

## COHHIO Training

How to Become Compliant with VAWA Housing Requirements

Understanding Intimate Partner Violence & Housing



In partnership with ODVN Member Programs



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## What is Intimate Partner Violence?



A pattern of assaultive and coercive behaviors



including physical, sexual and psychological attacks, as well as economic coercion



that adults and adolescents use against their intimate partners.

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## What Role Does Trauma Play?

**Trauma**

No two survivors will respond to intimate partner trauma in the same way

**Trauma**

Family members experiencing the same traumatic event can manifest very different responses among each individual

**Trauma**

There is a direct relationship between the severity of the trauma and the psychological impact it has on the individual

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## Stories from the field

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## Manifestations of Abuse

*The abuser may:*

- Inflict more abuse or more severe abuse may occur
- Carry out threats to kill the victim.
- Break in & destroy victim's belongings in the home.
- Affect victim's job or reputation at work, church, etc.
- Have victim arrested or charged with a crime, such as drug use or child abuse.
- Harm children, pets, family or friends.
- Not allow the victim to see children
- Kill the victim and/or self.



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## Manifestations of Abuse

Isolation and lack of resources:

*The victim may have:*

- **Few or unsafe housing choices**
- No money on hand for rent or deposits for new housing
- No income or savings; bad credit
- No safe place to go
- Few people to lend emotional or financial support
- No transportation
- Past convictions or evictions



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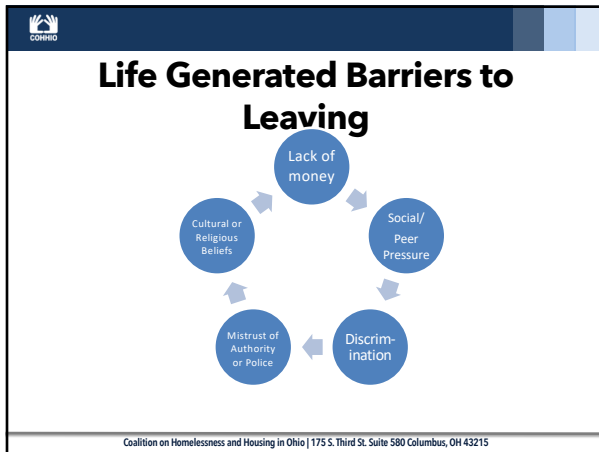
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**Providing Support & Assistance**

- Listen to the survivor
- Develop a relationship of trust so that you can check in with the survivor to get accurate information
- Avoid Victim Blaming & becoming judgmental
- Work through personal bias, thoughts & feelings
- Know your community resources
- Partner with local programs & organizations

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**Resources**

- Ohio Domestic Violence Network (ODVN)
  - [Odv.org](http://Odv.org)
- National Network to End Domestic Violence (NNEDV)
  - [Nnedv.org](http://Nnedv.org)
- Futures Without Violence
  - [Futureswithoutviolence.org](http://Futureswithoutviolence.org)
- National Domestic Violence Hotline
  - [Thehotline.org](http://Thehotline.org)
  - 800-799-7233

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**The Violence Against Women Act**



**2019 COHHIO Conference**  
**April 8, 2019**

Hayley Kick  
 Legal Intern  
 COHHIO

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 Civic Engagement  
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**INTRODUCTION TO VAWA**

**Violence Against Women Act (VAWA)**



- Passed in 1994
- Reauthorized in 2000, 2005 and 2013
- Protects certain classifications of victims in particular types of subsidized housing
- [New Regulations \(November 2016\)](#)
- [New Notice to Multifamily O/As \(June 2017\)](#)

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**Who is Protected?**

**Who is Protected?**

VAWA means the "Violence Against Women Act." As a result of its title, it is intended only to protect women.

- A) TRUE
- B) FALSE

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 **Who is Protected?**

**Who is Protected?**

**B) FALSE**

VAWA is intended to protect survivors of domestic violence, dating violence, stalking, and sexual assault regardless of their sex. Women are overwhelmingly the survivors of these types of violence, which is why the title of the statute specifically refers to women.

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 **Who is Protected?**

**Survivors of:\***

- Domestic Violence
- Dating Violence
- Stalking
- Sexual Assault

VAWA applies to survivors *regardless* of their sex, gender identity, sexual orientation, disability, or age.

