# Housing Rights for Immigrant Survivors

PIRC and PCADV
York, Pennsylvania
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**WEBINAR**

# Introductions

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The following slides are intended to be a guide to lead our discussion on this topic and to provide substantive material for your future reference.

# Learning Objectives

By the end of this webinar you will be better able to:

- Ensure that immigrant survivors gain access to shelter, transitional housing and programs open to all persons without immigrant restrictions
- Advocate for access to public and assisted housing for survivors with pending or approved VAWA self-petitions, T visas, Continued Presence and lawful permanent residency
- Use NIWAP's Public Benefits online map and charts to identify the range of federal and state funded public benefits immigrant survivors of domestic and sexual violence are eligible to receive

# **Poll**: Let's see who is on the webinar with us

**Please check the box that best describes you:**

A. Victim Advocates

B. Coalition Staff

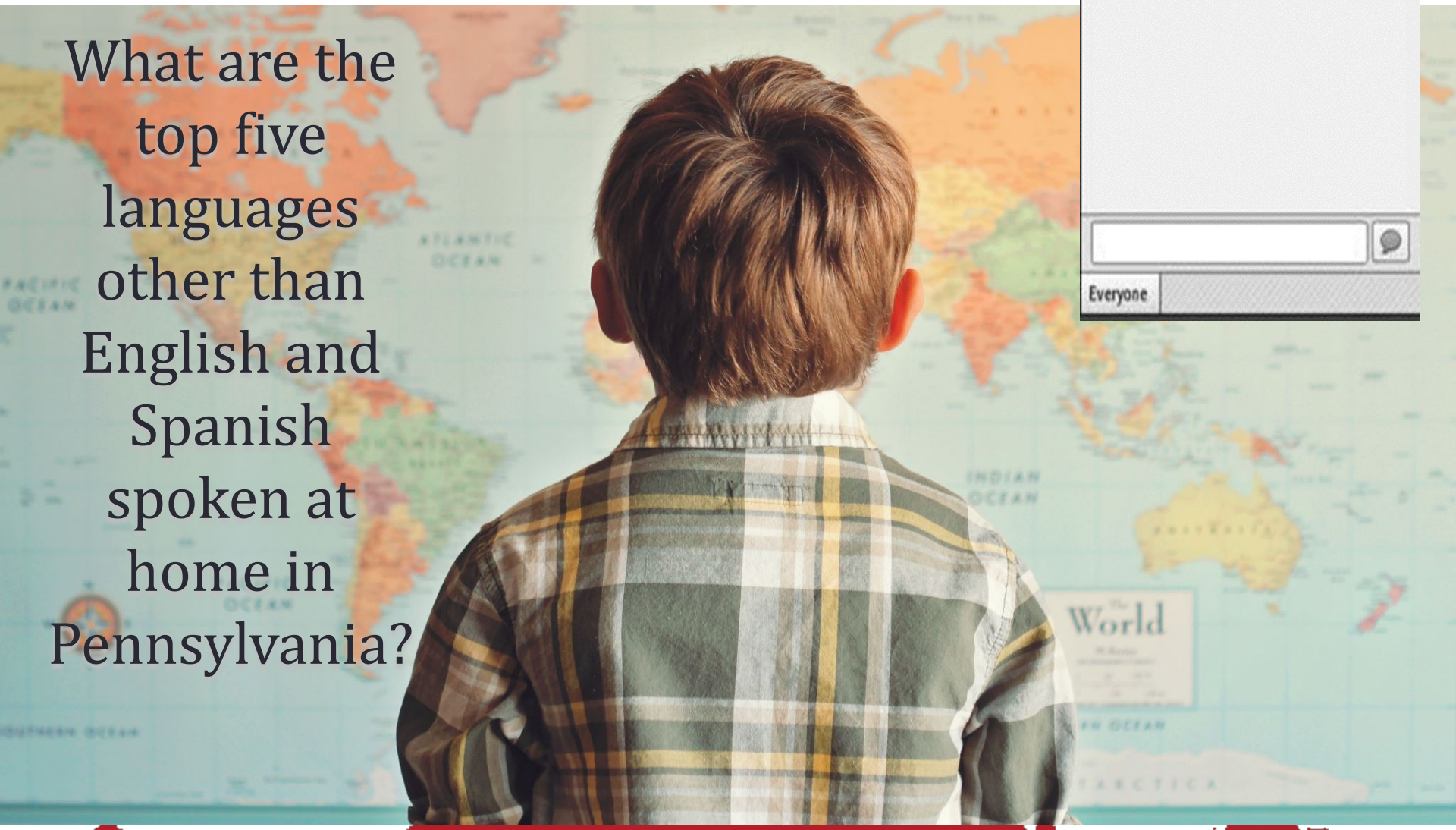
C. Attorneys

D. Systems based advocates – victim witness staff

E. Other – type in the chat

# Demographics

# Type in the chat box



# Pennsylvania (2019)*

- Total foreign born population – 803,167
- 7% of the state's ~12.8 million people are foreign born
  - 55.7% naturalized citizens
  - 28% legal permanent residents
  - 16.3% temporary visa holders or undocumented immigrants
- 75.7% rise in immigrant population from 2000 to 2019
- Length of time immigrants have lived in the U.S.
  - 45% entered before 1999
  - 25.3% entered 2000 - 2009
  - 29.3% since 2010
- 13.5% of children under age 18 have one or more immigrant parents
  - 87% of these children are native-born U.S. citizens

**Source: Migration Policy Institute Data Hub (August 2021) and Lawful Permanent Resident estimates MPI and DHS (2021)*

# Pennsylvania– Countries/Regions of Origin & Limited English Proficiency (LEP)(2019)*

- Latin America – 31%
  - Other Caribbean (11.9%)
  - South America (6.7%)
  - Mexico (6%)
  - El Salvador (4.8%)
  - Other Central America (3.3%)
  - Jamaica (2.3%)
- Asia – 36.4%
  - India (11%)
  - China/Taiwan (8.2%)
  - Korea (3.6%)
  - Vietnam (3.0%)
  - Other Southeast Asia (2.7%)
  - Philippines (2.3%)
- Africa – 8.9%
  - Western Africa (4.3%)
- Europe – 17.8%
  - Eastern Europe 8.9%
  - UK 2%
- Middle East – 3.8%
- Canada – 1.7%
- Oceania –0.3%
- Language spoken
  - 11.7% of people in the state who speak a language other than English at home
  - 40.6% of foreign born persons are LEP - speak English less than "very well"

*Source: Migration Policy Institute Data Hub (November 2021)*

# Pennsylvania-Languages Spoken at Home (2019)*

- Spanish (634,935)
- Chinese, including Mandarin, Cantonese (90,890)
- Yiddish, Pennsylvania Dutch or Other West Germanic Languages (73,540)
- Arabic (41,849)
- German (38,716)
- Russian (38,055)
- French (including Cajun) (35,769)
- Italian (31,807)
- Other Indo-European Languages (31,128)
- Korean (28,190)
- Vietnamese (28,105)
- Gujarati (24,716)
- Hindi (24,271)
- Yoruba, Twi, Igbo, or Other Languages of Western Africa (23,234)
- Other Slavic Languages(22,687)
- Haitian (21,711)
- Nepali, Marathi, or Other Indic Languages (20,883)
- Polish (20,043)

