Northern Nevada CoC: Emergency Transfer Plan

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Purpose

Continuums of Care (CoCs) are required to establish a Violence Against Women Act (VAWA) Emergency Transfer Plan policy that governs how housing projects in the CoC will respond to requests for emergency transfers from survivors of domestic violence, in compliance with federal regulations 24 CFR 578.99(j)(8) and 24 CFR 5.2005(e). This plan outlines requirements and guidance related to 1) eligibility, 2) request documentation, 3) confidentiality, 4) timing and availability, and 5) safety and security.

The Northern Nevada CoC is concerned about the safety of those receiving supportive services or housing assistance from all partners engaged in the local Coordinated Entry System. This concern extends to project participants who are survivors of domestic violence, dating violence, sexual assault, stalking or other dangerous, traumatic, or life-threatening conditions. In accordance with VAWA, housing project providers in the Northern Nevada CoC allow their project participants who are survivors of domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions related to violence, to request an emergency transfer from the participant's current unit to another unit. The ability to transfer is available regardless of sex, gender identity, or sexual orientation.[1] The ability of a housing project provider to honor such request for participants currently receiving assistance, however, may depend upon a preliminary determination that the participant is or has experienced domestic violence, dating violence, sexual assault, stalking or other dangerous, traumatic, or life-threatening conditions, and on whether the housing project provider has another dwelling unit or can identify another housing unit that is available and safe to offer the participant for temporary or permanent occupancy.

This plan identifies housing project participants who are eligible for an emergency transfer, the documentation needed to request an emergency transfer, confidentiality protections, how an emergency transfer may occur, and guidance on safety and security planning for the participant. This plan is based on a model emergency transfer plan published by the U.S. Department of Housing and Urban Development (HUD), the Federal agency that oversees that the Northern Nevada CoC and its HUD-assisted projects comply with VAWA.

As of the drafting of this policy (2023), all Northern Nevada CoC housing projects receiving HUD-assistance are Housing Choice Voucher (HCV) projects. Some of the guidance included in this policy pertains to Project-based vouchers (PBVs) only. This document refers to both types of project providers as "housing project providers," whereas the program these projects operate under is the CoC.

1. VAWA 2022 Reauthorization and Compliance

The reauthorization of VAWA in 2022 requires existing compliance review processes of HUD-grantees to include the following items for examination:

[1] Housing providers and housing projects 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.

(1) Compliance with requirements prohibiting the denial of assistance, tenancy, or occupancy rights on the basis of domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions related to the violence against an individual or family member in their current housing situation;
(2) compliance with VAWA confidentiality provisions;
(3) compliance with notification requirements;
(4) compliance with accepting VAWA documentation from survivors;
(5) emergency transfer requirements; and
(6) compliance with the prohibition on retaliation.

1.a. Updated Definition of Domestic Violence

The VAWA definition of domestic violence was updated in 2022 and now includes any felony or misdemeanor crimes committed under the family or domestic violence laws of the jurisdiction receiving grant funding. Moreover, the use or attempted use of physical abuse or sexual abuse, or a pattern of any other coercive behavior committed, enabled, or solicited to gain or maintain power and control over a victim, including verbal, psychological, economic, or technological abuse that may or may not constitute criminal behavior, by any one of the following:

(1) a current or former spouse or intimate partner of the victim, or person similarly situated to a spouse of the victim;
(2) a person who is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;
(3) a person who shares a child in common with the victim; or
(4) a person who commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.[2] It is important to note that VAWA applies to *all* victims of domestic violence despite the gendered language associated with the name of the Act.

2. Eligibility for Emergency Transfer

A participant served within the Northern Nevada CoC by a housing project who is a survivor of domestic violence, dating violence, sexual assault, stalking or other dangerous, traumatic, or life-threatening conditions, as provided in HUD's regulations at 24 CFR part 5, subpart L is eligible for an emergency transfer if the participant reasonably believes that there is a threat of imminent harm from further violence if the participant remains within the same unit. If the participant is a survivor of sexual assault, the participant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer.

