

SAMPLE POLICY: DOMESTIC VIOLENCE & FAIR HOUSING



Third Edition – October 2012

Sample Policy on Domestic Violence & Fair Housing

The Fair Housing Partners of Washington State have developed this sample policy on domestic violence to assist you in establishing policies and procedures that comply with fair housing laws. This policy includes legal background, as well as guidelines for use with applicants and residents who have been involved in domestic violence incidents.

The Fair Housing Partners have also collaborated to create other resources for housing providers, available in print and CD format:

Fair Housing in Washington State – Top 100 Most Frequently Asked Questions for Housing Providers and Managers

Sample Policies:

- *Harassment and Retaliation*
- *Reasonable Accommodations & Modifications for People with Disabilities*
- *Service Animals*

“Fair Housing Update” – free online newsletter

Fair housing posters (specific to each fair housing agency)

You can contact your local fair housing agency for technical assistance. To share your comments about this sample policy or to request alternate formats, contact the King County Office of Civil Rights: 206-263-2446, TTY Relay: 711, Civil-Rights.OCR@kingcounty.gov.



**Washington State Human Rights Commission
King County Office of Civil Rights & Open Government
Seattle Office for Civil Rights
Tacoma Human Rights and Human Services Department
Fair Housing Center of Washington
Northwest Fair Housing Alliance**

This information does not constitute legal advice.
The fair housing laws are subject to change. If you have questions about fair housing issues, please contact one of the agencies listed in Appendix A.

AVAILABLE IN ALTERNATE FORMATS UPON REQUEST
Contact King County OCR, 206-263-2446, TTY Relay: 711

Legal Background

Washington Residential Landlord Tenant Act

Tenants who are victims of domestic violence, sexual assault, and/or stalking have increased protection under the Washington Residential Landlord Tenant Act, RCW 59.18 (RLTA). Under this law, a victim of one of these crimes may terminate a lease early and quit the premises without further obligation under the lease. In addition, a housing provider cannot legally terminate a lease, refuse to renew a lease, evict, or refuse to rent to someone who is a victim of domestic violence, sexual assault, and/or stalking. The RLTA applies regardless of the tenant's gender.

For a more detailed description of state landlord-tenant laws, see Appendix B.

Fair Housing Act and Other Fair Housing Laws

The federal Fair Housing Act, the Washington Law Against Discrimination, and local fair housing laws prohibit discrimination based on sex (gender). These laws are enforced by the U.S. Department of Housing and Urban Development (HUD), as well as by state and local fair housing agencies (see Appendix A for a list). These civil rights agencies do not enforce the RLTA.

Under established fair housing case law, it is illegal to discriminate against women due to their history as victims of domestic violence. Because the vast majority of domestic violence victims are women, adverse rental management actions in domestic violence situations have a greater effect on women than on men – this is known as *disparate impact*. For example, if a housing provider refuses rental to a woman because she was a domestic violence victim or applies a “zero tolerance for violence” policy and evicts an entire household after a domestic violence incident, these rental management decisions will more greatly affect females, who are the predominant victims of domestic violence.

Project-based Section 8 properties: The federal Violence Against Women and Justice Department Reauthorization Act of 2005 (VAWA) provides legal protections to victims of domestic violence, dating violence or stalking who are also assisted under a project-based Section 8 program. For more information and sample forms, see notice H 09-15 online at www.hud.gov/offices/adm/hudclips/notices/hsg/files/09-15hsgn.doc.

Background on Domestic Violence

What is it?

Domestic violence is a pattern of abuse where one person in a close relationship controls the other through force, intimidation, or the threat of violence. In an abusive relationship, the abuser may use a number of tactics in order to maintain power and control over the other person:

- **Emotional and verbal abuse** – Put-downs, public humiliation, name-calling, mind games, manipulation.
- **Isolation** – Refusing to allow the victim to see friends or family members. Refusing to permit the victim to leave the home.
- **Economic abuse** – Denying the victim access to money or demanding that the victim account for every penny spent, putting all assets in abuser's name alone, interfering with victim's ability to work, denying access to the car.
- **Threats and Intimidation** – Threatening the victim's economic status and basic needs. Threats of violence, suicide, or of taking away the children. Threatened or actual assault of a spouse/partner, property or pets.
- **Physical injury** – Pushing, shoving, slapping, punching, kicking, forced or pressured sexual acts, including rape.