* Source: https://www.migrationpolicy.org/data/state-profiles/state/language/PA (2021)

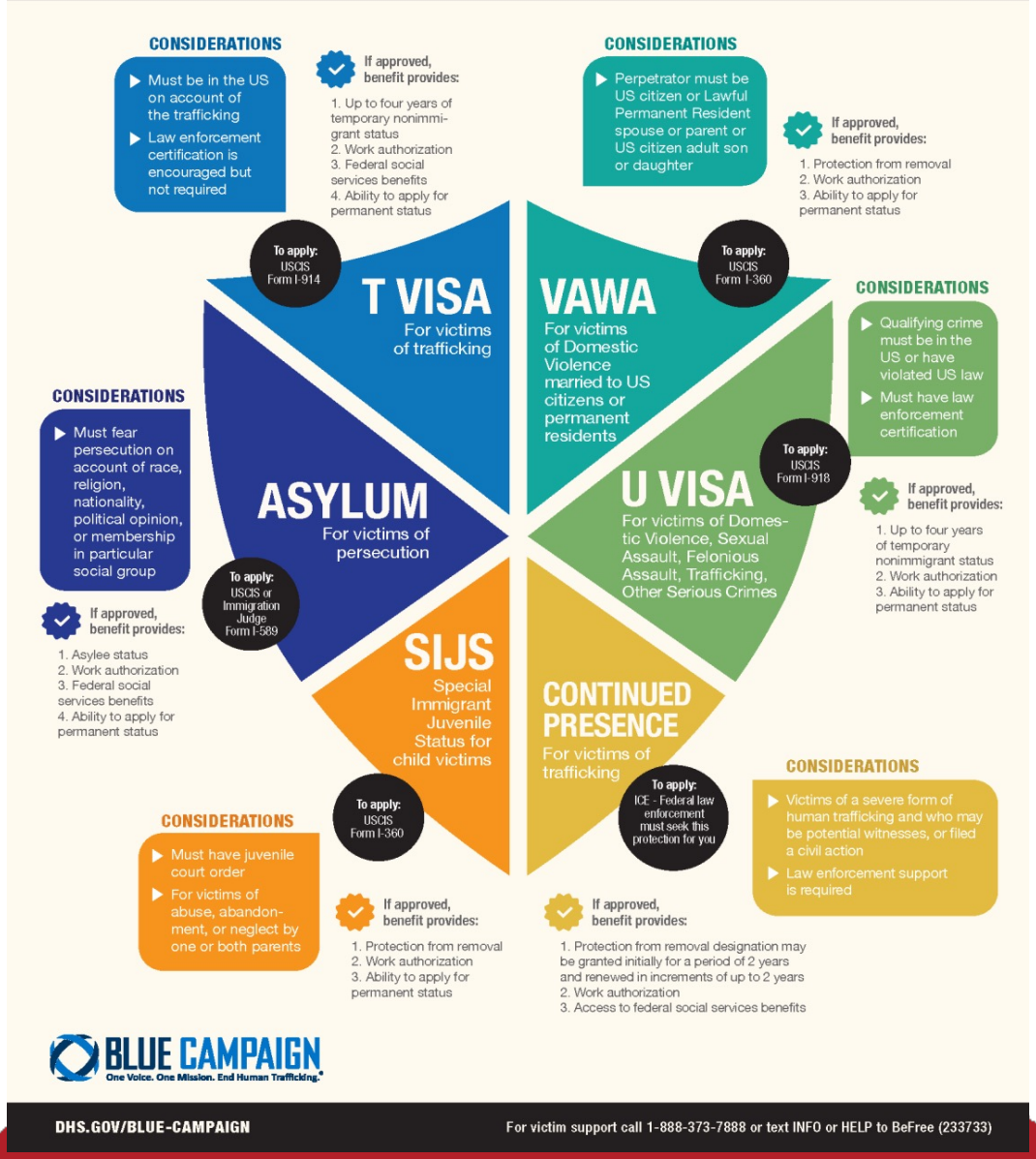
# Pennsylvania-LEP (2019)*

- Limited English Proficiency (Speak English less than very well)
  - Naturalized citizens – 32.6%
  - Noncitizens -50.8%
- Limited English Proficiency by language spoken at home (9,934+)
  - Vietnamese (64.5%)
  - Nepali, Marathi or Other Indic Languages (54.5%)
  - Chinese (including Mandarin, Cantonese (51.1%)
  - Korean (48.2%)
  - Russian (48%)
  - Arabic (42.2%)
  - Spanish (39.5%)
  - Yiddish, Pennsylvania Dutch or Other West Germanic Languages (28.6%)
  - German (25.7%)

Source: https://www.migrationpolicy.org/data/state-profiles/state/language/PA (2021)

# Immigration Options for Immigrant Survivors and Their Children: Screening

# PROTECTIONS FOR IMMIGRANT VICTIMS



# Immigration Relief Available for Immigrant Survivors of —

- Domestic violence (battery or extreme cruelty)
  - -- Child abuse
- Sexual assault
- Rape
- Incest
- Prostitution
- Torture
- Felonious assault
- Manslaughter
- Murder
- Female genital mutilation
- Kidnapping
- Abduction
- Trafficking
- Involuntary servitude
- Slave trade
- Being held hostage
- Fraud Foreign Labor Contracting
- Peonage
- False Imprisonment
- Blackmail
- Extortion
- Witness tampering
- Obstruction of justice
- Perjury
- Stalking
- **Parent perpetrated**
  - **Child abuse**
  - **Child neglect**
  - **Child abandonment**

**Attempt, conspiracy or solicitation to commit any of these crimes or any similar activity**

# VAWA Self-Petitioning Requirements

- Subjected to Battery or Extreme Cruelty
- By a U.S. Citizen or Permanent Resident
  - Spouse; Parent; Stepparent; or
  - Citizen adult son/daughter (over 21)
- With Whom Self-Petitioner Resided
  - No time period required
- Good Moral Character
- Good Faith Marriage
- VAWA cancellation of removal has similar eligibility requirements
- Battered Spouse Waiver if perpetrator files
- Access to some federal/state benefits = 3 months
- Work authorization = 4–24 months (2021)

# U Visa Requirements

- Victim of a qualifying criminal activity
- Has been, is being, or is likely to be helpful in
  - Detection, investigation, prosecution, conviction, or sentencing
- Suffered substantial physical or mental abuse as a result of the victimization
- Possesses information about the crime
- Crime occurred in the U.S. or violated U.S. law
- Timeline to work authorization, waitlist approval, and some very limited state benefits = 1–5 years(2021)

# T Visa for Trafficking Victims

- A victim of a severe form of trafficking in persons
  - Sex or labor trafficking involving victim under 18 or and adult subject to force, fraud or coercion
- Victim is physically present in the U.S. on account of trafficking
- Victim must comply with reasonable requests for helpfulness in investigating or prosecuting trafficking. Exceptions
  - Under age 18
  - Physical or psychological trauma impede helpfulness/cooperation
- Removal from the U.S. would cause extreme hardship
- Work authorization and *many* federal and state public benefits = 3–18 months (2021)