Participants in HUD-funded housing projects requesting an emergency transfer must expressly request the transfer in accordance with the procedures described in this plan. Participants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

[2] https://www.federalregister.gov/documents/2023/01/04/2022-28073/the-violence-against-women-act-reauthorization-act-of-2022-overview-of-applicability-to-hud-programs

3. Provider Emergency Transfer Plans

Housing project providers shall adopt an emergency transfer plan based on a Model Emergency Transfer Plan for Victims of Domestic Violence, Dating Violence, Sexual Assault, or Stalking. To do so, housing providers shall customize HUD Form 5381: Model Emergency Transfer Plan where indicated in bold and where otherwise appropriate. Using the model form as is will not satisfy the requirement for housing providers to develop an Emergency Transfer Plan under VAWA.

Housing project providers shall put their emergency transfer plans into practice in the instance that a participant experiencing domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions that relate to violence is eligible for emergency transfer. Housing providers shall also make their emergency transfer plans available upon request and, when feasible, must make their plans publicly available. Provisions in the emergency transfer plan shall not supersede the eligibility or occupancy requirements that may apply under a housing program.

Housing project providers shall create an emergency transfer plan that must:

- Detail the measure of any priority given to participants who qualify for an emergency transfer under VAWA in relation to other categories of participants seeking transfers and individuals seeking placement on waiting lists.[3]
    - For families living in units receiving project-based rental assistance, the Emergency Transfer Plan must provide that if a project participant qualified for an emergency transfer, but a safe unit is not immediately available for an internal emergency transfer, that project participant shall have priority over all other applicants for which tenant-based rental assistance is provided.[4]
    - For families receiving tenant-based rental assistance, the Emergency Transfer Plan must specify what will happen with respect to the non-transferring family member(s), if the family separates in order to affect an emergency transfer.[5]
- Incorporate strict confidentiality measures to ensure that the housing provider or persons under their employment do not disclose the location of the dwelling unit of the participant to a person who committed or threatened to commit an act of domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions that relate to violence.[6]
- Include a list of local resources for individuals experiencing domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence.[7]
- Describe policies for participants to make an internal emergency transfer under VAWA when a safe unit is immediately available.[8]

[3] 24 CFR §2005(e)(3)
[4] 24 CFR §576.409(d)((3)(i)
[5] 24 CFR §576.409(d)((3)(ii)
[6] 24 CFR §5.2005(e)(4)
[7] 24 CFR §5.2009(c)
[8] 24 CFR §2005(e)(5)

- Describe policies for assisting a participant in making an internal emergency transfer under VAWA when a safe unit is not immediately available.
    - These policies must ensure that requests for internal emergency transfers under VAWA receive, at a minimum, any applicable additional priority that housing project providers may already provide to other types of emergency transfer requests.
    - The individual or family shall retain their original homeless or chronically homeless status for the purpose of the transfer.
- Describe reasonable efforts the housing provider will take to assist a participant who wishes to make an external emergency transfer when a safe unit is not immediately available.[9]
- Include policies for assisting a participant who is seeking an external emergency transfer under VAWA out of the housing provider's project and for assisting a participant who is seeking an external emergency transfer under VAWA into the housing provider's project. These policies may include:
    - Arrangements, including memoranda of understanding, with other housing providers to facilitate moves; and
    - Outreach activities to organizations that assist or provide resources to survivors of domestic violence, dating violence, sexual assault, stalking, or other dangerous, traumatic, or life-threatening conditions that relate to violence.[10]
- Include policies to allow participants to seek an internal and external emergency transfer concurrently if a safe unit is not immediately available.[11]
- Describe policies for a participant who has tenant-based rental assistance and who is eligible for protections under VAWA to move quickly while retaining their assistance, where applicable.[12]
- In situations involving family breakups due to the emergency transfer, specify what will happen with respect to the non-transferring family member(s).[13]
- Permit a participant to terminate a lease or occupancy agreement without penalty if they qualify for an emergency transfer under the emergency transfer plan. ESG funds may be used to pay penalties for breaking a lease to allow for an emergency transfer.