*\*Throughout this presentation, the above subcategories of violence will be collectively referred to as DV.*

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 **Who is Protected?**

**2013: Protections extend to "*Affiliated Individual*"**

- Replaces 2005 designation of "immediate family member"
- Now includes *immediate family member* plus other *household members*
- Protection only extends to co-tenants or individuals on the lease agreement.

**An "Affiliated individual" may not be denied assistance or admission, nor be evicted because of DV.**

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**Applicable Categories of Housing**

### Who is Covered by VAWA?

VAWA applies to:

- A) Housing providers within the HUD umbrella
- B) Housing providers that provide housing under Rural Development Service
- C) Housing providers that provide housing under LIHTC
- D) All of the above

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**Applicable Categories of Housing**

### Who is Covered by VAWA?

D) All of the above

Under VAWA and 24 CFR §5.2003, housing providers that provide housing under HUD, RDS, and LIHTC are considered "covered housing program[s]."

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**Applicable Categories of Housing**

### VAWA 2005 Reauthorization

Types of Housing Required to Comply with VAWA Regulations:

- Public Housing
- Housing Choice Voucher (Section 8 Voucher, HCV)
- Project-Based Section 8
- Supportive Housing for Elderly or Disabled

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 **Applicable Categories of Housing**

## VAWA 2013 Reauthorization

New Categories of HUD *Multifamily* Housing:

- HUD 236 and 221(d)
- Housing for Persons With Aids (HOPWA)
- HOME Investment Partnerships Program (HOME)
- HUD 202 (Elderly) and HUD 811 (Disabled)\*

\*Previously added by HUD regulation in 2010, but not by Congress

Other New Categories of HUD Housing

- Homeless Assistance Programs, including Continuum of Care

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 **Applicable Categories of Housing**

## VAWA 2013 Reauthorization

Continuum of Care Programs

- HEARTH Act in 2012 updated and consolidated CoC programs into:
- Permanent housing (PH)
- Permanent supportive housing (PSH)
- Rapid rehousing
- Transitional housing (TH)
- Homeless prevention
- Emergency Solutions Grant (ESG)

*\*Almost all housing that is subject to HUD authority is also subject to VAWA\**

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 **Applicable Categories of Housing**

## VAWA 2013 Reauthorization

More New Categories of Housing (Non - HUD):

- USDA (Rural Housing) Multifamily
  - Section 515 Rural Rental Housing (RRH)
  - Section 514/516 Farm Labor Housing (FLH)
  - Section 538 Guaranteed Rural Rental Housing (GRRH)
  - Section 533 Housing Preservation Grant (HPG)
 (referred to collectively as MFH programs)
- Low Income Housing Tax Credit (LIHTC)

These two categories alone add an estimated *four million* more units that now have VAWA protections\*

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 **Obligations of Housing Providers**

## "Covered Housing Provider":

**MUST:**

- Not discriminate against survivors or affiliated individuals;
- Provide Notice of rights and certification form;
- Adopt emergency transfer plan;
- Comply with court orders.

**MAY:**

- Authorize lease bifurcation;
- Determine whether to evict/terminate assistance;
- Request documentation of abuse.

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 **Obligations of Housing Providers**

## Notice of Occupancy Rights

A landlord must give notice of Occupancy Rights when:

- A) An applicant is admitted as a new tenant
- B) An applicant is denied residency
- C) The landlord proposes termination of the tenancy
- D) All of the above

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 **Obligations of Housing Providers**

## Notice of Occupancy Rights

D) All of the above

These are all crucial places in the process where a tenant/applicant may need to know their rights

See 24 C.F.R. §5.2005(a)(2)

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 **Obligations of Housing Providers**

## Notice of Occupancy Rights

- Covered housing providers **must** provide the Notice of Occupancy Rights (Appendix A to new HUD Rule) and self-certification form to applicants and tenants:
  - at the time an applicant is denied residency;
  - at the time the individual is admitted; and
  - with any notification of eviction or termination of assistance.

