

# New York City Continuum of Care (CoC) Overview of *VAWA Requirements*

Updated 12/6/17

PLEASE NOTE: Based on new information obtained from HUD, we have made important changes to these slides.

# Violence Against Women Act (VAWA) Anti Discrimination Provisions

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Housing providers may not deny housing to an applicant, evict a tenant, or terminate a subsidy on the basis or as a direct result of:

- an applicant or “affiliated individual” having been a survivor of domestic violence, dating violence, sexual assault, or stalking
- adverse factors resulting from the abuse (e.g., poor credit or criminal history)

If an abuser is an unauthorized occupant and the survivor, because of the abuse, did not have choice in allowing the abuser to occupy the unit, unauthorized occupancy can not be sole grounds for eviction.

# VAWA Notice of Occupancy Rights

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- PSH, RRH & TH projects must give the notice to each adult tenant and applicant at each indicated time (see slide # 9).
- Form requires some customization (e.g., name of the agency and program, contact information for local organizations that can assist survivors).
- For more information see the VAWA forms slide.



# VAWA Emergency Transfer Provisions

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- Allows survivors to move to another subsidized unit to protect their safety and maintain affordable housing.
- CoC must adopt an emergency transfer plan based on HUD's model (see VAWA Forms slide).
- Families living in CoC assisted units who qualify for emergency transfers but cannot make an immediate internal emergency transfer (i.e., within the inventory of the agency currently assisting them) must be provided with priority over all other applicants for a new unit.
- All projects are required to comply with the CoC's emergency transfer plan (NYC's plan is currently under development).
- Providers must retain records for all emergency transfer requests and outcomes.



# VAWA Lease Requirements & Bifurcations



- CoC projects are required to include descriptions of VAWA protections in leases, lease addendums, and contracts.
- A housing provider may bifurcate a lease to evict an abuser while allowing the survivor to stay.
- If the evicted abuser was the person who qualified the family for CoC assistance, must provide remaining tenant(s) **until lease expiration** to establish eligibility or find alternative housing. Remaining tenants are obligated to pay rent based on the usual CoC program requirements.
- To protect survivors whose names are not included on the lease, these rights apply to tenants AND residents.

# VAWA Incident Certification

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- Under most circumstances, a survivor need only to self-certify.
- Third-party documentation should not cause a barrier to receiving protections needed to keep survivors safe.
- Providers may take tenants seeking VAWA protections at their word or can ask for certain documentation.
- Only when there is conflicting evidence (e.g., regarding who is the abuser and who is the victim), can the provider ask for third-party documentation.



# VAWA Incident Certification (2)

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Providers must allow tenants to provide any of these:

- Self-certification form (HUD Form 5382 – See VAWA Forms slide)
- Police, court or administrative record (e.g., police reports, protective orders, restraining orders, etc.)
- Statement from a third party – (e.g., from a victim service provider, medical or mental health professional, or attorney)
- Any other statement or evidence that the housing provider has agreed to accept

# VAWA Forms

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- **Notice of Occupancy Rights** Under VAWA, form HUD 5380
- **Model Emergency Transfer Plan** for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, form HUD 5381
- **Certification** of Domestic Violence, Dating Violence, Sexual Assault, or Stalking and Alternate Documentation, form HUD 5382
- **Emergency Transfer Request** for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking, form HUD 5383

When there is a mix of federal funding, provider under each program must provide Notice of Occupancy Rights and Certification Form

All forms available in English and 14 additional languages at:

- [https://www.hud.gov/program\\_offices/administration/hudclips/forms/hud5a](https://www.hud.gov/program_offices/administration/hudclips/forms/hud5a)

# When is provision of VAWA forms required?

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The **Notice of Occupancy Rights** must be provided when individuals and/or families are applying for permanent housing and transitional housing.

The **Notice of Occupancy Rights & Certification form** must also be provided at each of the following times:

- (A) When an individual or family is denied PSH, RRH, or transitional housing;
- (B) When a program participant is admitted to PSH, RRH or transitional housing;
- (C) When a program participant receives notification of eviction; and
- (D) When a program participant is notified of termination of assistance.



# VAWA Confidentiality Protections

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- Must keep confidential any information provided related to the exercise of VAWA rights, including the fact of exercising those rights
- Providers cannot allow anyone administering assistance or employees to have access to confidential information unless explicitly authorized under Federal, State or local law.
- Confidential information cannot be entered into any shared database or disclosed, except if disclosure is: requested or consented to in writing by survivor in a time-limited release; required for use in eviction or termination hearing; or otherwise required by law.
- Transfer plans must ensure confidentiality to prevent disclosure of the location of new unit

# VAWA Implementation Timeline

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- **12/15/17:** Give each existing adult tenant the notice of occupancy rights and the certification form
- Beginning **12/16/17:** Provide the Notification of Occupancy Rights and Certification forms to applicants and at the times indicated on slide #9.  

HUD encourages projects to post the Notice of Occupancy Rights in a location visible to tenants.
- **6/14/17:** Deadline for developing a CoC Emergency Transfer Plan. May require tenants seeking an emergency transfer to provide a written Emergency transfer request. All projects are required to comply with CoC Plan.

# Additional Resources & Acknowledgement

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HUD Final Rule Implementing VAWA Reauthorization Act of 2013 -

<https://www.hudexchange.info/news/hud-announces-publication-of-final-rule-implementing-vaawa-reauthorization-act-of-2013/>

National Housing Law Project webinar on HUD's Final Rule Implementing VAWA 2013 available at:

<https://www.nhlp.org/domesticviolencewebinars>

Housing Innovations would like to acknowledge the work of the National Housing Law Project, upon which this overview draws heavily.