Some domestic violence, such as emotional or economic abuse or isolation are often not apparent to rental management. Other types, such as verbal abuse, may be noticeable only as noise complaints from other residents, and may be handled as such. This policy addresses domestic violence incidents involving threats of injury or actual injury.

Who are the perpetrators of domestic violence?

- Batterers generally lead "normal" lives except for their unwillingness to stop their violence and controlling behavior in their intimate relationships. Battering is about power and control.
- Batterers often use drugs or alcohol as an excuse or permission to batter, and to avoid responsibility for their abuse. Substance abuse is involved in about half of all domestic violence incidents.

Who are the victims?

- Victims come from all economic, educational, ethnic, sexual orientation, age, disability, and racial backgrounds. There is no “typical” victim.
- Anyone can be a victim of domestic violence, including men, women and children. Domestic violence also occurs in same sex relationships, and the issues of power and control are similar to those found in heterosexual relationships.
- Over 80% of victims of domestic violence are women. Data from national crime surveys, police, hospital and court records, and clinical and shelter sample surveys show that women are overwhelmingly the victims of intimate partner violence

Domestic violence is not about anger or momentarily losing control. It is an intentional choice focused on maintaining power and control in the relationship. Even when batterers are angry, they manage not to beat or terrorize people other than their partner.

Important points about domestic violence

- **Domestic violence escalates.** Although the first violent incident may not be severe, once battering begins, it tends to increase in severity and frequency, sometimes leading to permanent injury or death.
- **Women are at higher risk of harm in domestic violence incidents.** Research shows that women are significantly more likely than men to be injured or killed during domestic violence attacks.
- **The batterer is responsible for the violence – not the victim.** There are no everyday domestic situations that warrant violence. Someone who is battered does not want to be beaten.
- **Domestic violence victims are not “trouble magnets”** who will bring problems to the housing community. Victims who take steps to disassociate themselves from the abusers (by changing locks, obtaining protection orders, etc.) should be supported in their efforts to maintain their safety and to protect their homes.
- **Domestic violence is a crime.** Housing providers should treat this crime in the same way they treat other criminal activities that occur in the community. If a batterer keeps returning despite the victim’s efforts to keep the batterer away, housing management should take appropriate steps to safeguard residents and property.

For a list of domestic violence resources, see Appendix C.

DOMESTIC VIOLENCE POLICY

STAFF GUIDELINES

POLICY

Our tenancy agreement prohibits violence, including domestic violence. We will enforce this policy to protect anyone experiencing domestic violence in our community. Management expects all staff to be familiar with this policy and to follow it if a domestic violence incident occurs or is reported.

We have a firm commitment to:

- no tolerance for domestic violence, with a focus on holding the batterer accountable
- sensitivity and responsiveness to those experiencing domestic violence
- the safety and protection of all our residents and staff.

PROCEDURES

Application and Screening

We will not deny rental to anyone just because –

- they have spent time in emergency shelters due to domestic violence.
- they have a protection order or restraining order against an abuser.

During Rental

Emergency contacts – Share telephone numbers for after-hours security staff with all residents.

When a domestic violence incident happens – Treat it seriously, as you would any other emergency situation. Advise your staff to call 911 if they hear or observe a domestic violence incident involving threats of injury or actual injury in progress. If anyone on your staff receives a report from a resident that a domestic violence incident is happening, advise them to call 911 if someone is in immediate threat of bodily harm. Advise staff to encourage the reporting resident to call 911, too.

When staff learns of a prior domestic violence incident – Any staff member who receives a resident report of a previous domestic violence incident should report it as soon as possible to a housing manager. The manager will then review the circumstances and take appropriate actions (make notes in the resident's file, remind all tenants about peaceful enjoyment, reiterate the domestic violence and harassment policies, etc.).

After a domestic violence incident occurs – See Appendix B for the procedures outlined under the Washington Residential Landlord Tenant Act (RLTA), RCW 59.18.

