



DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
Administration on Children, Youth and Families
1250 Maryland Avenue, S.W.
Washington, D.C. 20024

TO Family Violence Prevention and Services Act Grantees, Contractors, and Subawardees (whether subgrantees or subcontractors)

SUBJECT Federal Recognition of Same-Sex Spouses/Marriages

PURPOSE To provide guidance for applying Department of Health and Human Services' policy on the Federal recognition of same-sex spouses/marriages to entities supported by Family Violence Prevention and Services Act grant funds.

FROM Family Violence Prevention and Services Division (FVPSD), Family and Youth Services Bureau, Administration for Children and Families, Department of Health and Human Services (HHS)

RELATED REFERENCES *United States v. Windsor*, 570 U.S. ___, 133 S. Ct. 2675 (2013); Defense of Marriage Act (DOMA) § 3, 1 U.S.C. § 7; Family Violence Prevention and Services Act (FVPSA), 42 U.S.C. §§ 10401 et seq.

BACKGROUND On June 26, 2013, the U.S. Supreme Court, in *United States v. Windsor*, struck down the prohibition on Federal recognition of same-sex marriages. FVPSD is issuing this guidance to implement HHS's new policy consistent with the decision in *United States v. Windsor*.

Policy Summary

This guidance is intended to implement a post-*Windsor* policy of recognizing and treating same-sex marriages on the same terms as opposite-sex marriages to the greatest extent reasonably possible. Accordingly, for determining eligibility to receive FVPSA-funded assistance, FVPSD recognizes the qualifying relationship of "marriage" in the FVPSA's definition of family violence and of "spouse" in the FVPSA's definition of domestic violence as including the relationship of same-sex spouses so long as the same-sex spouses entered into a marriage valid in the state (or foreign jurisdiction, if at least one state would recognize the marriage) where they were married, regardless of where the married couple currently resides.

Implications for Administering FVPSA-funded Programs

The FVPSA provides funds to assist victims of family violence, domestic violence, and dating violence. The FVPSA defines "family violence" as acts or threatened acts of violence that result or threaten to result in physical injury and are committed by a person against an individual who is related by blood, related by marriage or otherwise legally related, or lawfully residing with the abuser. 42 U.S.C. § 10402(4). The definition of "domestic violence" "includes 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, [or] by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving funds." 42 U.S.C. § 13925(a)(8); 42 U.S.C. § 10402(3). Dating violence is "violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a

relationship is determined based on a consideration" of the length of the relationship, the type of relationship, and the frequency of the interaction between the people involved. 42 U.S.C. § 13925(a)(10); 42 U.S.C. § 10402(2).

Consistent with the policy of recognizing and treating same-sex marriages on the same terms as opposite-sex marriages, the term "marriage" used in the FVPSA's "family violence" definition and the term "spouse" in the "domestic violence" definition are now interpreted by FVPSD to encompass same-sex marriages recognized as legally valid by the jurisdiction in which that marriage took place, as long as the marriage would be recognized by at least one state. The foregoing standards apply whether or not the victim or the abuser is currently domiciled or resides in a jurisdiction that recognizes the marriage.

Every recipient of FVPSA funds that distributes any portion of such funds to a subawardee should ensure that each of its subawardees complies with HHS's post-*Windsor* policy.

Finally, we note that the broad definitions of family violence, domestic violence, and dating violence likely allowed most, if not all, same-sex spouses to be eligible for FVPSA-funded services prior to the adoption of the new post-*Windsor* policy. Therefore, FVPSD expects the changes described in this memorandum to have only minor practical impact on FVPSA-funded operations or activities.

The provisions of this memorandum are effective immediately.

Additional Information

For more information on the references in this memorandum, see the Supreme Court's decision in *United States v. Windsor*, available online at http://www.supremecourt.gov/opinions/12pdf/12-307_6j37.pdf and the DOMA legislation (Pub. L. 104-199), available on the Government Printing Office (GPO) website at <http://www.gpo.gov/fdsys/pkg/PLAW-104publ199/html/PLAW-104publ199.htm>. Provisions of the FVPSA may be viewed at <http://www.gpo.gov/fdsys/granule/USCODE-2010-title42/USCODE-2010-title42-chap110-sec10401/content-detail.html>.

Please direct any questions regarding this memorandum to:

Marylouise Kelley, Ph.D., Director
Family Violence Prevention and Services Division
Administration for Children and Families
Administration on Children, Youth and Families
Family and Youth Services Bureau
1250 Maryland Ave. SW
Washington, DC 20023
202-401-5756
marylouise.kelley@acf.hhs.gov



Marylouise Kelley, Director
Family Violence Prevention and Services
Division