organizations and entities, both private and governmental that provides shelter and/or services to victims of domestic violence. If IHFA staff becomes aware that an individual assisted by IHFA is a victim of domestic violence, dating violence or stalking, IHFA will refer the victim to such providers of shelter or services as appropriate. Notwithstanding the foregoing, this policy does not create any legal obligation requiring IHFA either to maintain a relationship with any particular provider of shelter or services to victims of domestic violence or to make a referral in any particular case. IHFA's annual public housing agency plan shall describe providers of shelter or services to victims of domestic violence with which IHFA has referral or other cooperative relationships.

Notification

IHFA shall provide written notification to applicants, participants, and Section 8 owners and managers, concerning the rights and obligations created under VAWA relating to confidentiality, denial of assistance and, termination of tenancy or assistance.

Relationship with Other Applicable Laws

Neither VAWA nor this Policy in implementing it shall preempt or supersede any provision of Federal, State or local law that provides greater protection than that provided under VAWA for victims of domestic violence, dating violence or stalking.

Amendment

This policy may be amended from time to time by IHFA as approved by the IHFA Board of Commissioners or its designated official.

1.5 SERVICES FOR NON-ENGLISH SPEAKING APPLICANTS AND PARTICIPANTS

Under Title VI of the Civil Rights Act, recipients of federal financial assistance have a responsibility to ensure meaningful access to their programs and activities by persons with limited English proficiency (LEP).

IHFA will endeavor to have bilingual staff or access to people who speak languages other than English to assist non-English speaking families. Through contracted interpreter services all LEP clients will be provided with interpretation.

Where LEP persons desire, they will be permitted to use, at their own expense, an interpreter of their own choosing, in place of or as a supplement to the free language services offered by IHFA. The interpreter may be a family member or friend. The use of minors as interpreters should be avoided. Interpreter services are readily available so use of translation/interpreter services should not cause any undue hardship or delay.

IHFA will provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent of the population of persons eligible to be served. Translation of other documents, if needed, can be provided orally using an interpreter.

See Appendix F for IHFA Rental Assistance LEP Plan

1.6 FAMILY/OWNER OUTREACH

IHFA will publicize the availability and nature of the Section 8 HCV Program for extremely low-income and very-low income families in a newspaper of general circulation, minority media, and by other suitable means.

To reach persons who cannot or do not read newspapers, IHFA will distribute fact sheets to the broadcasting media and initiate personal contacts with members of the news media and community service personnel, as appropriate. IHFA will also try to utilize public service announcements.

IHFA will communicate the status of program availability to other service providers in the community and advise them of housing eligibility factors and guidelines so that they can make proper referral of their clients to the program.

IHFA will hold landlord workshops for owners who participate in or who are seeking information about the Section 8 HCV Program. IHFA staff will conduct these landlord workshops. Representatives from other service providers and organizations such as, but not limited to, Idaho Legal Aid, the department of Fair Housing, and local law enforcement may participate in the landlord workshops. The landlord workshop is intended to:

- A. Explain how the program works;
- B. Explain how the program benefits owners;
- C. Explain owners' responsibilities under the program. Emphasis is placed on quality screening; and
- D. Provide an opportunity for owners to ask questions, obtain written materials, and meet IHFA staff; and
- E. Provide useful and relevant information from other service providers.

IHFA will particularly encourage owners of suitable units located outside of low-income or minority concentration to attend in an effort to expand housing opportunities for Section 8 HCV participants. Targeted mailing lists will be developed, when possible, and announcements mailed.

IHFA also has a landlord video available for loan to interested property owners, rental management companies, or other interested persons.

1.7 RIGHTS TO PRIVACY

All adult members of both applicant and participant households are required to sign HUD Form 9886, *Authorization for Release of Information and Privacy Act Notice* and IHFA's *Release of Information Policy Acknowledgment*. The *Authorization for Release of Information and Privacy Act Notice* states how family information will be released and includes the *Federal Privacy Act Statement*. If the head or co-head is under 18 years of age, signature on the HUD Form 9886, and the *Authorization for Release of Information and Privacy Act Notice* will still be required.

IHFA respects the right of privacy of applicant and participant household members and their guests. IHFA is required to gather sensitive personally identifiable information (PII) to determine qualification for its programs, and for calculating assistance. The collection, maintenance, use and dissemination of PII will be used only to the extent it is relevant and necessary to comply with program requirements. Financial or other PII information obtained will not be shared with other IHFA employees not involved in the process, or with outside agencies or individuals without authorization in writing from the applicant or participant.

Other Release of Information

Landlords

As required by 24 CFR, IHFA must give the owner the current and prior address as shown on IHFA records, and the current and past landlord, if known, as shown on IHFA records. Upon request, IHFA may supply any factual information or third party verification relating to the participant's history as a tenant or their ability to comply with material standard lease terms or any history of drug trafficking or drug-related criminal activity to the landlord.

Law Enforcement and Government Agencies

Where there is a reasonable suspicion of, or allegation of drug or criminal activity or investigation, IHFA staff may identify to proper authorities the names and addresses of persons who are involved in such alleged activities or who are under police investigation, as well as such other information reasonably related to such activities or police investigations. IHFA also reserves the right to provide information to governmental agencies should a household member be suspected of defrauding or inappropriately using federal or state funds and such other agencies are either involved in such funding related to IHFA, or can assist IHFA in the investigation and/or prosecution of allegations of such fraud.

All participants are provided a Policy Statement and are required to sign. (See Section 3.2, H)

1.8 REQUIRED POSTINGS

IHFA will post, in each of its offices in a conspicuous place and at a height easily read by all persons including persons with mobility disabilities, the following information:

- A. The Section 8 Administrative Plan
- B. Notice of the status of the waiting list (opened or closed)
- C. Address of all IHFA offices, office hours, telephone numbers, TDD number, and hours of operation
- D. Income Limits for Admission
- E. Informal Review and Informal Hearing Procedures
- F. Fair Housing Poster
- G. Equal Opportunity in Employment Poster

NOTES