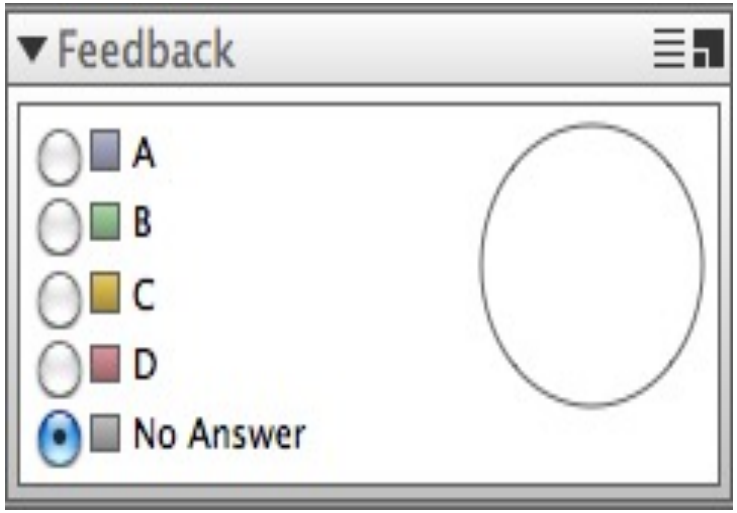
# Special Immigrant Juvenile Status (SIJS)

- Immigration relief for unmarried children
- Under the age of majority under state law
- Victims of abuse, abandonment, neglect, or dependency
  - By at least **one parent**
- To apply must submit required findings from a state court with jurisdiction over
  - the care, custody, or dependency of the child
- Timeline to approval, lawful permanent residency, & some federal/state public benefits = 6 – 36 months (2021)

# Case Scenario (Handout)

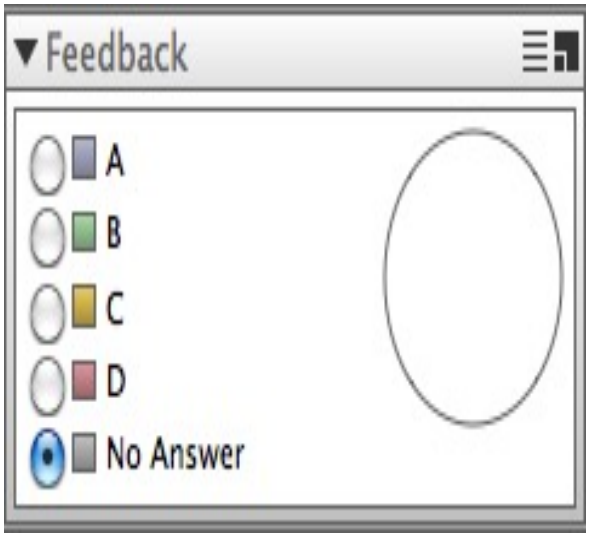
Clara met Eduardo, a lawful permanent resident, when he came back to his hometown to visit his family in El Salvador. Eduardo started dating Clara who was raising her 9 year old son Miguel. After Clara became pregnant and gave birth to a baby girl Lupe, Eduardo decided to bring Clara, Miguel and Lupe to the U.S. to live with him. When they arrived in the U.S. Eduardo took Clara, Miguel and Lupe's passports and became physically and sexually abusive of Clara and abusive of Miguel who tried to protect his mother from Eduardo's abuse. Eduardo also physically beat Lupe when he said she "misbehaved". Within a year following their arrival in the U.S. Eduardo forced both Clara and Miguel to work for his family's business and never paid them for their labor. One night when Miguel was 13 and Lupe was 5, Eduardo's rage led to severe beatings with a belt of Miguel and of Lupe. When Clara intervened to protect the children, Eduardo strangled her until she passed out. The neighbors call the police for help, Clara talked to police when they arrived. The police arrested Eduardo for attempted murder and child abuse, took Clara to the hospital and placed the children in the care of the state.

# Poll: What forms of immigration relief would Clara qualify for:



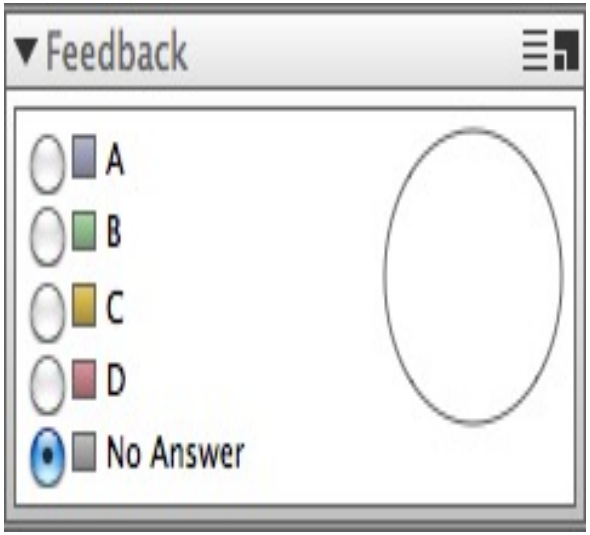

A. U visa
B. VAWA self-petition as the parent of Lupe
C. T visa
D. All of the above

# Poll: What forms of immigration relief would Miguel qualify for (Check all that apply) :




A. VAWA self-petition
B. U visa
C. T visa
D. SIJS

# Poll: What forms of immigration relief would Lupe *not* qualify for:




A. VAWA self-petition
B. U visa
C. T visa
D. SIJS

# Benefits Impact of Immigration Relief Options for Clara, Lupe and Miguel in PA - Examples

- TANF: T visa and VAWA self- petitioners eligible
  - SIJS (5-8 years); U (20 years)
- SNAP: T eligible – Clara and children
  - Children: VAWA prima facie (3 mo), SIJS (1-3 years);
  - Clara: VAWA (5 years); U visa (18 years)
- Housing: T visa, VAWA self-petition eligible
  - SIJS (1-3years), U visa (18/years)
- Education (FAFSA): T visa
  - VAWA (3 mo); SIJS (1-3 yr), U visa (18 years)

# Access to Publicly Funded Programs and Legal Services Open to All Immigrant Domestic and Sexual Violence Survivors

# Access for All

## Both documented and undocumented immigrant survivors can access:

- Legal Services
- Family Court (Divorce)
- Language Access
- Police Assistance
- Protection Orders
- Child Custody & Support
- Have Their Abusers Criminally Prosecuted
- Public Benefits for Their Children
- Assistance for Crime Victims
- Shelter
- Transitional Housing
- WIC/school lunch & breakfast
- Primary/Secondary education
- Immunizations
- Emergency medical care
- Care from community & migrant health clinics
- VOCA

# Attorney General's List of Required Services

- In-kind services
- Provided at the community level
- Not based on the individual's income or resources
- Necessary to protect life and safety

# In-Kind Services Necessary to Protect Life and Safety Open to All Immigrants

- Child and adult protection services
- Crisis counseling and intervention
- Violence and abuse prevention
- Victim assistance
- Treatment of mental illness or substance abuse
- Help during adverse weather conditions
- Soup kitchens
- Community food banks
- Shelter & transitional housing assistance
  Nutrition programs for those requiring special assistance

# Federal Benefits Available to ALL Immigrants

- Elementary and Secondary education
- School lunch and breakfast
- WIC
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid

# When children qualify and their parents do not:

- If a child qualifies for benefits as a citizen or qualified immigrant the benefits granting agency may only ask questions about the child's eligibility
- No questions may be asked about the immigration status of the child's parent if the parent is not applying for additional benefits for themselves

# Access to Health Care

Where can immigrant survivors receive health care that is subsidized without regard to immigration status?

