

Violence Against Women Act (VAWA)



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Presenter: Joanna Jin, HCCP, Compliance Officer

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Scenario 1:

Sarah, 58 years old, resides in a Section 202 property. Sarah obtained a restraining order against another household member Tom, who is 64 years old. Tom continues to abuse Sarah and is increasingly violent towards her. The situation has also affected the neighbors. Sarah is hesitant to pursue further charges and has not requested VAWA protections. How should the Owner/Property Manager address this situation?

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Answer:

1. Whenever an Owner/Property Manager is notified of a court order, the Owner/Property Manager has authority to comply with such order to protect a victim of domestic violence, dating violence, sexual assault, or stalking.

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Answer:

2. VAWA allows for lease bifurcation.

This means that the Owner/Property Manager may evict or remove Tom, who is responsible for the violent act, without evicting or removing Sarah from the lease agreement.

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Answer:

3. The Owner/Property Manager can remind Sarah of available VAWA protections and resources, such as an emergency transfer to a safe unit. Because the unit is not a safe unit for Sarah, Sarah may request to move from property A to property B. If Sarah participates in a housing program and cannot establish eligibility for the housing program of property B, Sarah could be an applicant on property B waiting list. The owner/manager must give a reasonable amount of time for Sarah to find new housing or establish eligibility under another covered housing program.

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Answer:

4. If Tom is the only qualifying member and moves out of the unit,
 - For Section 202s with project-based Section 8 – Sarah must meet program eligibility requirements within 90-calendar days or when the lease expires (whichever comes first). If eligibility cannot be established, Sarah may remain in the unit but must pay the contract rent. If eligibility is established, the tenant payment will be based on the remaining family members' income.
 - For Section 202 PRACs - Since Sarah is 58, she does not meet the program eligibility requirements. Therefore, she must vacate the unit within 90-calendar days or when the lease expires (whichever comes first). Sarah is not eligible to receive a subsidy and must pay market rate for the duration of tenancy.

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Scenario 2:

John resides in a property with LIHTC and HOME programs. John comes to the management office and states that someone is stalking him and he is a VAWA victim asking for an external Emergency Transfer. What documents and procedures should you implement?

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Answer:

1. The Owner/Manager must have developed an Emergency Transfer Plan as of June 14, 2017. Simply adopting HUD Emergency Plan model form 5381 will not meet the VAWA Emergency Transfer Plan requirement.

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Answer:

2. In the Emergency Transfer Plan, the Owner/Manager must make clear that a tenant may qualify for an emergency transfer if the tenant expressly request a transfer and the tenant reasonably believes that he/she is in imminent harm if they remain in their unit.

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Answer:

3. Owner/Manager provides John with the VAWA Notice of Occupancy Rights (form HUD-5380) and certification form (form HUD-5382) to ensure he understands his rights and protections under VAWA.

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Answer:

4. Owner/Manager may request that John submit a signed VAWA Certification and an Emergency Transfer Request (this may be verbal or written).

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Answer:

5. If documentation is requested, Owner/Manager must request this in writing. The Owner/Manager must provide John at least 14 business days (or more) from the date of the request to submit. Owner/Manager may not take any adverse action against John during this time.

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Answer:

6. VAWA Emergency Transfer Plan(ETP) does not define transfer priorities. Priorities must be identified in the property's Tenant Selection Plan. ETP must detail the measure of any priority given to tenants who qualify for an emergency transfer under VAWA in relation to other categories of tenants seeking transfers and individuals seeking placement on waiting lists.

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Answer:

7. VAWA EPT does not supersede any eligibility or occupancy requirements that apply under a specific housing program. In this case, John wants to transfer to a different project so he has to reapply as a new applicant.

