

## SUBCHAPTER H—FAMILY VIOLENCE PREVENTION AND SERVICES PROGRAMS

### PART 1370—FAMILY VIOLENCE PREVENTION AND SERVICES PROGRAMS

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#### Subpart A—General Provisions

##### § 1370.1 What are the purposes of the Family Violence Prevention and Services Act Programs?

This part addresses sections 301 through 313 of the Family Violence Prevention and Services Act (FVPSA), as amended, and codified at 42 U.S.C.

10401 *et seq.* FVPSA authorizes the Secretary to implement programs for the purposes of increasing public awareness about and preventing family violence, domestic violence, and dating violence; providing immediate shelter and supportive services for victims of family violence, domestic violence, and dating violence and their dependents; providing for technical assistance and training relating to family violence, domestic violence, and dating violence programs; providing for State Domestic Violence Coalitions; providing specialized services for abused parents and their children; and operating a national *domestic violence* hotline. FVPSA emphasizes both primary, and secondary, prevention of violence.

##### § 1370.2 What definitions apply to these programs?

For the purposes of this part:

*Dating violence* means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim and where the existence of such a relationship shall be determined based on a consideration of the following factors: The length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship. This part of the definition reflects the definition also found in Section 40002(a) of VAWA (as amended), 42 U.S.C. 13925(a), as required by FVPSA. Dating violence also includes but is not limited to the physical, sexual, psychological, or emotional violence within a dating relationship, including stalking. It can happen in person or electronically, and may involve financial abuse or other forms of manipulation which may occur between a current or former dating partner regardless of actual or perceived sexual orientation or gender identity.

*Domestic violence* means felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a

child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction. This definition also reflects the statutory definition of "domestic violence" found in Section 40002(a) of VAWA (as amended), 42 U.S.C. 13925(a). This definition also includes but is not limited to criminal or non-criminal acts constituting intimidation, control, coercion and coercive control, emotional and psychological abuse and behavior, expressive and psychological aggression, financial abuse, harassment, tormenting behavior, disturbing or alarming behavior, and additional acts recognized in other Federal, Tribal State, and local laws as well as acts in other Federal regulatory or sub-regulatory guidance. This definition is not intended to be interpreted more restrictively than FVPSA and VAWA but rather to be inclusive of other, more expansive definitions. The definition applies to individuals and relationships regardless of actual or perceived sexual orientation or gender identity.

*Family violence* means any act or threatened act of violence, including any forceful detention of an individual, that results or threatens to result in physical injury and is committed by a person against another individual, to or with whom such person is related by blood or marriage, or is or was otherwise legally related, or is or was lawfully residing.

*Personally identifying information (PII) or personal information* is individually identifying information for or about an individual including information likely to disclose the location of a victim of domestic violence, dating violence, sexual assault, or stalking, regardless of whether the information is encoded, encrypted, hashed, or otherwise protected, including, a first and last name; a home or other physical address; contact information (including a postal, email or Internet protocol address, or telephone or facsimile number); a so-

cial security number, driver license number, passport number, or student identification number; and any other information, including date of birth, racial or ethnic background, or religious affiliation, that would serve to identify any individual.

*Primary prevention* means strategies, policies, and programs to stop both first-time perpetration and first-time victimization. Primary prevention is stopping domestic and dating violence before they occur. Primary prevention includes, but is not limited to: School-based violence prevention curricula, programs aimed at mitigating the effects on children of witnessing domestic or dating violence, community campaigns designed to alter norms and values conducive to domestic or dating violence, worksite prevention programs, and training and education in parenting skills and self-esteem enhancement.

*Primary-purpose domestic violence service provider*, for the term only as it appears in the definition of State Domestic Violence Coalition, means an entity that operates a project of demonstrated effectiveness carried out by a nonprofit, nongovernmental, private entity, Tribe, or Tribal organization, that has as its project's primary-purpose the operation of shelters and supportive services for victims of domestic violence and their dependents; or has as its project's primary purpose counseling, advocacy, or self-help services to victims of domestic violence. Territorial Domestic Violence Coalitions may include government-operated domestic violence projects as primary-purpose domestic violence service providers for complying with the membership requirement, provided that Territorial Coalitions can document providing training, technical assistance, and capacity-building of community-based and privately operated projects to provide shelter and supportive services to victims of family, domestic, or dating violence, with the intention of recruiting such projects as members once they are sustainable as primary-purpose domestic violence service providers.

*Secondary prevention* is identifying risk factors or problems that may lead to future family, domestic, or dating

violence, and taking the necessary actions to eliminate the risk factors and the potential problem, and may include, but are not limited to, healing services for children and youth who have been exposed to domestic or dating violence, home visiting programs for high-risk families, and screening programs in health care settings.

*Shelter* means the provision of temporary refuge in conjunction with supportive services in compliance with applicable State or Tribal law or regulations governing the provision, on a regular basis, of shelter, safe homes, meals, and supportive services to victims of family violence, domestic violence, or dating violence, and their dependents. State and Tribal law governing the provision of shelter and supportive services on a regular basis is interpreted by ACF to mean, for example, the laws and regulations applicable to zoning, fire safety, and other regular safety, and operational requirements, including State, Tribal, or local regulatory standards for certifying domestic violence advocates who work in shelter. This definition also includes emergency shelter and immediate shelter, which may include housing provision, rental subsidies, temporary refuge, or lodging in properties that could be individual units for families and individuals (such as apartments) in multiple locations around a local jurisdiction, Tribe/reservation, or State; such properties are not required to be owned, operated, or leased by the program. Temporary refuge includes a residential service, including shelter and off-site services such as hotel or motel vouchers or individual dwellings, which is not transitional or permanent housing, but must also provide comprehensive supportive services. The mere act of making a referral to shelter or housing shall not itself be considered provision of shelter. Should other jurisdictional laws conflict with this definition of temporary refuge, the definition which provides more expansive housing accessibility governs.

