

June 29, 2026

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

Re: HUD Docket No. FR-6518-P-01 - Comments in Response to Proposed Rulemaking:
Equal Access to Housing in HUD Programs Revisions

Dear Office of General Counsel:

The Housing Justice Network members and the undersigned organizations submit this comment letter in opposition to the Department of Housing and Urban Development's (HUD) proposed rule change published in the Federal Register on April 28, 2026 (RIN 2501-AE12; HUD Docket No. FR-6518-P-01) entitled "Equal Access to Housing in HUD Programs Revisions."¹ The Housing Justice Network (HJN) is a vast field network of over 2,000 community-level housing advocates and resident leaders, and is hosted by the National Housing Law Project. HJN member organizations are committed to advancing housing justice for all and protecting affordable housing and residents' rights for low-income families across the country.

The proposed rule is a cruel and baseless attack on LGBTQ+ families rooted in untrue, harmful, and dangerous stereotypes about transgender people, particularly transgender women. Taken together with HUD's refusal to enforce the Equal Access rule² and dismissal of complaints that allege housing discrimination based on sexual orientation or gender identity,³ the proposed rule furthers HUD's efforts to promote discrimination against the very communities that the Fair Housing Act and other civil rights laws were enacted to protect. **We urge that this proposed rule be withdrawn in its entirety and existing regulations protecting LGBTQ+ families in HUD-funded shelters and housing remain in effect.**

A. The Proposed Rule Will Not Address the Affordable Housing Crisis and Will Exacerbate Housing Insecurity and Homelessness for LGBTQ+ People

Affordable housing remains out of reach for many of the lowest-income renters in the United States. Incomes are not keeping pace with rents, housing assistance remains significantly underfunded, and the severe shortage of affordable homes pushes renters into unstable living situations. HUD's Proposed Rule will exacerbate the prevalence of housing insecurity and

¹ Equal Access to Housing in HUD Programs Revisions, 91 Fed. Reg. 22,779 (proposed Apr. 28, 2026).

² HUD, *ICYMI | Secretary Scott Turner Halts Enforcement Actions of HUD's Gender Identity Rule*, HUD News (Feb. 13, 2025), <https://www.hud.gov/news/hud-no-25-028>.

³ Sally Ho and Heather Hollingsworth, *In battle against transgender rights, Trump targets HUD's housing policies*, Associated Press (May 5, 2025), <https://apnews.com/article/transgender-hud-fair-housing-trump-lgbtq-turner-915634741f56f3d5ea265e316cd396bb>.

homelessness for LGBTQ+ people, a population that disproportionately experiences housing instability and homelessness compared to their non-LGBTQ+ counterparts.⁴

According to research by the National Low Income Housing Coalition, there are 11 million renter households with extremely low incomes in the United States, but only 3.8 million rental units are affordable and available to such households.⁵ In 2025, the average worker making minimum wage would need to work 116 hours per week – nearly three full-time jobs – to afford a modest two-bedroom rental at Fair Market Rent.⁶ High housing costs are especially difficult for the lowest-income renters, with 87% spending more than 30% of their income on housing, and 74% spending more than half of their incomes on rent.⁷ Despite widespread need, only one in four eligible households receive federal housing assistance.⁸ With much of their income consumed by rent, low-income people are forced to make impossible choices about meeting their basic needs and are one setback away from facing eviction and homelessness.

On a single night in 2025, at least 745,652 people experienced homelessness in the United States.⁹ Instead of working with policymakers to address the needs of people at risk of homelessness or who are currently homeless, HUD is focusing on removing critical anti-discrimination protections for LGBTQ+ people seeking access to HUD housing and shelter programs.

The proposed rule is the latest administration attempt to eliminate protections for the LGBTQ+ community. Yet, HUD's proposed changes will do nothing to help people exit homelessness or remain housed. In fact, it will only exacerbate our nation's homelessness crisis at great cost to families and communities. HUD should abandon this rulemaking and instead focus on ensuring everyone has access to safe, decent, and affordable homes.

