

# **VIOLENCE AGAINST WOMEN ACT (VAWA) Emergency**

## **Transfer Plan:**

VAWA was signed in 1994 and creates and supports comprehensive, cost-effective responses to domestic violence, sexual assault, dating violence and stalking. As of March 2022, the law provides survivors the thousands of local programs that serve them, and communities with much-needed resources for housing, legal assistance, alternatives to criminal responses, and prevention programming. It also includes new economic justice provisions and bolsters access for survivors of all genders by strengthening non-discrimination laws and creating an LGBTQIA+ services programs.

## **EMERGENCY TRANSFERS**

Lutheran Social Services is required to have an Emergency Transfer Plan in place in cases of domestic violence, dating violence, sexual assault, or stalking where a household deems their current unit an unsafe living situation. A victim may request an emergency transfer from their current unit to another unit. The ability to request a transfer is available regardless of sex, gender identity, or sexual orientation. Lutheran Social Services has their plan available upon request and publicly posts the Emergency Transfer Plan on its website and in a conspicuous location on its premises 24 CFR 5.2005 (e)(11).

### **ELIGIBILITY CRITERIA**

A victim of domestic violence, dating violence, sexual assault, or stalking qualifies for an emergency transfer if: 24 CFR 5.2005(e)(2)

- i. The tenant requests the transfer; and
- ii. The tenant believes there is a threat of imminent harm from further violence if the tenant remains within the same dwelling unit that the tenant is currently occupying; or
- iii. In cases of sexual assault when:
  - o The tenant reasonably believes there is a threat of imminent harm from further violence if the tenant remains in their current unit, or
  - o The sexual assault occurred on the premises during the 90-calendar-day period preceding the date of the request for transfer.
- iv. Requests for an emergency transfer can be either written or verbal. If a verbal request is made, staff shall document the request in writing.
- v. In cases of two-adult households where the participant asked to leave was the eligible participant for the housing program, the remaining participant(s) who were not already eligible will have a period of 90 calendar days from the date of the eligible participant leaving to:
  - o Establish eligibility for the housing program
  - o Establish eligibility for another housing program
  - o If not eligible for a housing program, a provider or agency will assist with finding alternative housing. Agencies may extend this period up to an additional 60 calendar days if needed. Case management staff will help to obtain documentation. The provider shall give written notice to the remaining participant of the remaining participant's rights under this section, including the right to an extension. Denials of extensions shall be subject to the provider's grievance process. 24 CFR 5.2009

- For permanent supportive housing projects, members of any household who were living in an assisted unit at the time of a qualifying member's eviction from the unit because the qualifying member was found to have engaged in criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking, have the right to rental assistance until the expiration of the lease in effect at the time of the qualifying member's eviction. 24 CFR 578.75(j)
- vi. Although every effort will be made to keep the person requesting the emergency transfer in the program, there is no guarantee that continued assistance will be available in the current program or in other program housing.

#### MINIMUM STANDARDS

- i. Persons may not be denied assistance, terminated from assistance or evicted as a result directly related to experiencing domestic violence, dating violence, sexual assault, or stalking, regardless of sex, gender identity, gender expression or actual or perceived sexual orientation, if the person otherwise qualifies for the project. 24 CFR 5.2005(b)(1)
- ii. Program participants may not be denied tenancy or occupancy rights solely on the basis of criminal activity directly relating to domestic violence, dating violence, sexual assault or stalking if:
  - The criminal activity is engaged in by a member of the household of the tenant or any guest or other person under the control of the tenant, and
  - The tenant or an affiliated individual of the tenant is the victim or threatened victim of such domestic violence, dating violence, sexual assault or stalking. (24 CFR 5.2005(b)(2))
- iii. The Notice of Occupancy Rights under the Violence Against Women Act (HUD Form 5380) and Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, and Alternate Documentation (HUD Form 5382) must be provided to program applicants/participants (in the language they request) when they are accepted or denied transitional or permanent housing, served an eviction notice or terminated from assistance. CoC and ESG program grantees must document that participants were informed of their rights and provided copies of the notices. A signed copy of acknowledgement must be maintained in client files. If person refuses or is unable to sign, provider will document provision of forms and attempt to get signature. For applicants who do not become participants, providers must keep files of signed documents for three years. 24 CFR 5.2005 (a)(1)(2)(3)
- iv. When a housing provider is entering into a lease agreement with a participant, they must include the VAWA Lease Addendum (HUD Form 91067) which is to be signed by both the tenant and the housing provider.
- v. CoC and ESG-funded programs using funds for rental assistance are required to include VAWA notification and confidentiality requirements in a contract with the owner or manager of the housing unit(s). The program must ensure that the owner or manager of the housing provides HUD forms 5380 and 5382 to the program participant with any notification of eviction. (24 CFR 578.99(j) (4)(5))
- vi. All information regarding domestic violence, dating violence, sexual assault or stalking, including the fact that an individual is or has experienced such violence or staking, must be kept confidential. This includes keeping confidential the new location of the unit of

the program participant. Confidentiality also means that providers and/or property owners or managers may not:

- Enter the information into any shared database except the authorized DV comparable database;
- 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; or
- Provide the information to any other entity or individual, except to the extent that the disclosure is:
  - i. Requested or consented by the individual, in writing stating permission to release the information on a time-limited basis;
  - ii. Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
  - iii. Otherwise required by applicable law
  - iv. If program disclosure is required for use in an eviction proceeding or is otherwise required by applicable law, the program will inform the victim before disclosure occurs so that safety risks can be identified and addressed. 24 CFR 5.2005 (e)(4)
- vii. Upon request for an emergency transfer, the housing provider must establish an individualized plan with the tenant and provide a copy of the plan to the tenant in writing. The housing provider will offer to assist participants in contacting local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking.
- viii. Program staff must complete an immediate initial emergency transfer if a safe unit can be identified. The participant will move to the new unit without having to undergo an application process. Program staff will assist participants in planning for the move and establishing residency in new location. 24 CFR 5.2005(e)(5)(6)
- ix. If a participant must move outside of the current project to locate a safe unit, the program staff must communicate with the Coordinated Entry Manager to complete an external emergency transfer. The participant will move to another unit as soon as a unit is identified as available, and on its face, it appears that the tenant is eligible. The applicant will subsequently undergo an application process in order to establish permanent residency in the new unit. 24 CFR 5.2005 (e)(7)
- x. Program participants requesting an emergency transfer will be prioritized above any other households for open units. 24 CFR 5.2005 (e)(3)
- xi. The program participant will make a decision on whether or not a unit qualifies as a safe unit.
- xii. Program participants may request an external emergency transfer. Participants may also request both an internal and external transfer at the same time in order to speed up the process of identifying a new unit. 24 CFR 5.2005(e)(7)(8)
- xiii. Agencies participating in Coordinated Entry must accept emergency transfers as they have available units that are deemed safe. 24 CFR 5.2005(e)(7)
- xiv. Program staff will work together to ensure a timely transfer to a new safe unit, ideally within 60 days. If needed, the participant may seek shelter while a permanent safe unit is being secured.
- xv. For families receiving tenant-based rental assistance, if the family separates in order to affect an emergency transfer, the housing provider must work with the members

requesting a transfer to locate new housing and with the family members exiting from the program on housing stability. This may include working with the landlord so the family can stay in the unit or work towards a mutual lease termination. The housing provider will conduct a housing search with the family members for 90 days and if not housed, connect to another provider for ongoing assistance. 24 CFR 5.2005(e)(9)

- xvi. **Housing providers are not required to request documentation.** However, the housing provider, at its discretion, may make a written request for documentation from the tenant of the occurrence of domestic violence, dating violence, sexual assault, or stalking for which the emergency transfer is requested. Housing provider's policies must include their policy for requesting documentation, if they choose to request documentation. The policy must be consistent with these standards and equally applied to all participants. Should the housing provider exercise its discretion to request documentation, it shall do so in writing. The written request shall inform the tenant of the types of additional documentation that may be provided, any one of which would be acceptable, and the period of time by which the documentation is to be provided. The period of time shall be no less than 14 days and may be extended by the provider. This documentation may include:
- Certification Form (see Appendix)
  - A document:
    - i. Signed by an employee, agent, or volunteer of a victim service provider, an attorney, or medical professional, or a mental health professional from whom the victim has sought assistance relating to domestic violence, dating violence, sexual assault, or stalking or the effects of abuse; ii.
    - ii. Signed by the applicant or tenant; and iii.
    - iii. That specifies, under penalty of perjury, that the professional believes in the occurrence of the incident of domestic violence, dating violence, sexual assault, or stalking that is the ground for protection and that the incident meets the applicable definition of domestic violence, dating violence, sexual assault, or stalking (see glossary); or
  - A record of a Federal, State, tribal or territorial or local law enforcement agency, court or administrative agency; or
  - A statement or other evidence provided by the applicant or tenant.
- If the housing provider receives documentation that contains conflicting information, the housing provider may require third-party documentation be obtained within thirty days of the request for third-party documentation. Conflicting information cannot be the result of the housing provider's own personal biases or stereotypes about survivors. The housing provider may deny the emergency transfer request if documentation has not been provided. Participants are entitled to written notice of denials of emergency transfer requests that include specific grounds for denial, information on their right to grieve the denial, and a copy of the grievance process. 24 CFR 5.2007
- xvii. Housing providers cannot place a limit on the number of emergency transfer requests made by a participant.
- xviii. Housing providers must keep a record of all emergency transfers requested under this plan and the outcomes of such requests, and retain these records for a period of three years, or for a period of time specified in program regulations. Requests and outcomes

of such requests must be reported to HUD and the CoC Board of Directors annually. 24  
CFR 5.2005(e)(12)

## **CONFIDENTIALITY**

The program will keep confidential any information that the beneficiary submits in requesting an emergency transfer, and information about the emergency transfer, unless the beneficiary gives the Program written permission to release the information on a time limited basis, or disclosure of the information is required by law or required for use in an eviction proceeding or hearing regarding termination of assistance from the unit or the program. This includes keeping confidential the new location of the dwelling unit of the beneficiary, if one is provided, from the person (s) that committed an act (s) of domestic violence, dating violence, sexual assault, or stalking against the beneficiary. See the Notice of Occupancy Rights under the Violence against Women Act for more information about the Program's responsibility to maintain the confidentiality of information related to incidents of domestic violence, dating violence, sexual assault, or stalking. Lutheran Social Services has several documented policies addressing confidentiality. Copies of the policies are provided in the index and include the following:

- Client Request to Personal Records
- Privacy and Security Compliance for Application
- Protected Health Information (PHI) Disclosure
- Client Record Retention, Storage, and Destruction
- HIPAA Privacy and Security Provisions

## **SAFETY AND SECURITY OF BENEFICIARIES**

- Pending processing of the transfer and the actual transfer, if it is approved and occurs, the beneficiary is urged to take all reasonable precautions to be safe.
- Beneficiaries who are or have been survivors of domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233 for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).
- Beneficiaries who have been survivors of sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 1-800-656-HOPE, or visit the online hotline at: <https://ohl.rainn.org/online/>.
- Beneficiaries who are or have been survivors of stalking seeking help may visit the National Center for Survivors of Crime's Stalking Resource Center at: <https://www.survivorsofcrime.org/our-programs/stalking-resource-center>.