*State* means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided in statute, Guam, American Samoa, the United States Virgin Islands, and the

Commonwealth of the Northern Mariana Islands.

*State Domestic Violence Coalition* means a Statewide, nongovernmental, nonprofit 501(c)(3) organization whose membership includes a majority of the primary-purpose domestic violence service providers in the State; whose board membership is representative of these primary-purpose domestic violence service providers and which may include representatives of the communities in which the services are being provided in the State; that has as its purpose to provide education, support, and technical assistance to such service providers to enable the providers to establish and maintain supportive services and to provide shelter to victims of domestic violence and their children; and that serves as an information clearinghouse, primary point of contact, and resource center on domestic violence for the State and supports the development of policies, protocols and procedures to enhance domestic violence intervention and prevention in the State/Territory.

*Supportive services* means services for adult and youth victims of family violence, domestic violence, or dating violence, and their dependents that are designed to meet the needs of such victims and their dependents for short-term, transitional, or long-term safety and recovery. Supportive services include, but are not limited to: Direct and/or referral-based advocacy on behalf of victims and their dependents, counseling, case management, employment services, referrals, transportation services, legal advocacy or assistance, child care services, health, behavioral health and preventive health services, culturally and linguistically appropriate services, and other services that assist victims or their dependents in recovering from the effects of the violence. To the extent not already described in this definition, supportive services also include but are not limited to other services identified in FVPSA at 42 U.S.C. 10408(b)(1)(A)–(H). Supportive services may be directly provided by grantees and/or by providing advocacy or referrals to assist victims in accessing such services.

*Underserved populations* means populations who face barriers in accessing

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and using victim services, and includes populations underserved because of geographic location, religion, sexual orientation, gender identity, underserved racial and ethnic populations, and populations underserved because of special needs including language barriers, disabilities, immigration status, and age. Individuals with criminal histories due to victimization and individuals with substance use disorders and mental health issues are also included in this definition. The reference to racial and ethnic populations is primarily directed toward racial and ethnic minority groups (as defined in section 1707(g) of the Public Health Service Act (42 U.S.C. 300(u-6)(g)), which means American Indians (including Alaska Natives, Eskimos, and Aleuts); Asian American; Native Hawaiians and other Pacific Islanders; Blacks and Hispanics. The term “Hispanic” or “Latino” means individuals whose origin is Mexican, Puerto Rican, Cuban, Central or South American, or any other Spanish-speaking country. This underserved populations’ definition also includes other population categories determined by the Secretary or the Secretary’s designee to be underserved.

#### **§ 1370.3 What Government-wide and HHS-wide regulations apply to these programs?**

(a) A number of government-wide and HHS regulations apply or potentially apply to all grantees. These include but are not limited to:

- (1) 2 CFR part 182—Government-wide Requirements for Drug Free Workplaces;
- (2) 2 CFR part 376—Nonprocurement Debarment and Suspension;
- (3) 45 CFR part 16—Procedures of the Departmental Grant Appeals Board;
- (4) 45 CFR part 30—Claims Collection;
- (5) 45 CFR part 46—Protection of Human Subjects;
- (6) 45 CFR part 75—Uniform Administrative Requirements, Cost Principles and Audit Requirements for HHS Awards
- (7) 45 CFR part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964;

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(8) 45 CFR part 81—Practice and Procedure for Hearings under part 80;

(9) 45 CFR part 84—Nondiscrimination on the Basis of Handicap in Programs or Activities Receiving Federal Financial Assistance;

(10) 45 CFR part 86—Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance;

(11) 45 CFR part 87—Equal Treatment for Faith-Based Organizations;

(12) 45 CFR part 91—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance for HHS;

(13) 45 CFR part 92—Nondiscrimination in Health Programs and Activities; and

(14) 45 CFR part 93—New Restrictions on Lobbying.

(b) A number of government-wide and HHS regulations apply to all contractors. These include but are not limited to:

(15) 48 CFR Chapter 1—Federal Acquisition Regulations; and

(16) 48 CFR Chapter 3—Federal Acquisition Regulations—Department of Health and Human Services.

#### **§ 1370.4 What confidentiality requirements apply to these programs?**

(a) In order to ensure the safety of adult, youth, and child victims of family violence, domestic violence, or dating violence, and their families, grantees and subgrantees under FVPSA shall protect the confidentiality and privacy of such victims and their families. Subject to paragraphs (c), (d), and (e) of this section, grantees and subgrantees shall not—

(1) Disclose any personally identifying information (as defined in § 1370.2) collected in connection with services requested (including services utilized or denied) through grantees’ and subgrantees’ programs;

(2) Reveal any personally identifying information without informed, written, reasonably time-limited consent by the person about whom information is sought, whether for this program or any other Federal, Tribal or State