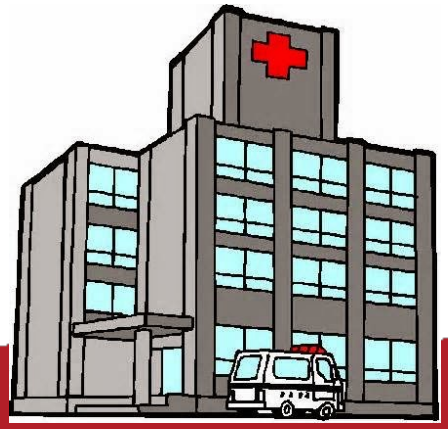
Type in the chat box

# Health Care Open to All Immigrants

- Community and migrant health clinics
  - www.nachc.com
  - www.hrsa.gov
  - Enter zip code
- State funded programs
- Post-assault health care paid by VOCA
- Immunizations, testing, and treatment of communicable diseases
- Emergency Medicaid

# Emergency Medicaid

- Available only in cases where the person needs treatment for medical conditions with acute symptoms that could:
  - place the patient's health in serious jeopardy;
  - result in serious impairment of bodily functions; or
  - cause dysfunction of any bodily organ or part
  - Includes COVID-19 testing and treatment

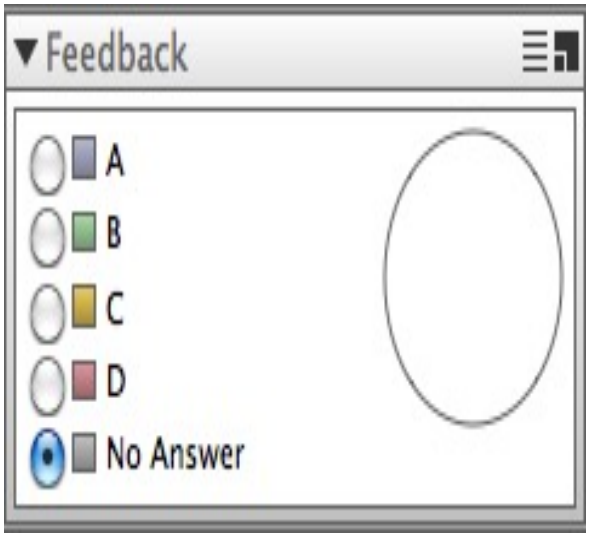


# CARES Act: Unemployment Insurance (UI)

- Immigrants are eligible for UI if they are authorized to work at each of the following times:
  - When they performed UI qualifying work;
  - At the time they apply for unemployment benefits, and
  - During the entire period for which they receive unemployment benefits
- Must:
  - Be "able and available" to work
  - Be "permanently residing under color of law" ("PRUCOL") during the "base period" used to calculate the unemployment benefit amount
  - Have legal work authorization and work authorized SSN
- NIWAP publication – charts who qualifies for UI and Rebate payments by immigration case type

# EMERGENCY SHELTER AND TRANSITIONAL HOUSING

# **Poll:** If you have worked with an immigrant victim who was turned away from transitional housing why were they denied access?




A. Did not have work authorization
B. Victim's immigration status
C. Lack of self-sufficiency
D. All of the above

# NIWAP Research: Reasons Immigrant Victims Turned Away From Transitional Housing

| Primary Reasons Immigrant Domestic and Sexual Violence Victims Were Turned Away from Transitional Housing | | |
|---|---|---|
| | Domestic Violence | Sexual Assault |
| Immigrant victim lacked the required documentation of immigration status | 34.4% | 99.4% |
| When documentation was required the program sought evidence of one of the following: | | |
| Documentation related immigraton status | 84.1% | 99.4% |
| Documentation of current employment or ability to work | 56.0% | 98.9% |
| An employment authorization document as proof of legal work authorization | 52.9% | 98.9% |
| Did not have a driver's license* | 45.0% | 98.8% |
| Program required documentation that the victim did not have | 33.2% | 87.0% |
| Immigrant applicant was undocumented | 25.6% | 90.0% |
| Immigrant victim did not meet the formal income requirements | 23.7% | 85.8% |
| The battered immigrant applicant failed to present governement issued I.D. | 18.3% | 86.1% |
| They were told that the evidence presented of being self-sufficient was insufficient | 9.0% | 85.7% |
| They were not a victim of domestic violence | n/a | 85.6% |
| They did not speak English | 2.9% | 3.1% |

# Benefits Available to all Immigrants Include:

- Shelter, transitional housing, victim services counseling, and intervention for:
  - Victims of:
    - Domestic violence
    - Sexual assault
    - Stalking
    - Dating violence
    - Human trafficking
    - Child abuse
    - Other abuse
  - Homeless
  - Runaway or homeless youth
  - Abandoned children

# Transitional Housing

- When transitional housing meets the in-kind, community level, and life and safety tests
  - Unit **is owned or leased by the grantee** or subgrantee and used to provide transitional housing
  - Must be open to all; No immigration restrictions
- Exception: Grantee paying rental assistance payments for participant *when regulations require income test*

# HUD, DOJ and HHS Confirmed in August 2016

- Housing providers must not turn away immigrants based on their immigration status from:
  - Emergency shelter
  - Transitional housing
  - Rapid re-housing

# Applies to Government Funded Housing

- Violence Against Women Act
- Family Violence Prevention and Services Act
- Victims of Crime Act
- Housing and Urban Development funded
  - Emergency Solutions Grants
  - Continuum of Care Programs

# HUD Funded Programs Open to All With No Immigrant Restrictions

- Emergency Solutions Grant (ESG)
- Continuum of Care (CoC)
- Street Outreach Services
- Emergency Shelter
- Rapid Re-Housing
- Safe Haven
- Transitional housing (where HUD grantee owns or leases the building used to provide transitional housing, but not where rental assistance is provided based on income)
- Home Program
- Housing Trust Fund
- Rural Housing Stability Program
- Mortgage Insurance for Rental and Cooperative Housing Section 221(d)(3) and (d)(5)

# HUD Office Of Special Needs Assistance Programs

- Emergency Solutions Grant (ESG) and Continuum of Care (CoC) funded programs are open to all with no immigrant restrictions
  - **Street Outreach Services**
    - Provides essential services connecting unsheltered homeless individuals and families with emergency shelter, housing, or critical services and providing them with urgent, non-facility based care
  - **Emergency Shelter**
    - Among other things, this program provides a range of essential services for individuals and families in emergency shelter

# HUD Programs and Immigrants Eligibility

- **Rapid Re-Housing**
  - Housing relocation and stabilization services and/or short or medium term housing/rental assistance to help families shelters or in places not meant for human habitation moves them as quickly as possible into permanent housing
- **HOME Program**
  - HOME is the largest federal block grant to state and local governments designated exclusively to create affordable housing to low-income households
- **Safe Haven**
  - Supportive housing serving hard-to-reach homeless persons with severe mental illness who have been living on the street and not previously able or willing to participate in housing or supportive services.