4. Emergency Transfer Request Documentation

To request an emergency transfer, the participant shall notify their housing project provider's management office (who may be different than their landlord) and submit a written request for a transfer. Housing project providers will provide reasonable accommodations to this policy for individuals with disabilities. The participant's written request for an emergency transfer should include either:

[9] 24 CFR §2005(e)(7)
[10] Ibid
[11] 24 CFR §5.2005(e)(8)
[12] 24 CFR §5.2005(e)(9)
[13] 24 CFR §576.409(d)(3)(ii)

1. A statement expressing that the participant reasonably believes that there is a threat of imminent harm from further violence if the participant were to remain in the same dwelling unit assisted under the housing provider's project;

   OR

2. A statement that the participant was a sexual assault survivor and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the participant's request for an emergency transfer.

4.a. Options for Certifying Occurrence of DV

Housing project providers shall provide a Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking form (Form HUD-5382) to individuals or families that communicate to the housing project provider that they are fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking or other dangerous, traumatic, or life-threatening conditions that relate to violence. The Certification form alone shall be sufficient to certify that an individual or family is experiencing domestic violence, dating violence, sexual assault, stalking or other dangerous, traumatic, or life-threatening conditions that relate to violence.

Note that use of the Certification form *is* optional. Participants decide what type of documentation they will submit to housing project providers to self-certify, provided that the type of documentation they use is listed in this section.

- A listing of the approximate dates when each incident occurred, discussion of the participant's fears and injuries and the effect that each abusive incident has had on the participant or family;
- Restraining, civil, and/or criminal protection orders including orders issued by family court, probate court, juvenile court or any other court with jurisdiction over a matter involving allegations of domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that related to violence;
- Medical records or statement from medical professional;
- Documentation from a mental health professional;
- Police reports, records of telephone calls or visits to the survivor's address. This may include telephone calls to the police registering a complaint, a log of police runs made to the residence, copies of all tapes and reports written by officers responding to a call for service for the survivor;
- A record of an administrative agency or victim service provider;
- Court records;
- Statement signed by workers from a domestic violence, dating violence, sexual assault, or stalking violence shelter or other domestic violence, dating violence, sexual assault, or stalking violence programs attesting to the time the survivor spent in the shelter and the reason as linked to incidents of abuse;
- Statement signed by counselors, if participant attended counseling;

- Statement signed by attorney from whom the participant sought assistance in addressing domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence;
- Reports, statements from police, judges, and other court officials, clergy, social workers, social service agencies, or other victim service providers; or
- Other credible evidence as corroborated by law enforcement or domestic violence, dating violence, sexual assault, or stalking violence providers.

Statements signed by the above-mentioned professionals shall specify, under penalty of perjury, that the professional believes that the participant is a survivor of domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence as defined in this policy. Statements must also be signed by the participant. Housing project providers shall not request that participants use any one type of documentation to self-certify or require documentation not listed in this section.

Should a participant choose to use the Certification form to self-certify, housing project providers may request in writing that the form be returned to them within 14 business days[14]. Housing project providers may, but are not required to, extend the time to submit the documentation with reasonable discretion. Housing providers shall offer to assist participants with completing the Certification form.

If a housing project provider receives documentation containing conflicting information or certification forms from two or more members of a household, each claiming to be fleeing/attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions that relate to violence and naming one or more of the other petitioning household members as the abuser or perpetrator, the housing project provider may require an applicant or participant to submit third-party documentation, as described above, within 30 calendar days of the date of the request for third-party documentation.

4.b. Emergency Transfer Request Form and Submission

Participants may use HUD's Emergency Transfer Request for Certain Victims of Domestic Violence, Dating Violence, Sexual Assault or Stalking form (Form HUD-5383) to request an emergency transfer from their housing project provider. For voucher-based programs, housing project providers will work with housing owners and landlords in their observance of the housing project participants' rights under VAWA which are detailed in HUD's Notice of Occupancy Rights under VAWA (Form HUD-5380). Housing project providers will inform the Northern Nevada CoC Coordinator of any issues faced with housing owners or landlords in supporting participants throughout the transfer request process.

