

June 12, 2026

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

RE: Department of Housing and Urban Development

1. 24 CFR Parts 5, 60, 92, 93, 200, 202, 203, 206, 221, 236, 266, 291, 570, 574, 578, 582, 583, 700, 850, 880, 882, 884, 886, 891, 960, 970, 982, 984, 1005, and 1006
2. [Docket No. FR-6518-P-01]
3. RIN 2501-AE12

Equal Access to Housing in HUD Programs Revisions

Submitted at www.regulations.gov

Dear HUD leaders,

On behalf of Fenway Health, we write in strong opposition to the proposed rule which would remove “gender” and “gender identity” from the Equal Access Rule and/or replace those terms with the word “sex.” This rule would force nonprofits that serve unhoused individuals and those experiencing intimate partner violence to investigate the sex of clients and to refuse to house transgender clients consistent with their gender identity.

The proposed rule states that:

This includes replacing “gender” with “sex” for non-discrimination, reporting and recordkeeping, and other provisions, and removing references to “gender identity” or “actual or perceived sexual orientation, gender identity” and replacing them with “sex” for non-discrimination, reporting and recordkeeping, and other provisions.

The proposed rule would remove sexual orientation and gender identity from HUD nondiscrimination regulations.

Fenway Health strongly opposes these proposed changes for the following reasons. First, transgender people, especially transgender women, experience disproportionately high rates of homelessness, and are in disproportionate need of homeless services and supports. According to an analysis by the Williams Institute at UCLA School of Law, 8% of transgender adults reported experiencing homelessness within the past year, compared to 1% of straight, cisgender adults and 3% of lesbian, gay and bisexual adults.¹

¹ Wilson, B. D. M., Choi, S. K., Harper, G. W., Lightfoot, M., Russell, S., & Meyer, I.H. (2020). *Homelessness among LGBT adults in the U.S.* Los Angeles, CA: Williams Institute. [LGBT-Homelessness-May-2020.pdf](https://www.williamsinstitute.org/lgbt-homelessness-may-2020.pdf)

According to the U.S. National Transgender Survey (n=27,715), 30% of transgender respondents reported being homeless at some point in their lives; 12% said they had been homeless within the past year. Some 29% of transgender people reported living in poverty, versus 14% of the US population. Some 15% were unemployed, versus 5% of the US population overall.²

Second, LGB+ people experience higher rates of homelessness and IPV. The Williams Institute reports that “17% of sexual minority adults reported they experienced lifetime homelessness, which is more than twice what we have found in a general population study.”³ Data from the Centers for Disease Control and Prevention indicate that LGB people are more likely to experience intimate partner violence than heterosexuals.⁴ LGB people, especially youth, experience disproportionately high rates of homelessness.⁵

Higher prevalence of homelessness is related to higher rates of poverty in LGBTQ+ communities. Some 17 percent of LGBT Americans in 2021 were poor, compared to 12 percent of straight, cisgender Americans, based on a UCLA Williams Institute analysis of BRFSS data from 43 states. LGBT people of color and transgender people experience the highest rates of poverty.⁶ LGBT adults are twice as likely to be on Medicaid as straight, cisgender adults (13% v. 7%), due to higher rates of poverty and disability.⁷

Third, housing homeless transgender people according to their gender identity has been a professional best practice in homeless services for the past quarter century. In 2004 the National Coalition for the Homeless and the National Gay and Lesbian Task Force published *Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People*.⁸ HUD grantees have spent more than two decades building intake systems, conducting staff training, and developing and implementing facility policies to implement this best practice and to implement the Equal Access Rule. Abruptly reversing this long-standing rule imposes real organizational costs that HUD does not acknowledge or account for.

Fourth, the removal of the federal prohibition on sexual orientation and gender identity (SOGI) discrimination in HUD-funded programs would make it harder for LGBTQI+ people to access

² James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). *The Report of the 2015 U.S. Transgender Survey*. Washington, DC: National Center for Transgender Equality. [USTS-Full-Report-Dec17.pdf](#)

³ Wilson, Choi, Harper, et al., 2020.

⁴ Centers for Disease Control and Prevention, [2010 National Intimate Partner and Sexual Violence Survey \(NISVS\)](#), cited at Human Rights Campaign. [HRC | Understanding Intimate Partner Violence in the LGBTQ+ Community](#), no date.

⁵ Cutuli JJ, Treglia D, Herbers JE. Adolescent Homelessness and Associated Features: Prevalence and Risk Across Eight States. *Child Psychiatry Hum Dev*. 2020 Feb;51(1):48-58. doi: 10.1007/s10578-019-00909-1. PMID: 31270658.

⁶ Wilson BDM, Bouton LJA, Badgett MVL, Macklin ML. *LGBT Poverty in the United States: Trends at the Onset of COVID-19*. UCLA School of Law: Williams Institute. Published 2023. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Poverty-COVID-Feb-2023.pdf>

⁷ Sears, R.B., et al. (2025). *LGBT Adults with Medicaid as Their Primary Source of Health Insurance*. The Williams Institute, UCLA, Los Angeles, CA. <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Medicaid-LGBT-May-2025.pdf>

⁸ Mottet, L. & J. Ohle. *Transitioning Our Shelters: A Guide to Making Homeless Shelters Safe for Transgender People*. NGLTF Policy Institute, National Coalition for the Homeless.

homeless and IPV services, which are important social determinants of health with significant implications for health outcomes. Anti-LGBTQI+ discrimination remains widespread in the United States. Thirty-six percent of LGBTQI+ Americans experienced discrimination in 2024, according to a national survey by NORC and the Center for American Progress.⁹ Anti-LGBTQI+ discrimination negatively affects the health and well-being of LGBTQI+ people.¹⁰ It also correlates with disparities in risk factors. For example, a study of LGBT veterans found that those who experienced discrimination in health care reported higher rates of tobacco use and lower rates of disclosure of their LGBT identity to health care providers.¹¹ These proposed policies, which will increase anti-LGBTQI+ discrimination in homeless and IPV services, will negatively affect the health and well-being of LGBTQI+ people.