B. The Proposed Rule Promotes Discrimination Against LGBTQ+ People in Federal Housing Programs

i. Housing discrimination against LGBTQ+ people remains a problem that the 2012 EAR and its 2016 amendments were designed to address.

⁴ Bianca D.M. Wilson et al., *Homelessness Among LGBT Adults in the U.S.*, UCLA School of Law Williams Institute (May 2020), <https://williamsinstitute.law.ucla.edu/publications/lgbt-homelessness-us/>.

⁵ Dan Emmanuel et al., *The Gap: A Shortage of Affordable Homes*, National Low Income Housing Coalition 11 (March 2026), <https://nlihc.org/gap>.

⁶ Esther Colón-Bermúdez et al., *Out of Reach: The High Cost of Housing*, National Low Income Housing Coalition 13 (2025), <https://nlihc.org/oor>.

⁷ Dan Emmanuel et al., *The Gap: A Shortage of Affordable Homes*, National Low Income Housing Coalition 18 (March 2026), <https://nlihc.org/gap>.

⁸ Will Fischer, *Addressing the Housing Affordability Crisis Requires Increasing Housing Supply and Expanding Rental Assistance*, Center on Budget and Policy Priorities (June 10, 2026), <https://www.cbpp.org/research/housing/addressing-the-housing-affordability-crisis-requires-increasing-housing-supply-and>.

⁹ U.S. Department of Housing and Urban Development, *The 2025 Annual Homelessness Assessment Report (AHAR) to Congress. Part 1: Point-In-Time Estimates of Homelessness V* (May 2026), <https://www.huduser.gov/portal/sites/default/files/pdf/2025-AHAR-Part-1.pdf>.

Housing discrimination against LGBTQ+ families and individuals remains a significant problem. A 2024 Zillow survey of LGBTQ+ individuals showed that 79% report experiences of discrimination in the housing market.¹⁰ In addition, a 2022 survey of transgender respondents found that more than half were denied access to shelter because of their gender.¹¹ The 2012 EAR and its 2016 amendments addressed this critical problem by adding protections against discrimination based on gender identity and sexual orientation into regulations governing HUD-subsidized housing and shelter. HUD now seeks to remove these protections despite evidence that discrimination is an ongoing problem.

ii. HUD relies on baseless, harmful stereotypes about transgender women.

The proposed rule's preamble relies upon unfounded, harmful stereotypes about transgender women. In the proposed rule, HUD cites a 20 year old research paper¹² to claim that "[h]omeless women are at increased risk of sexual assault by biological males compared to other women."¹³ Yet the cited paper does not mention "biological males" or include any research on transgender women. HUD provides no evidence showing that cisgender women experience assault by transgender women in shelters, nor does HUD offer any findings that the 2016 Equal Access Rule resulted in women experiencing sexual harassment or assault. In fact, hundreds of anti-sexual assault and domestic violence organizations signed a national statement in 2024 stating that "claims that allowing transgender people to access sex-separated spaces aligning with their gender identity threatens the safety or privacy of women and girls are false."¹⁴ The statement explains that as of 2024, 18 states and over 200 municipalities had nondiscrimination laws that protect transgender people's access to facilities consistent with their gender identity, and no jurisdiction had experienced a rise in sexual violence or other public safety issues.¹⁵

In addition to providing no evidence to support its claim that cisgender women experience assault by transgender women in shelters, HUD ignores a body of research finding that

¹⁰ Zillow, *Survey: Most LGBTQ+ individuals experience discrimination in housing* (June 11, 2024), <https://www.zillow.com/news/most-lgbtq-experience-discrimination-in-housing/>.

¹¹ Daniel Soucy, *Nationwide Survey Shows Widespread Discrimination Against Gender-Expansive People, Including in Emergency Shelters*, National Alliance to End Homelessness and Advocates for Trans Equality 1 (May 18, 2026), https://endhomelessness.org/wp-content/uploads/2026/05/US-Trans-Survey-Brief-V4_Working-File.pdf.

