



## Ensuring Accessible, Trauma-Informed Services for All Survivors during the COVID-19 Pandemic

It is our position in all circumstances that survivors deserve the respect and dignity of conversations that help them make choices and work through any safety needs they have, including the difficult choices of how to be safe from abuse in a public health crisis. Often working with survivors individually can get the results a program is looking for without enforcing baseline mandates. It is correct that service providers retain the right to deny services to someone to preserve the safety of others. It is also correct that services have to be voluntary, not conditioned on the survivor participating in other activities. We are providing the federal statute and regulation information below for your reference.

FVPSA guidelines states that all services are required to be voluntary. Therefore, an organization cannot require testing, masks, vaccines, etc. for entrance to services, shelter or other. It is allowable to assist residents in accessing testing, masks and vaccinations if they are doing so voluntarily AFTER they have become a resident/client.

According to FVPSA, it is allowable to talk with survivors and work through any issues individually. It is allowable to ask survivors to mask, social distance and take the precautions shelters have in place to keep everyone safe. It is not allowable to have services dependent on their compliance to these requests. The program has the option to offer alternate accommodations that would still allow the person to receive services, such as alternate shelter accommodations under [FVPSA 45 CFR Part 1370.2](#). We have compiled [a FAQ](#) in regards to the specific question as to What Are Your Options. The regulations do allow a program to intervene if the need arises to secure the safety of all residents. Please contact Michell Franklin, Capacity Building Program Manager at the Partnership, at [Michell@cpedv.org](mailto:Michell@cpedv.org) for more guidance or TA on this issue.

The citation in the Family Violence Prevention and Services Act (FVPSA) Federal Statute for the voluntary participation in services is 42 U.S.C. §10408 (d)(2):

<https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter110&edition=prelim>

### ***Voluntarily accepted services***

***(2) Receipt of supportive services under this chapter shall be voluntary. No condition may be applied for the receipt of emergency shelter as described in subsection (b)(1)(A).***

The FVPSA Regulations provide further clarification at 45 CFR § 1370.10 (b)(10), which you can find here:

<https://www.govinfo.gov/content/pkg/FR-2016-11-02/pdf/2016-26063.pdf>

It notes: ***program guidance will include that no requirement for participating in supportive services offered by FVPSA-funded programs may be imposed by grantees or subgrantees for the receipt of emergency shelter and receipt of all supportive services shall be voluntary. Similarly, the receipt of shelter cannot be conditioned on participation in other services, such as, but not limited to counseling, parenting classes, mental health or substance use disorders treatment, pursuit of specific legal remedies, or life skill classes. Additionally, programs cannot impose conditions for admission to shelter by applying inappropriate screening mechanisms, such as criminal background checks, sobriety requirements, requirements to obtain specific legal remedies, or mental health or substance use disorder screenings.***

*An individual's or family's stay in shelter cannot be conditioned upon accepting or participating in services. Based upon the capacity of a FVPSA-funded service provider, victims and their dependents do not need to reside in shelter to receive supportive services.*

That same section notes: *In the case of an apparent conflict with State, Federal, or Tribal laws, case-by-case determinations will be made by ACF if they are not resolved at the State or Tribal level. In general, when two or more laws apply, a grantee/subgrantee must meet the highest standard for providing programmatic accessibility to victims and their dependents. These provisions are not intended to deny a shelter the ability to manage its services and secure the safety of all shelter residents should, for example, a client become violent or abusive to other clients.*

You can also find a Comment and Response discussing this issue further in the section discussed in the FVPSA Final Rule here: <https://www.govinfo.gov/content/pkg/FR-2016-11-02/pdf/2016-26063.pdf> on page 17 of the PDF (or page 76462), the middle column.

You will notice that section says:

*The rule text says that these provisions are not intended to preempt State law, in any case where a State may impose some legal requirement to protect the safety and welfare of all shelter residents; the intended rule text was meant to ensure that States may impose requirements to protect the safety and welfare of shelter residents, which does not conflict with the provision that no requirement may be imposed to receive shelter or that supportive services shall be voluntary.*

If you have any questions, you can email Michell Franklin, Capacity Building Program Manager at the Partnership, at [Michell@cpedv.org](mailto:Michell@cpedv.org)