

June 29, 2026

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

Submitted via www.regulations.gov

Re: HUD Docket No. FR-6518-P-01, RIN 2501-AE12

Dear Sir/Madam:

These comments are submitted on behalf of the undersigned XX Illinois-based organizations in response to the Department of Housing and Urban Development's (HUD) Notice of Proposed Rulemaking (NPRM) "Equal Access To Housing in HUD Programs Revisions" which would eliminate the Equal Access Rule in effect since 2012, including critical amendments made to the rule in 2016. We comment to express our strong opposition to the NPRM. This proposed rule is cruel, unnecessary, and discriminatory, contravening well-established law on the rights, dignity, and protections of individuals on the basis of gender identity, sexual orientation, or marital status. Most importantly, this rule continues the administration's senseless attacks on transgender, non-binary, and gender non-conforming people and their right to be safe and free from discrimination.

The undersigned organizations are dedicated housing, social service, civil rights, and advocacy organizations. We urge HUD to rescind this harmful NPRM and honor the 2016 Equal Access Rule that provides a regulatory framework which require housing, facilities, shelters, and services funded through HUD's housing programs and HUD's Office of Community Planning and Development (CPD) to ensure equal access to programs for individuals based on their gender identity or sexual orientation without intrusive questioning or being asked to provide documentation. This proposed rule is not necessary, is contrary to statutory interpretation, will legitimize discrimination and invasive questioning of transgender, non-binary, and gender non-conforming individuals, will cost Illinois and the nation millions of dollars in costs due to increased homelessness, emergency services, and administrative burdens, and is contrary to our highest values as a nation.

Background on the Equal Access Rule

HUD's history of administratively ensuring equal access to federally assisted shelter and housing for LGBTQI+, transgender, non-binary, and gender non-conforming people started with

the 2012 Equal Access Rule.¹ While, under the 2012 Rule, inquiring about an applicant's sex was allowed for the purpose of determining placement in temporary, emergency shelters (with shared bedrooms/bathrooms) and the number of bedrooms a household may be entitled to, the 2012 rule's primary focus was to make core housing programs accessible "without regard to actual or perceived sexual orientation, gender identity, or marital status."²

The 2016 Rule added the terms "sexual orientation" and "gender identity," with the latter defined as "the gender with which a person identifies, regardless of the sex assigned at birth."³ The revised rule attempted to address barriers transgender, non-binary, and gender non-conforming people face in securing equal access to shelter. Under the 2016 Rule, all housing/services funded by the Office of Community Planning and Development (CPD) must ensure equal access to programs for individuals based on their gender identity without being asked to provide documentation or be subjected to intrusive questioning about one's gender identity.⁴

Proposed Revisions to the Equal Access Rule

The Equal Access Rule ensures that there is universal, non-discriminatory access to HUD resources. The NPRM would force housing and shelter providers to turn away or treat differently transgender, non-binary, and gender non-conforming individuals who do not follow narrow, antiquated understandings of gender and force those individuals to choose between shelter or their safety.

If finalized, the rule would remove protections for gender expansive individuals trying to access HUD programs, invite unnecessary and invasive questioning about a person's sex assigned at birth, and attempt to override state and local anti-discrimination laws. Removing all references to "gender," "gender identity," and "sexual orientation," and replacing them with "sex," thereby eliminating protections for LGBTQI+ individuals' nondiscriminatory access to shelter and HUD programs, including Section 8 housing/other housing programs, fair housing enforcement and administration, mortgage programs, homelessness and domestic violence programs, and community development programs. The proposed changes would allow certain facilities, such as single-sex shelters, to "require reasonable assurances or evidence to establish a person's sex" including identification (i.e., a drivers license or birth certificate) demonstrating their assigned sex at birth. The NPRM will also attempt to preempt any conflicting state or local laws (i.e., laws that offer protections based on sexual orientation and gender identity) within the context of HUD CPD programs by threatening the loss of federal funding.

HUD's reasoning for these provisions is highly problematic and transphobic, including by claiming without evidence that women experiencing homelessness are at risk of sexual harassment, assault, and re-traumatization when sharing space with transgender women. HUD falsely (and without any evidence) claims that "biological men may exploit the process of

¹ *Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity*, 77 Fed. Reg. 5662 (March 5, 2012).

² 24 C.F.R. § 5.105(a)(2).

³ 81 Fed. Reg. 64763 (Oct. 21, 2016).