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 **Obligations of Housing Providers**

## Notice of Occupancy Rights

- Covered housing providers **must** give all **current tenants** the Notice of Occupancy Rights and self-certification form at:
  - Annual recertification or lease renewal, **OR**
  - If there is no annual recertification or lease renewal, then at some other time, during the 12-month period following the effective date of the new rule (**December 15, 2017**)

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 **Obligations of Housing Providers**

## Admissions

PHAs, landlords and owners **shall not deny** any applicant housing: **on the basis of**

**OR**

**as a result of**

the fact that the applicant is or has been a victim of DV

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 **Obligations of Housing Providers**

### Evictions and Terminations

Although a landlord may not terminate the tenancy of a survivor claiming VAWA protections, there are exceptions to this rule, including:

- A) When there was an incident that created property damage to the unit or common area
- B) When there was an assault in the unit or the common area
- C) When there was an incident that created noise that disturbed the neighbors
- D) A&B, but NOT C
- E) All of the above
- F) None of the above

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 **Obligations of Housing Providers**

### Evictions and Terminations

F) None of the above

Termination of tenancy should be a **LAST RESORT** that is only used when an individual poses an "actual and imminent threat" to other tenants or employees.

See 24 C.F.R. §5.2003 and §5.2005(d)(4)

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 **Obligations of Housing Providers**

### Evictions and Terminations

- PHAs, landlords and owners *may not*
  - deny housing assistance,
  - terminate a tenant from participation, or
  - evict a tenant from housing*on the basis of or as a direct result of the fact that that the tenant is or has been a victim of DV*

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 **Obligations of Housing Providers**

## Evictions and Terminations

HUD Example:

If an individual has a poor rental or credit history, a criminal record, or other adverse factors that **directly result** from being a victim of DV, the individual cannot be denied assistance under a HUD program if the individual otherwise qualifies for the program

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 **Obligations of Housing Providers**

## Examples of Prohibited Evictions

- Assault by a family member
- Assault by a significant other not living in the household
- Damage to the unit during a domestic violence incident
- Noise that occurs during a domestic violence incident

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 **Obligations of Housing Providers**

## Eviction and Terminations

- **Termination should = LAST RESORT**  
(24 CFR 5.2005(d)(4))
- Termination to be used "only when there are no other actions that could be taken...including but not limited to":
  - **Transferring the victim** to different unit;
  - **Barring the perpetrator** from the property;
  - **Contacting law enforcement** to increase police presence or develop other plans to keep the property safe, or
  - **Seeking other legal remedies** to prevent the perpetrator from acting on a threat.

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 **Documentation Options**

## Proving Domestic Violence

Covered Housing Provider *may*:

- Accept information from tenant through a verbal statement with no further documentation, OR
- Ask for additional proof of violence\*

**\*Written Request to Tenant is Required:** any request to tenant for additional documentation *must be in writing*;

- Tenant has 14 business days from receipt of the request to provide documentation;
- Housing provider may allow more time.

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 **Documentation Options**

## Documentation

VAWA permits a landlord to require documentation, however, the choice of which documentation will be used comes from:

- A) Tenant
- B) Landlord
- C) Mutual agreement between tenant & landlord
- D) VAWA is silent on this question

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 **Documentation Options**

## Documentation

A) Tenant

Pursuant to 24 C.F.R §5.2007(b)(1), tenants and applicants get to choose which form of documentation to provide to the covered housing program.

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 **Documentation Options**

## Proving Domestic Violence

**Documentation:**

Tenants and applicants must be able to *choose* which of the forms of documentation listed in VAWA to give to housing providers to document the occurrence of a VAWA crime.  
(See 24 C.F.R. 5.2007(b)(1))



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 **Documentation Options**

## Documentation (Continued)

A landlord may require written documentation from the tenant. Acceptable forms of documentation are:

- A) CPO or TPO
- B) Police Report
- C) HUD self certification form
- D) Statement from a lawyer
- E) All of the above
- F) A,B, and C, but NOT D

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 **Documentation Options**

## Documentation (Continued)

E) All of the above

A tenant may choose to provide ANY of the aforementioned forms of documentation (yes, even a statement from a lawyer) in response to a covered housing program's request for documentation.