¹² Lisa Goodman, Katya Fels & Catherine Glenn, *No Safe Place: Sexual Assault in the Lives of Homeless Women*, Applied Research Forum: National Online Resource Center on Violence Against Women (Sep. 2006), https://vawnet.org/sites/default/files/materials/files/2016-09/AR_SAHomelessness.pdf.

¹³ 91 Fed. Reg. at 22,781.

¹⁴ Letter from the National Task Force to End Sexual & Domestic Violence, *National Statement in Support of Full and Equal Access for the Transgender Community from Anti-Sexual Assault and Domestic Violence Organizations* 1 (October 30, 2024), <https://endsexualviolence.org/wp-content/uploads/2025/09/NTF-Statement-in-Support-of-Transgender-Community-Anti-SV-and-DV-Orgs.pdf>.

¹⁵ *Id.* at 2.

transgender people experience a disproportionate amount of violence while unhoused. Data from the 2022 U.S. Transgender Survey found that nearly all respondents experienced abuse – including verbal harassment, sexual assault, or physical attack – while homeless, including when accessing shelter.¹⁶ The majority (58%) of respondents reported being denied access to shelter due to their gender, and 27% left shelter due to poor treatment.¹⁷

iii. The proposed rule promotes discrimination and will harm LGBTQ+ families.

The proposed rule promotes, and in some cases requires, discrimination against LGBTQ+ individuals and families across HUD programs. First, HUD seeks to erase LGBTQ+ people from HUD regulations. The proposed rule removes all mentions of “gender,” “gender identity,” and “sexual orientation” and replaces them with a definition of “sex” that rejects the existence of transgender and gender expansive people. HUD’s proposed definition of “sex” is also completely silent regarding sexual orientation.¹⁸ HUD is proposing to remove nondiscrimination protections for LGBTQ+ people across HUD regulations, including those governing Section 8 housing, fair housing enforcement and administration, mortgage programs, homelessness and domestic violence programs, and community development programs.¹⁹ Moreover, HUD provides no explanation of any supposed benefit to denying protections for LGBTQ+ people within programs such as mortgages or Section 8 housing.

The removal of this language and associated protections could have wide-ranging impacts across HUD programs. For example, a PHA or HUD-assisted owner could refuse to allow a transgender, lesbian, gay, or bisexual person to rent an apartment or receive a housing voucher. A PHA or owner could refuse to allow a same-sex couple to live together in a one-bedroom unit. A family with a transgender child could suddenly find itself overhoused or underhoused because, based on the child’s HUD-defined “sex,” the child can no longer share a bedroom with their sibling, or can no longer room alone based on the PHA or owner’s policy. A PHA or owner could evict a family after learning that a family member is transgender or gay. An FHA lender could discriminate against a same-sex couple or transgender individual applying for a mortgage. These are not mere hypotheticals– they are the predictable consequences of eliminating all language that protects LGBTQ+ families in HUD programs.

¹⁶ Daniel Soucy, *Nationwide Survey Shows Widespread Discrimination Against Gender-Expansive People, Including in Emergency Shelters*, National Alliance to End Homelessness and Advocates for Trans Equality 4 (May 18, 2026), https://endhomelessness.org/wp-content/uploads/2026/05/US-Trans-Survey-Brief-V4_Working-File.pdf.

¹⁷ *Id.* at 1.

¹⁸ 91 Fed. Reg. at 22,782 n.22. HUD confusingly admits in this footnote that sexual orientation “is often considered” a subset of “sex.” However, it is unclear why the same would not be true for gender identity, see, e.g., *Bostock v. Clayton County*, 590 U.S. 644 (2020). Yet, the definition of “sex” itself that HUD has proposed for this rulemaking makes no reference to sexual orientation, and as defined in the proposed rule, “sexual orientation” would not logically fit within the proposed “sex” definition.

¹⁹ 91 Fed. Reg. at 22,780.