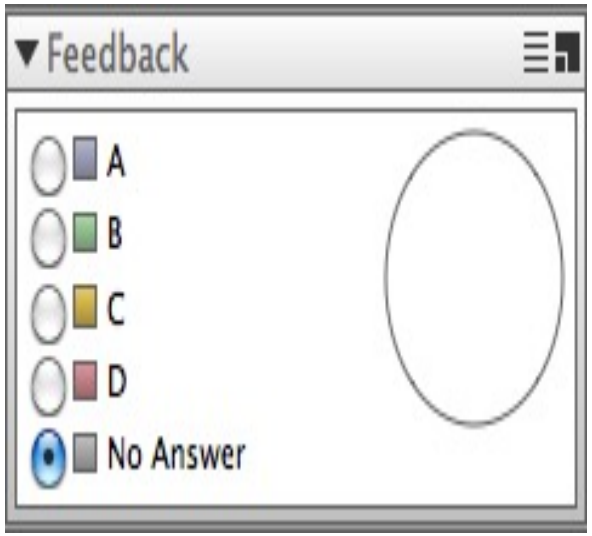
# HUD Programs and Immigrants Eligibility

- **Housing Trust Fund**
  - Affordable housing program that complements existing federal, state and local efforts to increase and preserve the supply of decent, safe, and sanitary affordable housing for extremely low- and very low-income households, including homeless families
- **Rural Housing Stability Program**
  - Re-house or improve the housing situations of persons who are homeless or in worst housing situation; stabilize the housing of individuals and families who are at risk of becoming homeless
- **Mortgage Insurance for Rental and Cooperative Housing Section 221(d)(3) and (d)(5)**
  - Insurance program for new construction under which landlords agree to provide housing for low and moderate income families

# Anti-Discrimination Protections

- No discrimination based on:
  - Title VI/FVPSA- race, color, and national origin
  - Fair Housing Act-race, color, national origin, religion, sex, familial status, and disability
  - VAWA - no housing discrimination (denial or eviction) against survivors of domestic violence, dating violence, sexual assault, or stalking; no discrimination on the basis of race, color, religion, national origin, sex, gender identity, sexual orientation, and disability
  - HUD Section 109 of the Housing & Community Dev. Act - race, color, national origin, sex, and religion
  - Section 504 of the Rehabilitation Act of 1973 – no disability discrimination in federally assisted programs

# Poll Which of the following are common eligibility criteria used by transitional housing programs?
## *Check all that apply*




A. Residence in the city/county
B. Homelessness or risk of homelessness
C. Employment/self-sufficiency criteria
D. No active substance abuse and no sex offender record
E. Domestic violence victim

# NNEDV/OVW Admission Criteria

- Survivor actively fleeing abusive relationship or situation (e.g., employment, housing where rape occurred)
- 18 or older or legally emancipated
- Willing and desiring to participate in transitional housing program and meet with staff on mutually determined schedule
- Willing to create individualized safety plan with help of victim advocate
- Able to live 24/7 independently

# With Good Victim Advocacy --

- Many/Most immigrant survivors can prove
  - They are on a path to self-sufficiency
  - They have resided in the jurisdiction
  - Victimization
  - They are at risk of homelessness
  - Lack of active substance abuse
  - Lack of criminal history

# Access to Benefits and Services Grows as Children and Victims Pursue Immigration Relief

# Children and Crime Victims Qualified to Receive Public Benefits— Common Examples

- Qualified Immigrants benefits eligible
  - Lawful permanent residents
    - Includes U visas and SIJS
  - Refugees/Asylees
  - VAWA self-petitioners
  - Trafficking victim with
    - Continued presence or
    - Bona fide determination in T visa case
- Not generally benefits eligible some variation by state
  - Asylum applicants
  - DACA recipients
  - U visa applicants & recipients
  - Work/Student visa holders
  - Undocumented

Many immigrants with work authorization qualify for CAREs Act Rebates and unemployment insurance both state and CAREs Act

# Qualified Immigrant Access to Federal Public Benefits

- All qualified immigrants can access some federal public benefits
  - Which benefits they can access depends on:
    - Immigration status
    - When they entered the United States
    - Whether they meet heightened program requirements for some programs
    - What benefits are offered by the state

# Federal Benefits Immigrant Restrictions

- Only programs that as a matter of law have immigrant restrictions are those categorized as:
  - "federal public benefits," "state public benefits" or
  - "federal means-tested public benefits"
- Not a federal or state benefits unless payment is made directly to:
  - An individual
  - A household
  - A family eligibility unit

# Examples of "Federal Public Benefits"

- **US Agency Funded/Provided:**
  - Grants
  - Contracts
  - Loans
  - Professional or commercial licenses
    - Drivers licenses

- **Federally Funded Benefits for**
  - Retirement
  - Welfare
  - Health
  - Disability
  - Postsecondary education
  - Public or assisted housing
  - Food assistance or
  - Unemployment

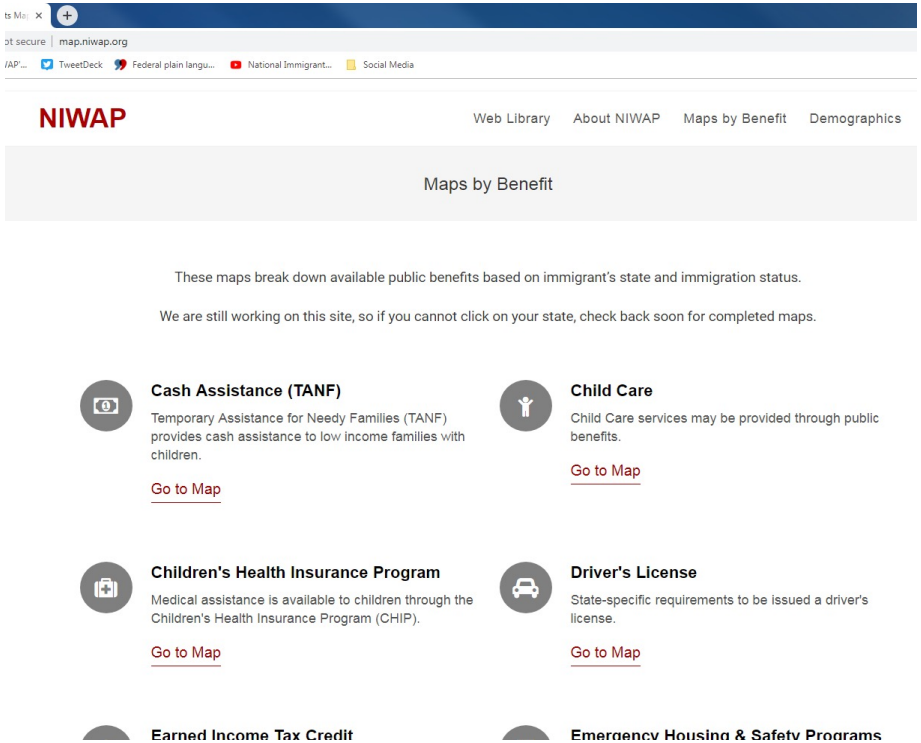
# Who are "Qualified Immigrants"?