To ensure our compliance with established fair housing case law and the RLTA:

- we will not evict a victim just because a domestic violence incident occurs.
- we will not apply a “zero tolerance for violence” policy to evict a victim of domestic violence.
- we will, as outlined by the RLTA, evict the batterer and remove that person from the lease.
- we will allow the resident who is a victim to move to another apartment in our community.
- we will allow the victim to move to another community we manage.
- we will allow the victim to end the rental agreement or lease, and move out.
- we will, upon request, maintain confidentiality about the whereabouts of a victim of domestic violence who has moved or vacated the rental.
- we will renew the lease of a victim of domestic violence who remains a qualified resident.
- we will allow the locks to be changed.
- we will alert all staff to be on the lookout for the return of a batterer who has been trespassed or required by a court order to stay away from the property.
- we will maintain confidentiality about the domestic violence – we will not share information about the incident with other residents or with potential landlords.

When the batterer remains a member of the household, and further domestic violence behavior causes harassment, alarm or distress to neighbors, we will issue notices to the household according to our policy (up to and including eviction).

When the batterer has been trespassed or removed from the lease due to a valid court order, but is allowed back into the rental home by the victim, management can contact law enforcement personnel and/or issue appropriate notices to the tenant for an unauthorized occupant.

Protection of staff

There is a possibility that employees may be threatened or assaulted when dealing with domestic violence issues. Be sure your policy contains appropriate procedures and guidance to protect staff and to take legal remedies necessary to maintain their safety. In case of emergency, such as immediate threat of bodily harm, call 911.

If a resident threatens you, or you have non-emergency concerns for your safety, please report the incident to (insert contact info here).

DOMESTIC VIOLENCE POLICY

RESIDENT GUIDELINES

Application and Screening

If there is domestic violence in your past that may show up on a criminal records screening, be prepared to provide documentation to management to confirm that you were the victim.

If some of your previous housing was in a shelter because of domestic violence, let management know that it was domestic violence related.

If you have a protection order or restraining order or a record of a domestic violence report against a perpetrator of domestic violence, provide a copy of the order to management.

During Rental

When you move in – Get a list of emergency and after-hours security staff contacts so that you can communicate concerns if a domestic violence incident happens. Security staff should treat a domestic violence call seriously, just like any other emergency call from a resident.

When a domestic violence incident happens – Call 911 if you are in immediate threat of bodily harm.

After a domestic violence incident occurs – See Appendix B for your options under the Washington Residential Landlord Tenant Act (RLTA), RCW 59.18.

Under established fair housing case law and the RLTA:

- management should not evict you just because you are the victim of a domestic violence incident.
- management should not apply a “zero tolerance for violence” policy to evict you when you are a domestic violence victim.
- management should, as outlined by the RLTA, evict the abuser and remove that person from the lease.
- management should allow you to move to another apartment in your rental community.
- management should allow you to move to another community that they manage.
- management should allow you to end your rental agreement or lease, and move out (see Appendix B).
- management should maintain confidentiality about your whereabouts if you move or vacate, at your request.
- management should renew your lease if you remain a qualified resident.

- management should allow the locks to be changed.
- management should alert all staff to be on the lookout for the return of a batterer who has been trespassed or required by a court order to stay away from the property.
- management and other employees should maintain confidentiality about the domestic violence – they should not share information about any aspect of the domestic violence incident with other residents or with your potential landlords.

When the batterer remains a member of the household, and further domestic violence behavior causes harassment, alarm or distress to neighbors, management can issue notices to the household according to their policy (up to and including eviction).

When the batterer has been trespassed or removed from the lease due to a valid court order, but is allowed back into the rental home by the victim, management can contact law enforcement personnel and/or issue appropriate notices regarding an unauthorized occupant.

Ending your rental agreement –

You may terminate your rental agreement and quit the premises without further obligation under the rental agreement under the Washington Residential Landlord Tenant Act, a summary of the steps are:

1. You obtain a valid protection order – or – report the domestic violence to a qualified third party acting in his or her official capacity. (A “qualified third party” includes law enforcement officers, state court employees, doctors, nurses and other health care professionals, licensed mental health professionals or counselors, members of the clergy, or crime victim/witness program advocates.)
2. You must notify the housing management in writing that you were a victim of domestic violence, and provide a copy of the protection order or the record of the report to a qualified third party.
3. If you wish to move, you must notify the housing management that you will be moving out within 90 days of the domestic violence incident.

In most cases, you remain liable for the rent for the month in which you terminate the rental agreement. For details about the return of your deposit and the rental obligations of other tenants in the unit who are not the victims of domestic violence, refer to Revised Code of Washington (RCW) 59.18.575.