Second, in the HUD shelter context, HUD proposes to *require* providers to deny access to transgender and gender nonconforming people trying to access single-sex facilities that do not align with their “sex” as defined by HUD.²⁰ HUD also seeks to remove protections against invasive questioning regarding a person’s HUD-defined “sex”. In effect, this combination encourages providers to conduct intrusive inquiries that may include reviewing medical documentation or even a strip search for those individuals whose outward presentation is ambiguous or does not align with prevailing gender stereotypes. Or, shelters – unclear of how to best comply with HUD’s requirement that transgender people be excluded from shelters aligned with their gender identity — may require documentary or visual proof of sex from everyone.

Either way, the requirement of confirming an applicant’s “sex” as defined by HUD will be burdensome, humiliating, and even traumatic for unhoused people seeking shelter. Many unhoused people, especially those who are transgender or gender nonconforming, will choose to remain unsheltered rather than subjecting themselves to an invasive violation of privacy. The requirement will also be burdensome on shelter providers who will be forced to initiate uncomfortable and questionably legal interactions with applicants, review and process additional paperwork, and make decisions about applicant’s reproductive physiology without medical expertise or training.

iv. The proposed rule will harm survivors of gender-based violence.

The proposed rule will also have a particular impact on survivors of gender-based violence. Because many survivors are unhoused or unstably housed because they have escaped abusive living environments, they may lack access to identity documents and records to prove their HUD-defined “sex.”²¹ In fact, blocking access to vital documentation is part of the cycle of power and control that exists within relationships involving domestic violence.²² Survivors who are excluded from shelter or assisted housing will have to make an impossible choice between unsafe housing options, including returning to their abusers.

v. The proposed rule conflicts with HUD’s AFFH obligation.

By promoting discrimination against LGBTQ+ people, the proposed rule conflicts with HUD’s statutory obligation to affirmatively further fair housing (AFFH) under the Fair Housing Act (FHA).²³ The FHA prohibits housing discrimination based on race, national, origin, color,

²⁰ 91 Fed. Reg. at 22,784 (“Placement and accommodation of an individual in temporary, emergency shelters and other buildings and facilities with physical limitations or configurations that require and are permitted to have shared sleeping quarters or shared bathing facilities *shall be made* in accordance with the individual’s sex.”) (emphasis added).

²¹ National Coalition for the Homeless, *Domestic Violence and Homelessness*, <https://nationalhomeless.org/domestic-violence/>.

²² Surviving Economic Abuse, *Economic abuse: A global perspective* 52 (Dec. 2022), https://survivingeconomicabuse.org/wp-content/uploads/2022/11/SEA_Economic-Abuse-A-Global-Perspective.pdf.

²³ 42 U.S.C. § 3608(e)(5).

disability, familial status and sex.²⁴ Courts have found that the FHA’s prohibition on sex discrimination includes discrimination based on sexual orientation or gender identity.²⁵ The AFFH obligation requires all federal agencies, including HUD, and their funding recipients to proactively address fair housing in programs and activities related to housing and community development.²⁶ In *N.A.A.C.P. v. HUD*, the court noted that the Fair Housing Act’s legislative history “suggests an intent that HUD do more than simply not discriminate itself; it reflects the desire to have HUD use its grant programs *to assist in ending discrimination and segregation*, to the point where the supply of genuinely open housing increases.”²⁷

Though the proposed rule only targets HUD-subsidized housing, it will impact tenants in other federally assisted housing as well as unsubsidized tenants. HUD funding is often layered with other affordable housing programs, such as USDA mortgages or Low Income Housing Tax Credits. In such cases, both programs’ rules apply to the tenancy. If HUD allows housing authorities and subsidized owners to discriminate against LGBTQ+ families, it sends the message to all housing providers that such behavior is acceptable and even encouraged by the agency charged with facilitating the national goal of “a decent home and suitable living environment for every American family.”²⁸ Not only does HUD set housing policy for the nation, but it is also the federal agency charged with investigating housing discrimination complaints under the Fair Housing Act and other civil rights laws across many housing types and real estate related transactions.²⁹ As such, HUD’s discriminatory and exclusionary policy is likely to be adopted and proliferated throughout the subsidized housing portfolio as well as across the private rental market.