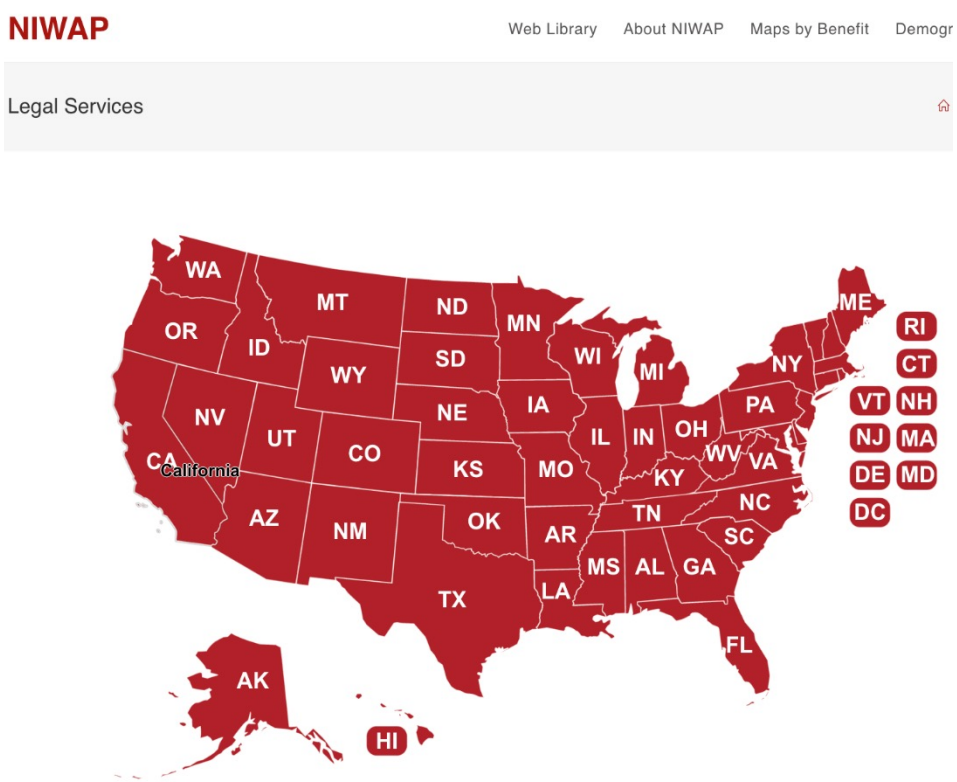
- Lawful permanent residents
- Refugees and asylees
- Cuban/Haitian entrants
- Veterans
- Amerasians
- Trafficking victims filing for or with T visas
- Persons granted conditional entry
- Persons paroled into U.S. one year or more
- Persons granted withholding of deportation or cancellation of removal
- VAWA: Persons who (or whose children) have been battered or subject to extreme cruelty by a U.S. citizen or lawful permanent resident spouse or parent

# Partial List of Federal Public Benefits/Community Programs Open to All "Qualified Immigrants"

- Public and assisted housing
- Supportive housing for the elderly or disabled
- Post-secondary educational grants & loans
- Access to most subsidized child care
- Receive payments for providing foster care
- FEMA individual family grants and disaster unemployment
- Job opportunities for low income individuals
- Adoption assistance
- Low income and residential energy assistance programs
- Disability benefits
- Assistance to developmentally disabled
- Social services block grant programs

# Interactive Public Benefits Map




http://map.niwap.org/

# Maps by Benefit

- Cash Assistance (TANF)
- Child Care
- Children's Health Insurance Program
- Driver's License
- Earned Income Tax Credit
- Emergency Housing & Safety Programs
- Emergency Medicaid
- Federal Education Benefits
- FEMA Assistance
- FEMA Restricted Programs
- Food Stamps
- Forensic Costs Coverage
- Income Tax Credits
- Legal Services
- Medicaid
- Post-Assault Healthcare
- Prenatal Care
- Purchasing Health Insurance on the Exchanges
- State Education Benefits
- Supplemental Security Income
- Weatherization & Energy Assistance
- WIC
- Unemployment (coming soon)

# Resources: Healthcare for Immigrant Victims

- State by state public benefits detailed charts with citations
- State by state charts
  - VOCA funded post assault health care
  - Emergency Medicare
  - Forensic Exams
  - Prenatal Care

# Pennsylvania Public Benefits Eligibility

# Benefits in Pennsylvania Part 1

- TANF and TANF funded Child Care
  - T bona fide, T Visas, Continued Presence (CP), VAWA self-petitioners with prima facie, asylees, refugees
  - Lawful permanent residents after 5 year bar (SIJS and U visa cases)
- Child care: Child Care Development Fund no restrictions
- CARES Act – Victims with legal work authorization
  - Recovery payments and unemployment insurance

# Benefits in Pennsylvania Part 2

- Health Care Exchanges: VAWA, CP, asylee, refugees, T bona fide, T visa, U visa with deferred action (bona fide/waitlist), SIJS applicants
- Health care for pregnant women and children– no restrictions
- Child Health Care (CHIP): T bona fide, T visa, CP, refugees, asylees, VAWA prima facie, U visa with deferred action (bona fide/waitlist), SIJS applicants
- Full scope adult Medicaid:
  - T visas, T bona fide, Refugees, asylees, CP, T visa
  - VAWA prima facie
  - U Visa bona fide, waitlist approved and U visas

# Benefits in Pennsylvania Part 3

- SNAP Eligible
  - Refugees, asylees, CP, T visa bona-fide, and T visas
  - VAWA self-petitioners with prima facie and LPR if children, elderly, disabled or completed 5 years bar
  - After LPR if children, elderly, disabled, or 40 quarters work credit = E.g. U visas, SIJS
- LIHEAP = VAWAs, refugees, asylees, T visa bona fide, T visas and LPRs (e.g. SIJS and U visas) if at or under 150% of poverty
- Weatherization Assistance Program– no immigrant restrictions if at or over 200% of poverty

# Benefits in Pennsylvania Part 4

- Education
  - Post Secondary Educational Grants and Loans - Federal
    - VAWA self-petitioners, CP, T visa, and LPRs (U visa & SIJS)
- SSI (most limited):
  - CP, T visa, T visa bona fide, refugees, asylees
  - VAWA & U Visa/SIJS LPRs (5 year bar+ 40 quarters work)
- Drivers' license - federally recognized at work authorization
  - VAWA approved (LPR abusers), prima facie (USC abusers), T visa bona fide, T visas, CP, U visas with deferred action (bona fide or waitlist) DACA, , SIJS –LPRs

# Immigrants Exempt From Public Charge

- Victims
  - VAWA, T visas and U visas exempted
  - SIJS children
- Refugees
- Asylees
- DACA
- Visa holders
- Most lawful permanent residents

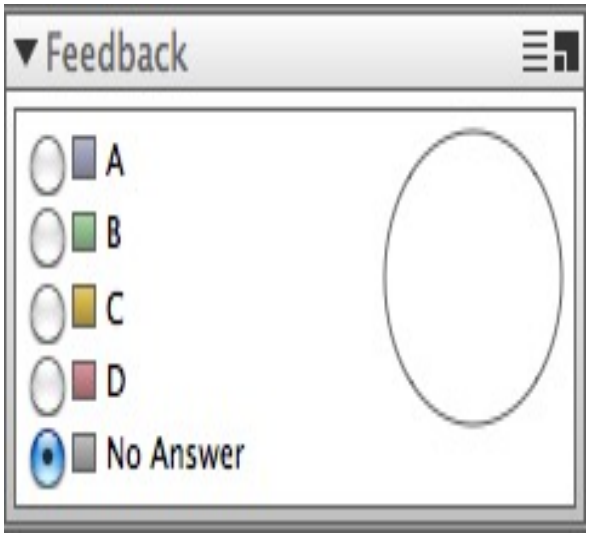
# Be Prepared to Advocate…

- For survivor and children remaining in the unit when perpetrator is removed
- Based on a child's or survivor's legal status to avoid proration and include the survivor as a qualified immigrant in the subsidy