Resources

- 24-hour Washington State Domestic Violence Hotline – 1-800-562-6025
- 24-hour National Domestic Violence Hotline – 1-800-799-7233
- Appendix A – Fair Housing Agencies in Washington
- Appendix B – Information about the state’s landlord-tenant laws

APPENDIX A - FAIR HOUSING AGENCIES IN WASHINGTON STATE

U.S. Dept. of Housing & Urban Development Fair Housing 909 First Avenue Suite 205 Seattle, WA 98104-1000	Washington State Human Rights Commission 711 S. Capitol Way Suite 402 Olympia, WA 98504-2490	King County Office of Civil Rights & Open Government Chinook Building 401 Fifth Avenue Suite 215 Seattle, WA 98104-1818	Seattle Office for Civil Rights 810 Third Avenue Suite 750 Seattle, WA 98104-1627	Tacoma Human Rights & Human Services Dept. 747 Market Street Room 836 Tacoma, WA 98402-3779
206-220-5170 800-877-0246 TTY 206-220-5185 Fax 206-220-5447	360-753-6770 800-233-3247 (in WA) TTY 800-300-7525 Fax 360-586-2282	206-263-2446 TTY Relay: 711 Fax 206-296-4329	206-684-4500 TTY 206-684-4503 Fax 206-684-0332	253-591-5151 TTY 253-591-5153 Fax 253-591-5050
www.hud.gov/local/sea/seafhome.html	www.hum.wa.gov	www.kingcounty.gov/civilrights	www.seattle.gov/civilrights	www.cityoftacoma.org/humanrights
<u>Protected Classes</u> Race Color National Origin Religion Sex Disability Familial Status	<u>Protected Classes</u> Race Color National Origin Creed Sex Disability Familial Status Marital Status Sexual Orientation (incl. gender identity) Veteran/Military Status	<u>Protected Classes</u> Race Color National Origin Religion Gender Disability Familial Status Marital Status Sexual Orientation (incl. gender identity) Age Section 8 Ancestry Use of a Service or Assistive Animal	<u>Protected Classes</u> Race Color National Origin Religion/Creed Sex Disability Parental Status Marital Status Sexual Orientation Gender Identity Age Section 8 Political Ideology Veteran/Military Status	<u>Protected Classes</u> Race Color National Origin Religion Sex Disability Familial Status Marital Status Sexual Orientation Gender Identity Age Ancestry Veteran/Military Status
File within 1 year <u>Jurisdiction:</u> United States	File within 1 year <u>Jurisdiction:</u> Washington	File within 365 days <u>Jurisdiction:</u> Unincorporated King County	File within 180 days <u>Jurisdiction:</u> City of Seattle	File within 1 year <u>Jurisdiction:</u> City of Tacoma
<p>Fair housing laws prohibit retaliation – an act of harm by anyone against a person who has asserted fair housing rights (makes an informal discrimination complaint, files a civil rights complaint, or is otherwise involved in an investigation).</p>				
<p>NOTE: City of Bellevue investigates fair housing violations based on participation in the Section 8 Program. To file a complaint, contact Code Compliance, 450 110th Ave. NE, P.O. Box 90012, Bellevue, WA 98009, 425-452-4570, e-mail: codecompliance@bellevuewa.gov, web: www.bellevuewa.gov/reportproblem.htm.</p>				
<p><u>These organizations advocate for fair housing, and provide training, education and outreach</u></p>				
Fair Housing Center of Washington 1517 S. Fawcett Avenue, Suite 250 Tacoma, WA 98402		253-274-9523 or 888-766-8800 (toll free) Fax 253-274-8220 www.fhcwashington.org		
Northwest Fair Housing Alliance 35 West Main Avenue, Suite 250 Spokane, WA 99201		509-325-2665 or 800-200-FAIR (in 509 area code) Fax 509-325-2716 www.nwfairhouse.org		

Appendix B - Landlord-Tenant Information

Washington Residential Landlord Tenant Act (RLTA), RCW 59.18

The definition of domestic violence is in RCW 26.50.010 – physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members. "Family or household members" include:

- spouses, former spouses, people who have a child in common
- adults related by blood or marriage
- adults residing together now or in the past
- those 16 years old or older who have or have had a dating relationship who reside together now or in the past
- people with a biological or legal parent-child relationship (including stepparents/stepchildren and grandparents/grandchildren).