C. The Proposed Rule Would Create Confusion, Uncertainty, and Burdens on Housing Providers

HUD’s proposed rule, if implemented, would create tremendous uncertainty for HUD-assisted housing providers. First, in its proposal, HUD raises the possibility that CPD-funded providers could lose their CPD funding for simply adhering to state or local laws that prohibit discrimination against transgender individuals.³⁰ As noted above, numerous jurisdictions across the country have laws that prohibit discrimination on the basis of gender identity.³¹ Threatening

²⁴ 42 U.S.C. § 3604.

²⁵ *E.g.*, *Petricca v. Saxony Condo. Ass’n, Inc.*, No. 23-CV-81581, 2024 WL 5683535, at *2 (S.D. Fla. Sept. 25, 2024) (assuming “[f]or purposes of this statute, the term ‘sex’ includes sexual orientation”); *Larocque v. Spring Green Corp.*, No. 22-CV-00249-MSM-PAS, 2024 WL 4198607, at *4 (D.R.I. Sept. 16, 2024); *Levy v. Lawrence Gardens Apartments Del, LLC*, No. 21CV1415FBSJB, 2023 WL 2667045, at *5 n.1 (E.D.N.Y. Mar. 28, 2023).

²⁶ 42 U.S.C. § 3608(d).

²⁷ 817 F.2d 149, 155 (1st Cir. 1987) (emphasis added).

²⁸ 42 U.S.C. § 1441.

²⁹ *E.g.*, 42 U.S.C. § 3610; 34 U.S.C. § 12494(c).

³⁰ See 91 Fed. Reg. at 22,784.

³¹ Movement Advancement Project, *Equality Maps: Housing Nondiscrimination Laws* (June 17, 2026), <https://mapresearch.org/equality-map/nondiscrimination-laws/#housing>.

HUD funding places CPD-funded entities in an untenable position – lose their CPD funding or open themselves up to liability under state or local nondiscrimination laws. HUD offers no guidance or analysis on how CPD-funded entities are supposed to operate in light of competing legal mandates.

Similarly, HUD housing providers beyond the CPD context are receiving conflicting messages about their obligations under local, state, and federal laws. For example, recipients of funding under the Violence Against Women Act (VAWA) are explicitly prohibited from discriminating on the basis of sexual orientation and gender identity.³² Yet, the proposed rule, as noted above, seeks to remove all mentions of sexual orientation and gender identity throughout HUD regulations, and even threatens CPD funding for grantees that adhere to state and local LGBTQ+ protections. HUD has also withdrawn guidance explaining the relationship between the Fair Housing Act and the U.S. Supreme Court’s decision in *Bostock v. Clayton Co.*, which affirmed that a person cannot be denied employment because of sexual orientation or because they are transgender.³³ And, HUD has stated it will no longer prioritize investigating complaints alleging gender identity discrimination, asserting that such complaints were based on “novel and tenuous” legal theories.³⁴ All of these signal that HUD is simply not interested in protecting LGBTQ+ people from housing discrimination. Yet HUD cannot change existing law. Congress’s statutory requirements and legal precedent remain, even if HUD disagrees. This reality leaves housing providers mired in uncertainty about how they should operate their programs.

The resulting confusion will burden housing providers and ultimately harm the very people they serve. These providers will have to divert precious resources to navigate a treacherous legal landscape, including seeking legal counsel and possibly revising day-to-day policies. Housing providers who feel compelled to discriminate will lose trust within their local communities. LGBTQ+ individuals will feel unwelcome within HUD programs. Those who are not LGBTQ+ may still be affected as a result of changed policies, such as survivors of domestic violence who lack documentation confirming their sex assigned at birth, or someone subjected to intrusive, retraumatizing questioning because their appearance does not conform with prevailing gender stereotypes.

³² 34 U.S.C. 12291(b)(13)(A).

³³ Memorandum from David Woll, General Counsel to John Gibbs, Performing the Delegable Duties of the Principal Deputy Assistant Secretary for Fair Housing and Equal Opportunity 1 (Sep. 25, 2025) (“Fair Housing Guidance Memoranda and Documents”), <https://www.hud.gov/sites/default/files/hudclips/documents/OGC-Memo-on-Fair-Housing-Guidance-9-25-2025.pdf>.

