

1  **VIOLENCE AGAINST WOMEN ACT (VAWA)**

**Despite name of law, VAWA protection is available regardless of sex, gender identity, or sexual orientation**

Definitions

Special Protection for Victims of

- Domestic Violence
- Dating Violence
- Sexual Assault
- Stalking
- Herein referred to as protected victims = PROTECTED VICTIMS

Other Terms

- Bifurcate
- Affiliated Individual

2  **NOTIFICATION TO PUBLIC FOR PROTECTED VICTIMS**

- HUD-5380 – A Notice of Occupancy Rights under VAWA to applicants & residents who are or have been victims
- HUD-5382 – Certification of Domestic Violence for Protected Victims
- HUD-5381 – Emergency Transfer Plan
- HUD-5383 – Emergency Transfer Request for Protected Victims

Manager should review these forms and know what they are asking.

3  **NOTIFICATION TO PROGRAM APPLICANTS & RESIDENTS**

Applicants

- Denied assistance (place in applicant denial letter), or
- When they are admitted to the program;
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Residents

When they are notified of an eviction or termination of housing benefits.

- Manager will provide info about VAWA
- All at once, mailing or presentation, or
- At annual reexamination.

Protected Victims-cannot be denied admission or assistance because you are or have been a victim; includes affiliated individuals with criminal activity

4  **DOCUMENTATION**

When presented with a case from a protected victim for initial or continued assistance

- Request that the individual making the claim document the abuse in writing (allow 14 business days or can extend); this option not required\*\*

- Or any of the following three forms of documentation may be given
  1. HUD-5382 (Note: no need to request further info if you get #1 unless conflicting documentation),
  2. Court or Administrative Record i.e. police report, court record or an administrative record
  3. Documentation from Person who Assisted (signed by that person + protected victim) i.e. employee, manager, victim service provider, attorney, medical or mental health professional. *The person signing must attest under penalty of perjury to the person's belief that the incidents in questions are bona fide incidents of abuse.*

#### 5 DOCUMENTATION (CONT.)

Any request for documentation from protected victims

- Will specify a deadline of 14 business days following receipt of request;
- Will describe the three forms of acceptable documentation;
- Provide explicit instructions on where & to whom the documentation must be submitted,
- And will state the consequences for failure to submit the documentation/request, or request an extension (add'l 10 business days\*\*) in writing by the deadline.

#### 6 CONFLICTING DOCUMENTATION

**She said He said**

When you receive conflicting certification documents from two members of the household. Each claiming to be a victim & naming one or more of the other petitioning household members as the perpetrator.

- Manager may require both to provide
  - Acceptable 3<sup>rd</sup>-party documentation (#2 & #3 under Documentation) within 30 calendar days of the date of the request.
- Manager must honor any court orders issued to protect the victim or to address the distribution of property.

#### 7 MANAGER DISCRETION NO FORMAL DOCUMENTATION

Manager has the discretion to provide benefits to an individual based solely on the individual's statement or other corroborating evidence—i.e., without requiring formal documentation of abuse.

- If the Manager accepts an individual's statement or other corroborating evidence from the protected victim, document acceptance in the resident's file.

#### 8 FAILURE TO PROVIDE DOCUMENTATION=DENIAL

Manager may deny relief for protection under VAWA

- If the victim fails to provide the documentation within 14 business days from the date of receipt, or such longer time\*\* as the Manager may allow.

Manager must have provided the individual requesting protection with a written request for documentation of abuse

9  **HUD – 5380 Notice of Occupancy Rights  
Protects Applicants & Residents**

- Protections for Applicants (Slide 3)
- Protections for Residents (Slide 3)
- Removing the Abuser or Perpetrator from the Household
  - bifurcate lease
  - Manager may not take away rights of eligible resident to the unit or punish the remaining resident
  - If abuser/perpetrator is a sole resident who established eligibility for assistance, Manager must allow the victim or other household members to remain in the unit for a period of time to establish eligibility under the program or another housing program covered by VAWA, or find alternative housing.

If removing, Manager must follow State, Federal and local eviction procedures.

10  **HUD – 5380 Notice of Occupancy Rights  
Protects Applicants & Residents (Cont.)**

Moving to Another Unit

- Manager may permit you to move to another unit, subject to the availability of other units,
- Manager may ask you to provide documentation that you are requesting to move because
  - You are a protected victim

Request for Emergency Transfer

- Manager may ask you to submit a written request or fill out a form where you certify that you meet the criteria for an emergency transfer under VAWA
  - You expressly request the emergency transfer,
  - You reasonably believe you are threatened with imminent harm from further violence if you remain; means you have a reason to fear, with no transfer, you would suffer violence in the very near future, or
  - You are a victim of sexual assault, & the assault occurred on the premises during the 90-calendar-day period before you request a transfer.

11  **EMERGENCY TRANSFERS**

- Emergency transfers – One of the key elements of VAWA's housing protections are emergency transfers which allows for survivors to move to another safe and available unit if they fear for their life and safety. VAWA required HUD to adopt a model emergency transfer plan for housing providers and to explain how housing providers must address their tenants' requests for emergency transfers. HUD's model emergency transfer plan:
  - allows a survivor to self-certify their need for an emergency transfer, ensuring documentation is not a barrier to protecting their immediate safety;
  - allows the survivor to determine what is a safe unit for purposes of the transfer, ensuring that the survivor has control over their own safety planning;
  - requires housing providers to allow for a resident to move immediately if there is

another safe and available unit that does not require the survivor to undergo an application process as a new tenant, ensuring quicker access to safe housing;

- ▶ requires housing providers to explain the efforts they will take when there is not a safe and available unit available for an emergency transfer and encourages housing providers to partner with victim services and advocates and other housing providers to assist a survivor; and,
- ▶ requires housing providers to document requests for emergency transfers, including the outcome of the request, and to report annually to HUD.

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Qualifying for an emergency transfer does not guarantee continued assistance under the current program or an external transfer to another covered housing program. The emergency transfer requirements do not supersede any eligibility or occupancy requirements that may apply under a covered housing program.

Manager should make this clear, and make reasonable efforts to assist a victim who wishes to move to alternative housing if a safe unit is not immediately available.

- Provide victim with names, addresses, or phone numbers of domestic violence advocacy organizations;
- Provide a list of other local or private market or other government-assisted housing who could possibly offer assistance

13  **CONFIDENTIALITY**

All information provided to the MANAGER regarding a protected victim must be retained in confidence. This means that the Manager

- ▶ may not enter the information into any shared database;
- ▶ may not allow employees or others to access the information unless they are explicitly authorized to do so and have a need to know the information for purposes of their work, and
- ▶ may not provide the information to any other entity or individual, except to the extent that the disclosure is
  - ▶ (a) requested or consented to by the individual in writing (time-limited release)
  - ▶ (b) required for use in an eviction proceeding, or
    - ▶ If disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the Manager will inform the victim before disclosure occurs so that safety risks can be identified and addressed.
  - ▶ (c) otherwise required by applicable law.
- ▶ must keep confidential requests for emergency transfers

14  **DISCRIMINATION**

Housing providers cannot discriminate on the basis of any protected characteristic, including race, color, national origin, religion, sex, familial status, disability, or age.

HUD-assisted and HUD-insured housing must be made available to all otherwise eligible

individuals regardless of actual or perceived sexual orientation, gender identity, or marital status.

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