Why did the Washington State Legislature add domestic violence protections to the RLTA?

They wanted to provide a mechanism for threatened tenants to terminate their tenancies without suffering undue economic loss, and to provide additional mechanisms to allow housing providers to evict tenants who endanger others. The legislature noted:

- Domestic violence, sexual assault, and stalking are widespread societal problems that have devastating effects for individual victims, their children, and their communities.
- Victims of violence may be forced to remain in unsafe situations because they are bound by residential lease agreements. The inability of victims to terminate their rental agreements hinders or prevents victims from being able to safely flee domestic violence, sexual assault, or stalking.
- Victims of these crimes who do not have access to safe housing are more likely to remain in or return to abusive or dangerous situations.

Victims of these crimes are further victimized when they are unable to obtain or retain rental housing due to their history as a victim of these crimes. Evidence that a prospective tenant has been a victim of domestic violence, sexual assault, or stalking is not relevant to the decision whether to rent to that prospective tenant.

What is the RLTA process for ending a lease in a domestic violence situation?

The tenant may terminate the rental agreement and quit the premises without further obligation under the rental agreement if:

1. The tenant either obtains a valid protection order –or– the tenant has reported the domestic violence to a qualified third party acting in his or her official capacity. A "qualified third party" includes law enforcement officers, state court employees,

doctors, nurses and other health care professionals, licensed mental health professionals or counselors, members of the clergy, or crime victim/witness program advocates.

2. The tenant notifies the housing provider in writing that she was a victim of domestic violence and provides a copy of the protection order or the record of the report to a qualified third party.
3. The tenant notifies the housing provider she will be moving out within 90 days of the domestic violence incident.

According to RCW 59.18.575, a tenant who terminates a rental agreement under this section is discharged from the payment of rent for any period following the last day of the month of the quitting date. The tenant shall remain liable for the rent for the month in which he or she terminated the rental agreement unless the termination is in accordance with RCW 59.18.200(1). Notwithstanding lease provisions that allow for forfeiture of a deposit for early termination, a tenant who terminates under this section is entitled to the return of the full deposit, subject to RCW 59.18.020 and 59.18.280. Other tenants who are parties to the rental agreement (except household members who are the victims of sexual assault, stalking, or domestic violence) are not released from their obligations under the rental agreement or other obligations under this chapter.

What other protections does the RLTA provide for domestic violence victims?

A housing provider may not terminate a tenancy, may not fail to renew a tenancy, and may not refuse to enter into a rental agreement just because a tenant or applicant is a victim of domestic violence, or previously terminated a rental agreement under the RLTA.

A housing provider who refuses to enter into a rental agreement in violation of this law may be liable to the tenant or applicant in a civil action for damages. A housing provider can end a person's tenancy or evict the tenant for other lawful reasons, such as failure to pay rent.

When a tenant has a valid court order excluding someone on the lease from the home, the tenant can provide a copy of the order to the housing provider and request for the locks to be changed at the tenant's expense. The housing provider cannot give copies of the new keys to the excluded tenant.

Manufactured/Mobile Home Landlord-Tenant Act, RCW 59.20

This state law does not specifically mention domestic violence. However, it prohibits discriminatory actions and allows a landlord to terminate tenancy for tenants who engage in criminal activity, is convicted of a crime, or engages in conduct that results in the destruction of the rights of others to the peaceful enjoyment and use of the premises (such as perpetrators of domestic violence).

Appendix C - Domestic Violence Resources

Washington State Domestic Violence Hotline (24 hrs)	1-800-562-6025
National Domestic Violence Hotline (24 hrs)	1-800-799-7233
Washington Community Resources Network	211

Internet Resources

- **Washington State Coalition Against Domestic Violence**, www.wscadv.org
- **WashingtonLawHelp.org**, www.washingtonlawhelp.org/WA/index.cfm
(click on “Domestic Violence & Antiharassment”, then click on “Domestic Violence”) See
“Landlord/Tenant Issues For Survivors of Domestic Violence, Sexual Assault, and/or
Stalking”
- **Washington Association of Sheriffs and Police Chiefs**,
<http://www.waspc.org/index.php?c=Domestic%20Violence%20Information>