# Importance of Accompanying Immigrants in Applying for Public Benefits

- Help educate state benefits workers
- Accompanying immigrant applicants helps
  - Children and survivor get what they are legally entitled to access
    - Varies by state, immigration status, benefits program
  - Helps undocumented parents file for benefits for their citizen or LPR children
  - State welfare worker reporting requirements

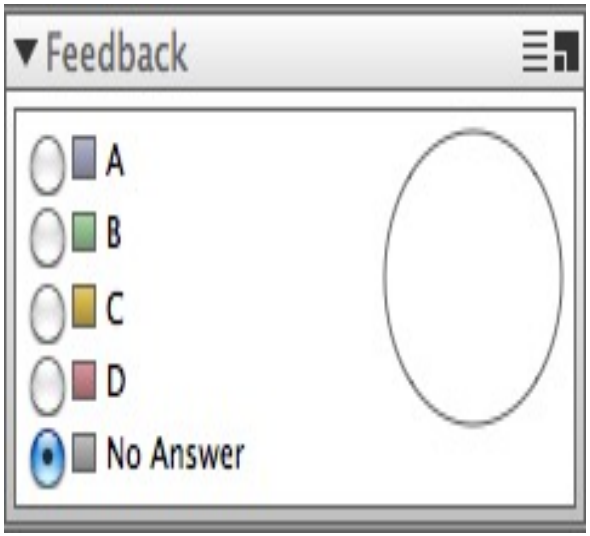
# **Poll:** What would you take with you to a public benefits agency with an immigrant survivor?




A. Copy of the state/federal benefits statute
B. DHS documents showing how victim is eligible
C. Relevant state/federal policies
D. All of the above

# Immigrant Access to Public and Assisted Housing

## **Poll:** Which of the following programs does **NOT** have immigrant access restrictions under Section 214?




A. Public Housing
B. Section 8 Vouchers
C. Project Based Section 8
D. Low Income Tax Credit
E. Section 514 and 516 Farm Labor Housing programs

# "Section 214" Restricted HUD Programs

- Public Housing
- Housing Choice Voucher Program
- Section 8 Project-Based Housing
- Section 236 Housing
- Section 235 Homeownership Housing
- Rent Supplement Housing
- Housing Development Grants (HoDAG)
- Section 23 Leased Housing Program

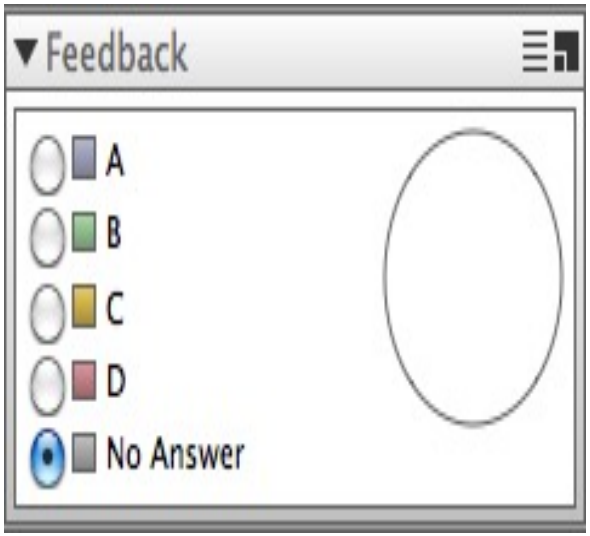
# "Section 214" Restricted RD Programs

- Section 514/516 farm labor housing
- Section 502 direct homeownership home loan program
- Section 504 minor rehabilitation loan and grant program
- Section 521 Rental Assistance Program
- RD Voucher Program

# Federal Housing Programs That Are Not Restricted by Section 214

- Low Income Housing Tax Credit (LIHTC)
- Section 202 Housing for the Elderly
- Section 811 Housing for the Disabled
- Section 221 (d)(3)
- Indian Housing
- CDBG
- HOME
- HOPWA
- McKinney-Vento/HEARTH Act*
- Rental Rehabilitation
- HOPE 2
- Section 515 Rural Rental Housing Program (without Rental Assistance)
- Rural Housing Preservation Grants
- Section 538 Multi-family Loan Guarantees

# **Poll:** Which of the following immigrants is **NOT** is Eligible for Public and Assisted Housing?




A. Lawful permanent residents, refugees & asylum recipients
B. VAWA self-petition applicants
C. U visa applicants/recipients
D. Bona Fide T visa
E. Continued Presence

# Section 214 Eligible Immigrant Categories

- U.S. Citizens/U.S. Nationals
- Lawful Permanent Residents
- VAWA self-petitioners
- Refugees and Asylees
- Parolees
- Persons granted withholding of removal/deportation
- Victims of trafficking – Continued presence and T visa bona fide
- Persons granted admission for emergent or public interest reasons
- Persons granted amnesty under the Immigration Reform and Control Act of 1986
- Immigrants eligible for registry who entered the U.S. before June 30, 1948
- Lawful U.S. residents under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam
- Immigrants admitted for lawful temporary residence prior to January 1, 1982

# Who is Eligible for Section 214 Housing?

- Mixed Status Families
  - If at least ONE member of the household has eligible immigration status, then the family can receive prorated assistance.
  - A minor can be the eligible household member
  - The non-eligible family member certifies that they do not wish to contend eligibility and can still live in the assisted unit

# Housing Providers Must Report to DHS When They Know an Ineligible Immigrant is Seeking Housing Benefits

- "KNOW" has a very narrow definition
  - A finding of fact or conclusion of law made by the PHA as part of a formal determination that is subject to administrative review on the applicant's claim, AND the finding is supported by a determination by USCIS or the Executive Office of Immigration Review (EOIR), such as a Final Order of Deportation
- Reporting is *not triggered by:*
  - An oral or written admission by the immigrant;
  - A worker's suspicion, assumption, or firm conviction about the person's immigration status;
  - A response from USCIS to a SAVE inquiry that fails to confirm an applicant's immigration status or that shows an immigrant status that would make the applicant ineligible; or
  - A formal finding that the person is ineligible for a benefit.

# VAWA Self-Petitioners

- HUD issued a legal memo confirming that VAWA self-petitioners have "satisfactory immigrant status" when applying for Section 214 housing.
  - Housing providers must verify immigrant status by using the SAVE system
  - Documents to verify VAWA self-petitioner's status
  - VAWA protections apply
- HUD PIH issued notice for public housing authorities on VAWA self-petitioner verification procedures.