All forms referenced in this plan must be made available in multiple languages to participants as requested.[15] All forms related to the emergency transfer process can be accessed from the VAWA forms page of HUD's website[16].

[14] 24 CFR §55.2007(a)(2)(i)
[15] Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency
[16] https://www.hud.gov/VAWA#VAWA-Forms

5. Confidentiality[17]

Housing project providers will keep confidential any information that the participant submits in requesting an emergency transfer, and information about the emergency transfer, unless the participant gives the housing project provider 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 covered project. This includes keeping confidential the new location of the dwelling unit of the participant, if one is provided, from the person(s) that committed an act(s) of domestic violence, dating violence, sexual assault, stalking or other dangerous, traumatic, or life-threatening conditions against the participant.

6. Emergency Transfer Timing and Availability

Housing project providers cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. Housing project providers will, however, act as quickly as possible to move a participant who is a survivor of domestic violence, dating violence, sexual assault, stalking or other dangerous, traumatic, or life-threatening conditions, subject to availability and safety of a unit. If a participant reasonably believes a proposed transfer would not be safe, the participant may request a transfer to a different unit. If a unit is available, the transferred participant must abide by the terms and conditions that govern occupancy in the unit to which the participant has been transferred. Housing project providers may be unable to transfer a participant to a particular unit if the participant has not or cannot establish eligibility for that unit.

If the housing project provider has no safe and available units for which a participant who needs an emergency transfer is eligible, the housing project provider will assist the participant in identifying other housing providers who may have safe and available units to which the participant could move. At the participant's request, housing project providers will also assist participants in contacting the local organizations offering assistance to survivors of domestic violence, dating violence, sexual assault, stalking or other dangerous, traumatic, or life-threatening conditions, that are attached to this plan.

7. Safety and Security of Participants

Pending processing of the transfer request and the actual transfer, if it is approved and occurs, the participant is urged to take all reasonable precautions to establish and maintain safety. Housing project providers whose participants are found to have experienced domestic violence, dating violence, sexual assault, stalking or other dangerous, traumatic, or life-threatening conditions, are encouraged to support participants in the development of their own personal safety plan.

- Participants who have or are currently experiencing domestic violence are encouraged to contact the National Domestic Violence Hotline at 1-800-799-7233, or a local domestic violence shelter, for assistance in creating a safety plan. For persons with hearing impairments, that hotline can be accessed by calling 1-800-787-3224 (TTY).

[17] 24 CFR §5.2007(c)

- Participants who have experienced sexual assault may call the Rape, Abuse & Incest National Network's National Sexual Assault Hotline at 800-656-HOPE or visit the online hotline at https://ohl.rainn.org/online/.
- Participants who are experiencing or have experienced stalking seeking help may visit the National Center for Victims of Crime's Stalking Resource Center at https://www.victimsofcrime.org/our-programs/stalking-resource-center.
- The Nevada Coalition to End Domestic and Sexual Violence can also provide contact information for local organizations and helplines: https://www.ncedsv.org/find-help/.

The Northern Nevada CoC agrees that all matters relating to the relocation will be kept confidential unless under government seizure or expressed permission from the housing project participant.

7.a. Local Resources for Survivors

- Safe Embrace – offers a 24hr crisis support line at 775-322-3466, support groups, emergency shelter, rapid re-housing programs, and more for survivors of domestic violence, sexual assault, and human trafficking: https://www.safeembrace.org/.
- Domestic Violence Resource Center – offers a 24hr crisis support line at 775-329-4150 as well as a crisis support text line, Monday-Friday from 9am-5pm which can be accessed by texting "DVHELP" or "DVSAFE" to [839863]. They also operate an emergency shelter, transitional housing, support groups, pet shelter, and more for survivors of domestic violence: https://domesticviolenceresourcecenter.org/.

8. Reporting

Housing project providers shall keep a record of all emergency transfers requested under its emergency transfer plan, and the outcomes of such requests, and retain these records for a minimum of three years. Requests and outcomes of such requests must be reported to HUD as requested.