³⁴ Memorandum from John Gibbs, Principal Deputy Assistant Secretary for Fair Housing and Equal Opportunity, to Office of Fair Housing and Equal Opportunity Headquarters Staff et al. 3 (Sep. 16, 2025) (“Fair Housing Act Enforcement and Prioritization of Resources”), <https://www.hud.gov/sites/dfiles/Main/documents/Fair-Housing-Act-Enforcement-Prioritization-Resources.pdf>.

For the reasons explained above, we strongly urge HUD to immediately withdraw the proposed rule in its entirety, and to focus its policy agenda on ensuring safe, decent, affordable housing for all.

Sincerely,

National Housing Law Project
National Low Income Housing Coalition
AFFA Action (South Carolina)
Affordable Housing Connections
Agape Missions, NFP
Allegheny Valley Association of Churches
Americans for Financial Reform Education Fund
B Sustainable
Barton Communities
Blue Ridge Independent Living Center
Branch4
Brilliant Corners
California Coalition for Rural Housing
Centro Legal de la Raza
CNY Fair Housing
Coalición de Coaliciones Pro Personas sin Hogar de PR, Inc.
Coalition for the Homeless
Coalition on Human Needs
Collaborative Support Programs of New Jersey
Colony Retirement Homes
Colorado Coalition for the Homeless
Community Action Lehigh Valley
Community Care Alliance
Connecticut Voices for Children
CT Coalition to End Homelessness
Endeppendence Center of Northern Virginia
Equal Rights Center
Everyone for Accessible Community Housing Rolls
Fair Housing Center for Rights & Research
Fair Housing Center of Central Indiana
Family Promise of Greater Rochester
Family Violence Appellate Project
Fundors Together for Housing Justice
Georgia Advancing Communities Together, Inc.
Global Faith & Justice Project
Greater Hartford Legal Aid
Guest House of Milwaukee
Harriet Hancock Center

HIV ARTS NETWORK
HOME Line
Homeward
Housing Action Illinois
Housing and Community Development Network of New Jersey
Housing and Economic Rights Advocates
Housing Assistance Council
Housing For All Tennessee
Housing Justice Center
Housing Justice Collective
Housing Oregon
Independent Living Inc.
Inner Voice
Integrated Community Solutions, Inc
Keys to Change
Kings Tulare Homeless Alliance
Lawrence CommunityWorks
Legal Action Center
Louisiana Fair Housing Action Center
Louisiana Trans Advocates
Maine Affordable Housing Coalition
Mercy Community Capital
Metropolitan Interfaith Council on Affordable Housing
Miami Valley Fair Housing Center, Inc.
Michigan Poverty Law Program
Mid-Minnesota Legal Aid
National Coalition for Asian Pacific American Community Development (National CAPACD)
National Coalition for the Homeless
National Consumer Law Center (on behalf of its low-income clients)
National Legal Aid & Defender Association
NBJC
New Hampshire Legal Assistance
New Jersey Association of Mental Health Agencies, Inc.
New Jersey Tenants Organization
NJ Coalition to End Homelessness
North Carolina Coalition to End Homelessness
Open Communities
OPEN Foundation (DBA OPEN)
Our Community Place
Philly Neighborhood Networks
Regional Housing Legal Services
River City Housing, Inc.
Rumford Group Homes, Inc.
San Francisco Tenants Union

Save Section 9
Senior Advocacy Network
St. Matthew Trinity Lunchtime Ministry
Tenant Advocacy Clinic
Tenant-Landlord Resource Center
The Network: Advocating Against Domestic Violence
The Policy Nexus
Three Rivers Legal Services, Inc.
United Theological Seminary
United Way of Rhode Island
Unity House of Troy
Western Center on Law and Poverty
William E. Morris Institute for Justice
WM5 Consulting
Women's Community Revitalization Project
Yellow Springs Home, Inc.
YWCA USA