# VAWA Self-Petitioners and HUD

- Victims with VAWA self-petition filed
  - Children included in VAWA self-petition
- VAWA cancellation of removal and VAWA suspension of deportation applicants
  - Victims' children are not included in these applications
  - Will only appear in SAVE system if have work authorization
- Victims with approved I-130 visa petitions filed by their abusive spouse or parent
  - Children included in I-130 visa application filed for victim

# How Housing Providers Are to Complete DHS -SAVE System Online

1) Enter into SAVE the VAWA immigrant victim's:
   - Name + A# + Date of birth
2) System issues "Match" or "No Match" response
3) If "No Match" - Click "Institute Additional Verification" AND Enter in the note field either
   - "Verify VAWA Self-Petition" or "Verify I-130 Visa Petition" AND
   - Upload copy of the victim's DHS document:
     - I-360 VAWA self-petition
     - I-130 Family-based visa petition
     - I-797 Notice of Action: Used for receipt notice, prima facie determination, and approval notice

# Definition "Battering or Extreme Cruelty"

- Being the victim of any act or a threatened act of violence, including any forceful detention,
- Which results or threatens to result in physical or mental injury.
- Psychological or sexual abuse or exploitation, including rape, molestation, incest (if the victim is a minor) or forced prostitution shall be considered acts of violence.
- Other abusive actions may also be acts of violence under this rule.
- Acts or threatened acts that, in and of themselves, may not initially appear violent may be part of an overall pattern of violence. 8 C.F.R.§204.2(c)(1).

# Any Credible Evidence of Battery or Extreme Cruelty

- Affidavits/Statements of the victim, witnesses, advocates
- Medical records
- Photographs of injuries
- Helpful but not required:
  - Police reports
  - Protection orders
  - Criminal court or family court records
- "Any Credible Evidence" standard allows victims the greatest flexibility to prove abuse in the safest way possible
  - Recognizes dangers of perpetrator controlled evidence
- Specific forms of evidence cannot be required
- Housing provider decides the credibility of the evidence

# HUD Social Security Number Requirements



- HUD rules re: SSNs, 24 C.F.R. part 5, Subpart B
- For most HUD programs, every member of an applicant household **must** disclose their SSNs to be eligible for assistance. This requirement applies to:
  - Public Housing
  - Any program under Section 8 of the Housing Act of 1937
  - Section 202 Supportive Housing for the Elderly
  - Section 811 Supportive Housing for Persons with Disabilities;
  - Any program under 24 C.F.R. parts 215, 221, 236, or 290
  - Homeowner assistance

# HUD SSN requirements (cont'd)



- To verify SSNs, an applicant must produce:
  - For public housing and vouchers
    - An original SSN card;
    - An original SSA-issued document containing the applicant's name and SSN; or
    - An original document issued by a federal, state, or local gov't agency containing the applicant's name and SSN
  - For HUD multifamily housing
    - SSN card or other documents showing SSN
- The housing provider transmits the applicant's name, SSN, and date of birth to HUD.
- HUD validates the SSN against the SSA's database.

# HUD SSN Requirements (cont'd)



- The SSN disclosure requirements do **not** apply to applicants who do not contend eligible immigration status
  - 24 C.F.R. § 5.216; HUD Notice PIH 2012-10 (Feb. 14, 2012)
- A housing provider may **not** deny assistance to mixed families due to nondisclosure of an SSN by an individual who does not contend eligible status
  - HUD Notice PIH 2012-10 (Feb. 14, 2012)

# Non-Work SSN for VAWA Self-Petitioners

- HUD regulations require that public and assisted housing recipients provide a Social Security Number.
- VAWA self-petitioners can request a non-work social security number from SSA.
- The victims' advocate or attorney should simultaneously request that the Public Housing Authority who received the victims' application for public or assisted housing to issue a letter that the victim can request a non-work social security number from SSA.

# COVID-19 Updates

*Acknowledgement: Slides in this section are based on materials for past presentations co-developed with the National Alliance for Safe Housing.*

# What Can We Do?

NATIONAL HOUSING LAW PROJECT

- Help survivors access emergency rental assistance by:
  - Finding your local rental assistance program using the National Low Income Housing Coalition's database: https://nlihc.org/rental-assistance
- 211 is another resource: https://www.211.org/get-help/housing-expenses
- Consumer Financial Protection Bureau info: https://www.consumerfinance.gov/coronavirus/mortgage-and-housing-assistance/renter-protections/

# ERAP Funds – Eligible Uses

NATIONAL HOUSING LAW PROJECT

Emergency Rental Assistance Program (ERAP) Funds - **Financial Assistance:**

- Rent and rental arrears (including at previous addresses)
- Utilities & home energy costs and arrears
- "Rent bond" fees in eviction actions
- Other housing-related expenses incurred directly or indirectly due to COVID-19, which may include:
  - Relocation expenses, including security deposits
  - Rental fees, including application and screening fees
  - Reasonable accrued late fees
  - Internet service, etc.

# Eligibility for ERAP Funds

NATIONAL HOUSING LAW PROJECT

**Eligible Households:**

- At least 1 member of the household has qualified for unemployment benefits or experienced COVID-19-related financial hardship,
- A member of the household can demonstrate a risk of experiencing homelessness or housing instability, and
- Household income is 80% AMI and below.

**Benefit Cap:**

- Tenants may receive 18 total months of ERAP assistance

# Other Features of ERAP

NATIONAL HOUSING LAW PROJECT

- ERAP funds are generally paid directly to landlord or utility provider
- If the landlord refuses to apply for ERAP funds, tenants can apply and receive the funds
- Funds may be used to pay prospective rent for tenants
- Tenants in federally subsidized housing may access ERAP funds for their portion of the rent and utilities
- ERAP funds are not regarded as income for other public benefits purposes
- **Self-attestation is permitted**
- Check Department of Treasury website for updates to guidance: https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/emergency-rental-assistance-program



NIWAP nhlp NATIONAL HOUSING LAW PROJECT

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# Watch Out For:

- **Immigration Restrictions**: There are no immigration restrictions on federal Emergency Rental Assistance Program (ERAP) funds. Tenants are eligible regardless of immigration status.

- **SSN Requirements:** Rental assistance administrators should not ask for or require a Social Security Number (or state-issued ID) from tenants in order to obtain assistance.

- **Requirements for written leases**: There is no requirement that tenants have a written lease agreement in order to obtain assistance. Tenants with oral agreements should not be excluded from assistance.

# Watch Out For:

- **Language and Disability Access Issues**: People with limited English proficiency and disabilities must be able to access ERAP funds.

- **Any barriers for survivors of sexual assault and/or domestic violence**

# Overview of EHVs



- The American Rescue Plan Act provided $5B in Emergency Housing Vouchers (EHVs) in March 2021.

- EHVs are tenant-based rental assistance similar to Housing Choice Vouchers ("Section 8 vouchers").
  - Administered by HUD via public housing agencies (PHAs)
  - Participants must lease up in the private market
  - Mobile rental subsidy
  - Immigrant eligibility same as public and assisted housing

# Technical Assistance and Materials

- Materials for this training http://niwaplibrary.wcl.american.edu/PIRC2021

- NIWAP Technical Assistance:
  - Call (202) 274-4457
  - E-mail info@niwap.org
  - Web Library: www.niwaplibrary.wcl.american.edu
- National Housing Law Project
  - Kate Walz, kwalz@nhlp.org -- 415-546-7000, ext. 3129