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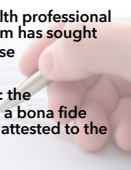
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 **Documentation Options**

## Proving Domestic Violence

1. Self-Certification Form (Appendix C to New HUD Rule)
2. Police, Court or Administrative Record
3. Statement from Third Party - May consist of documentation signed by the applicant or tenant AND:
  - a) An employee, agent, or volunteer of a victim service provider OR
  - b) An attorney, medical professional, or mental health professional (collectively, "professional") from whom the victim has sought assistance in addressing DV or the effects of abuse

The professional must attest under penalty of perjury: the professional's **belief** that the incident(s) in question is a bona fide incident of abuse, and the victim of DV has signed or attested to the documentation.



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 **Documentation Options**

## Third Party Documentation

A landlord can require 3<sup>rd</sup> party documentation when:

- A) The landlord believes the tenant is lying
- B) There is no proof
- C) When a landlord receives conflicting documentation
- D) All of the above

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 **Documentation Options**

## Third Party Documentation

C) When a landlord receives conflicting documentation

A landlord may **ONLY** request 3<sup>rd</sup> party documentation when the landlord receives conflicting documentation. Otherwise, the landlord **CANNOT** require an individual requesting VAWA protection to provide 3<sup>rd</sup> party documentation.

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**Documentation Options**

## Proving Domestic Violence

- Housing Providers **cannot** require an individual requesting VAWA protection to provide **third party documentation**

**EXCEPTION:**

- However, where a housing provider receives **conflicting certifications**, the provider **may** require third-party documentation

*In cases of conflicting evidence, tenants have **30 calendar days** from the date of the request for third-party documentation to provide the documentation*

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**Documentation Options**

## Proving Domestic Violence

### Self-Certification Form

- If the tenant decides to use a self-certification form, Housing Providers **must either**:
  - Provide HUD's Self-Certification form (Appendix C), OR
  - Provide their own form, which must be approved by HUD
- Certification form **must** be made available in other languages (*HUD has already translated the form into other languages for housing providers*)

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**Confidentiality Must Be Maintained**

Certifications are **required to be kept confidential**

**Housing Provider shall:**

- Limit which employees have access to info;

**Housing Provider shall not:**

- Put data into any shared database;
- Disclose to any third parties (some limited exceptions)

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 **Confidentiality Must Be Maintained**

**Narrow exceptions to confidentiality requirement**

- Housing providers may disclose information that is:
  - Requested or consented to in writing [by the **tenant**];
  - Required for use in an eviction proceeding or hearing regarding termination of assistance from the covered program; or
  - Otherwise required by applicable law.

24 CFR 5.2007(c)

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 **Limitations of VAWA Protection**

**Limitations -**

**"Actual and Imminent Threat"**

- PHAs and owners can still evict if they can demonstrate an **"actual and imminent threat"** to other tenants or employees at the property if the survivor is not evicted.
- Defined in 24 CFR 5.2003:  
 "...a physical danger that is real, would occur within an immediate time frame, and could result in death or serious bodily harm..."

Eviction should occur only if there is no other action to be taken that would reduce or eliminate threat

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 **Limitations of VAWA Protection**

**"Actual and Imminent Threat"**

24 CFR 5.2003: "...In determining whether an individual would pose an **actual and imminent threat**,

Factors to be considered include:

- The **duration** of the risk,
- The **nature and severity** of the potential harm,
- The **likelihood** that potential harm will occur,
- And the **length of time before** the potential harm would occur."

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 **Limitations of VAWA Protection**

### Court Orders

- Notwithstanding VAWA requirements, Covered Housing Provider **must comply with Court Orders** related to:
  - The **rights of access or control** of property, including civil protection orders; or
  - The **distribution or possession of property** among members of a household in a case. (24 CFR 5.2005(d)(1)(i)&(ii))

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 **Remedies for Survivors**

### Survivor Eligibility

If the abuser was the head of household and the abuser is evicted or abandons the unit, the survivor is permitted to establish eligibility in their name and to do this must be given:

- A) 30 days
- B) 60 days
- C) 90 days
- D) 120 days

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 **Remedies for Survivors**

### Survivor Eligibility

C) 90 days

Under 24 C.F.R. §5.2009(b)(2), the survivor must be given 90 days to establish eligibility in their name.