From a medical perspective, housing functions as a foundational health intervention. Efforts to reduce barriers to safe housing have consistently been associated with improved health outcomes, while housing instability is associated with increased rates of chronic illness, mental health conditions, substance use disorders, violence, and preventable healthcare utilization. Policies that may increase housing instability among already vulnerable populations should be approached with particular caution.¹²

Fifth, the proposed rule would add a significant practical and administrative burden on service providers. Staff would have to inquire into and verify clients' birth sex, a costly, invasive, and legally fraught intake change with no documented benefit. This would likely cause harm both to transgender and gender diverse people, to intersex individuals, and to cisgender people. Under the Administrative Procedures Act, HUD must account for these compliance costs. HUD does not do this in its proposed rule.

Sixth, HUD claims that the proposed rule would protect safety and privacy in single-sex facilities, especially that of women. However, there is no evidence that housing transgender women in women's homeless shelters increases the risk to cisgender women. Harassment of any kind, including sexual harassment, is illegal. Existing laws provide legal recourse if such harassment occurs. Coupled with clear homeless shelter policies that are enforced, these laws provide deterrent effect. Contrary to HUD's claim, the proposed rule would increase privacy and safety concerns of transgender people by forcing them to be housed according to their birth sex. This would increase the danger faced by these individuals. The proposed rule would force transgender women into men's facilities where they face documented high rates of assault, and there is no evidence that gender-identity-consistent placement harms other residents. As noted

⁹ Smith C, Norris H. *The LGBTQI+ Community Reported High Rates of Discrimination in 2024*. Washington, DC: Center for American Progress. March 12, 2025. <https://www.americanprogress.org/article/the-lgbtqi-community-reported-high-rates-of-discrimination-in-2024/>

¹⁰ Gruberg S, Mahowald L, Halpin J. *The state of the LGBTQ community in 2020. A national public opinion study*. Washington, DC: Center for American Progress, 2020, October 6. Available at <https://www.americanprogress.org/issues/lgbtq-rights/reports/2020/10/06/491052/state-lgbtq-community-2020/>

¹¹ Ruben MA, Livingston NA, Berke DS, Matza AR, Shipherd JC. Lesbian, Gay, Bisexual, and Transgender Veterans' Experiences of Discrimination in Health Care and Their Relation to Health Outcomes: A Pilot Study Examining the Moderating Role of Provider Communication. *Health Equity*. 2019 Sep 26;3(1):480-488.

¹² Goldshear JL, Kempin Reuter T, Bluthenthal RN, Borquez A. Displacement, health outcomes, and the human rights of people experiencing homelessness in the USA. *Lancet Public Health*. 2025 Oct;10(10):e874-e878. doi: 10.1016/S2468-2667(25)00197-5. Epub 2025 Sep 12. PMID: 40953577.

above, the standard best practice in the field for more than 20 years is to place people based on their gender identity, not their sex at birth.

Seventh, the proposed rule is arbitrary and capricious under the Administrative Procedure Act. It is clear that HUD did not examine the relevant data related to the impact of this rule on LGBTQ+ individuals who are homeless and/or experiencing intimate partner violence. HUD did not articulate a reasoned basis for reversing the 2012/2016 Equal Access Rule. Also this action by HUD does not address the reliance interests of grantees and clients who built compliance around the existing rule (see *Dept. of Commerce v. New York* and *DHS v. Regents of Univ. of California*). It is unfortunate that HUD failed to consider these issues in its rule-making process. Finally, the proposed rule portrays SOGI nondiscrimination as a threat to the religious beliefs of conservative social service providers. Such “religious refusal” policies, which proliferated during the first Trump Administration and have been adopted in many states,¹³ represent a major threat to the ability of LGBTQI+ people to access social services, including anti-poverty services. They also take the concept of religious freedom and turn it on its head. True religious freedom protects an individual’s right to worship—or not—and harms no one. Religious refusal policies cause third party harm to LGBTQ+ people and others who are refused health care and social services. As Douglas NeJaime and Reva Siegel point out in *The Yale Law Journal*, these laws inflict both material harm and dignitary harm—harms that exacerbate stigma and reduce social status—on other citizens.¹⁴

It is for these reasons that we at Fenway Health strongly oppose the proposed rule, and urge you to not adopt it. Thank you for considering our comments. If you have any questions, please contact Sean Cahill at information@fenwayhealth.org.

Sincerely,

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¹³ Cahill S, Wang T, Geffen S. *Executive branch actions promoting religious refusal threaten LGBT health care access*. Boston: The Fenway Institute. 2017. Available at <https://fenwayhealth.org/wp-content/uploads/The-Fenway-Institute-Religious-Refusal-Laws-Policy-Brief.pdf>

¹⁴ NeJaime D, Siegel RB. 2015. Conscience wars: Complicity-based conscience claims in religion and politics. *Yale Law Journal*. 124: 2516-2591.

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