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 **Remedies for Survivors**

## Family Breakups and Section 8 Vouchers

Housing authority can terminate Housing Choice (Section 8) Voucher assistance to **the abuser** while preserving assistance to **the survivor**.

- If a family breakup results from an occurrence of domestic violence, “the PHA must ensure that the victim retains assistance.” 24 C.F.R. § 982.315(a)(2).
- Survivors may request that vouchers be transferred to their names because of abuse.

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 **Remedies for Survivors**

## Family Breakups and Section 8 Vouchers

VAWA states - In deciding who gets the voucher, housing authority **may** consider:

- Whether remaining family members should get the assistance.
- Interest of minor children or of ill, elderly, or disabled family members.
- Whether family members were forced to leave unit because of DV.
- Whether any family member is receiving protection as a victim of DV.
- Other factors specified by PHA.

24 C.F.R. § 982.315(b).

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 **Remedies for Survivors**

## Removing the Abuser from the Household

- PHA or Multifamily landlord **may** “bifurcate” a lease to evict a tenant who commits DV while preserving the survivor’s tenancy rights
- If the individual who is evicted is the sole tenant eligible to receive the housing assistance, the PHA or landlord **must** provide the remaining tenant an opportunity to establish eligibility or a reasonable time to move or establish for another covered housing program

**90 days to establish program eligibility, or find additional housing (24 CFR 5.2009(b)(2))**

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 **Remedies for Survivors**

## Transfers

A landlord may decide to transfer a survivor to another unit of the landlord's, but VAWA does not require a transfer policy.

- A) TRUE
- B) FALSE

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 **Remedies for Survivors**

## Transfers

B) FALSE

Covered housing programs **MUST** have an internal emergency transfer policy for tenants seeking VAWA protections.

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 **Remedies for Survivors**

## Mandatory Internal Emergency Transfer Plan

VAWA 2013 increased protection for survivors by requiring covered housing providers to adopt an *internal emergency transfer plan*.

 HUD has adopted a model emergency transfer plan for covered housing providers (Appendix B to HUD's new rule)

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## Remedies for Survivors

### Mandatory Internal Emergency Transfer Plan

Emergency Transfer Plan **must** allow survivors to transfer to another safe and available unit if:

- a) The **tenant expressly requests** the transfer; AND
- b) The **tenant reasonably believes they are threatened** with imminent harm if they remain in the same unit; or if the tenant was a victim of **sexual assault** that occurred on the premises during the 90 calendar days preceding the date of the emergency transfer request.

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## Remedies for Survivors

### Mandatory Internal Emergency Transfer Plan

- Housing Providers **must**:
  - Give **priority to victims** in relation to other categories of individuals seeking transfers or placement on waiting lists
  - Allow for a tenant to transfer to a new unit when a safe unit is immediately available and the **tenant does not have to apply** in order to occupy the new unit
  - **Not require third party documentation** to prove VAWA protection
  - **Provide the emergency transfer plan** upon request and the plan must be publicly available whenever feasible

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## Remedies for Survivors

### Mandatory Internal Emergency Transfer Plan

- Housing Provider must have adopted an emergency transfer plan by **June 14, 2017**
- There is **no limit** on the number of transfer requests a victim may make

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Remedies for Survivors

Mandatory Internal  
Emergency Transfer Plan

The Emergency Transfer Plan **must**:

- Ensure **strict confidentiality** so that PHA or owner does not disclose location of new unit to abuser
- Describe reasonable efforts the covered housing provider will take to assist a tenant who wishes to make an **external emergency transfer** when a safe unit is not immediately available

**\*\*Turning down a transfer cannot be a basis for termination\*\***

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Remedies for Survivors

Mandatory Internal  
Emergency Transfer Plan

The Emergency Transfer Plan **must**:

- Describe policies for assisting a tenant in making an internal emergency transfer under VAWA **when a safe unit is not immediately available**
- Include policies for assisting a tenant who is seeking an **external emergency transfer** under VAWA **out of or into the** covered housing provider's program or project

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Remedies for Survivors

Mandatory Internal  
Emergency Transfer Plan

Housing Providers **may**:

- **Require tenants to document an occurrence** of domestic violence, dating violence, sexual assault, or stalking before transfer
- **Require tenants to submit a written request** before a transfer occurs certifying they meet the criteria for an emergency transfer

HUD has developed a model Emergency Transfer Request form- Appendix D to HUD's New Rule

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 **Remedies for Survivors**

## Tenant Selection Plan

HUD encourages covered housing providers “to review their transfer waiting list policies in their Tenant Selection Plans, to determine if revisions are necessary to facilitate emergency transfers.”

“In determining whether changes to the existing waiting list policies are necessary, O/As may want to consider the following:

- Availability and location of units at the tenant’s property;
- Demand by applicants for assistance;
- Frequency of internal transfer requests; and
- Availability of alternative housing opportunities.”

HUD Notice H 2017-05 (Issued on June 30, 2017)

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 **Remedies for Survivors**

## Who Pays for the Emergency Transfer Plan?

**Housing Providers** pay for:

- Unit turnover costs
- (PHAs can utilize the limited vacancy provision of 24 CFR 990.150 that allows operating subsidy to be paid for a limited number of vacant units under an annual contributions contract (ACC))

**Tenants** pay for:

- moving costs (includes application fees, security deposits)
- HUD encourages housing providers to bear these costs where possible, or to work with victims to identify possibilities for funding transfers

**Remember:** If it is an internal transfer, a housing provider **cannot require a new security deposit and application fees**

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 **Remedies for Survivors**

## Voluntary External Emergency Transfer Plan

HUD **strongly encourages** housing providers to:

- Make arrangements, including memos of understanding, with other O/As or PHAs to facilitate moves
- Provide a letter that the victim may share with prospective covered housing providers, indicating the victim is eligible for an emergency transfer and is seeking an external emergency transfer because a safe unit is not immediately available at the O/A's property
- Create an admissions preference for victims seeking an external emergency transfer from another covered housing provider

**\*Internal and external transfer requests can be concurrent\***

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## Transfer Plans in Practice

### EXAMPLE:

# Chicago Voluntary External Emergency Transfer Plan

In Chicago, HUD created a voluntary network among Project-based Multifamily properties for external emergency transfers; owners encouraged to amend TSPs

A tenant can **directly apply to the HUD office** for a transfer or a transfer can be sought by a **local legal aid office** or **DV program** on tenant's behalf



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## Transfer Plans in Practice

# Ohio Voluntary External Emergency Transfer Plan

In Ohio, we're creating a voluntary external emergency transfer plan

A tenant or owner can contact the following organizations to pursue a transfer:

- HUD
- COHHIO

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## Transfer Plans in Practice

# Ohio Voluntary External Emergency Transfer Plan

Through collaboration, Ohio has plans to protect DV survivors:

- HUD has assembled an internal team for organizing external emergency transfers
- The HUD contact person is Bonnie Spurling:
  - Bonnie Spurling, Asset Resolution Specialist, U.S. Dept. of HUD
  - 614-280-6130
  - BONNIE.SPURLING@hud.gov

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## VAWA Network Contacts

### HUD

**Bonnie Spurling,**  
Asset Resolution Specialist  
U.S. Dept. of HUD  
614-280-6130  
[BONNIE.SPURLING@hud.gov](mailto:BONNIE.SPURLING@hud.gov)

**Janice Shriver,** Branch Chief  
Columbus Office  
U.S. Dept. of HUD  
Multifamily Asset  
Management  
614-280-6120  
[Janice.M.Shriver@hud.gov](mailto:Janice.M.Shriver@hud.gov)

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## Ohio Domestic Violence Network

- The Ohio Domestic Violence Network's toll free number:

**800-934-9840**

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## How to Stay in Touch

**Questions About VAWA Compliance & Housing Law**

Joe Maskovyak, COHHIO  
Direct: 614-280-1984 x133  
[joemaskovyak@cohhio.org](mailto:joemaskovyak@cohhio.org)  
Toll Free: 888-485-7999  
(Housing Information Line)  
Email: [rentinfo@cohhio.org](mailto:rentinfo@cohhio.org)

**Questions About Scheduling VAWA Training**

Maria Bruno, COHHIO  
Direct: 614-280-1984 x121  
[mariabruno@cohhio.org](mailto:mariabruno@cohhio.org)

*Thank you!*

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