⁴ *Id.*

self-identification under the current rule to gain access to women’s shelters.” However, over 300 domestic violence and sexual assault institutions in the United States have strongly refuted that claim by signing the National Consensus Statement, arguing that serving transgender women victims alongside other women is appropriate and not a safety issue. In 2019, when HUD made its first attempt to roll back the Equal Access Rule for transgender individuals seeking shelter, the National Task Force to End Sexual and Domestic Violence noted their strong opposition.⁵

HUD also argues that the 2016 Equal Access Rule burdens faith-based shelters and providers, who cannot comply with the rule due to their religious beliefs, and in turn “reduces the amount of help available to homeless individuals.” While HUD’s rationale for the NPRM is focused on single-sex shelters and spaces, it has broad implications to shelter access generally. This rule, as HUD admits, will result in denying individuals whose gender identity is different from their identified sex at birth from access to their preferred single-sex shelter or preferred accommodations in other shelters.

This NPRM is part and parcel of long standing efforts by the Trump administration (including during the first administration) to sanction and legalize discrimination against LGBTQI+ individuals and households who are eligible for or a part of HUD’s housing and homeless programs. Though HUD has chosen not to enforce the 2016 Equal Access Rule since February 2025, HUD should not take this final step to rescind it.⁶ Gutting the Equal Access Rule and its enforcement mechanisms is unacceptable and as described below, will risk the health, safety, and lives of LGBTQI+ individuals. Access to shelter is a basic, fundamental necessity and should not be a place for discrimination and harm.

I. The Equal Access Rule Is Vital For Transgender, Non-Binary, and Gender Non-Conforming Individuals.

Transgender individuals are disproportionately unsheltered and one-third of transgender people of all ages report experiencing homelessness at some point in their lives.⁷ Sixty-three percent of transgender individuals experiencing homelessness are unsheltered, compared to 49 percent of cisgender people experiencing homelessness who are unsheltered.⁸ The number of adult transgender individuals experiencing homelessness increased 88 percent since 2016 and the number experiencing unsheltered homelessness increased by 113 percent during the same period.⁹ Homelessness is often connected to discrimination, with one in five transgender people

⁵ National Task Force to End Sexual and Domestic Violence, *Statement on Housing and Urban Development (HUD) Rollback on Equal Access Rule Protections*, July 2, 2020.

⁶ U.S. Dept. of Hous. and Urb. Dev., *Secretary Scott Turner Halts Enforcement Actions on HUD’s Gender Identity Rule*, Feb. 2026.

⁷ J. Glick, A. Lopez, M. Pollock, K. Theall, *Int’l Journal for Trans. Health*, 337-349, *Housing Insecurity and intersecting social determinants of health among transgender people in the USA: A targeted ethnography*, July 2, 2020.

⁸ National Alliance to End Homelessness & the Homelessness Research Institute, *Transgender Homeless Adults and Unsheltered Homelessness: What The Data Tell Us*, <https://endhomelessness.org/wp-content/uploads/2024/10/Trans-Homelessness-Brief-July-2020.pdf> (last visited May 8, 2026).

⁹ *Id.*

in the United States being discriminated against when seeking a home, and one in ten having been evicted from their homes because of their gender identity.¹⁰ .

These stark data points underscore how vital the Equal Access Rule is and how much more work we have to do to build inclusive and competent housing and homeless services systems. Prior to and even after the Equal Access Rule, LGBTQI+ individuals experienced homophobia, biphobia, and transphobia, and a lack of LGBTQI+ competent resources to meet their shelter needs. In 2016, the Center for American Progress reported that only 30% of shelters surveyed were willing to house transgender women with other women and 21% flatly refused to shelter transgender women entirely.¹¹ Other research confirmed that barriers related to gender identity were the most reported reason for survivors of gender-based violence being denied shelter.¹² A fulsome implementation of the Equal Access Rule is what is necessary, not a rollback of these protections.

Impact on LGBTQI+ Youth and Young Adults. For LGBTQI+ youth and young adults, among the nearly 4.2 million homeless youth and young adults in the United States, their rates of homelessness are more than twice the rate of their non-LGBTQI+ peers.¹³ LGBTQI+ youth have a 120% increased risk of homelessness when compared to heterosexual and cisgender youth.¹⁴ Among youth experiencing homelessness, LGBTQI+ young people reported higher rates of trauma and adversity, including twice the rate of early death.¹⁵ LGBTQI+ youth who were also Black or multiracial had some of the highest rates of homelessness.¹⁶

Research demonstrates that the best way to support LGBTQI+ youth and young adults is for homeless service providers to have reputations as safe and affirming spaces that help them quickly move to safe and stable housing.¹⁷ Forcing homeless service providers to demand documentation of a person's assigned sex at birth, to implicitly sanction the administration's false belief of safety concerns for women if they are in the same shelter as transgender women, and forcing transgender women to take shelter with men, where they likely risk the greatest safety concerns, deeply undermines those efforts.

II. Gutting the Equal Access Rule Will Impact All Individuals Experiencing Homelessness

¹⁰ Advocates For Trans Equality, *Housing and Homelessness*,

<https://transequality.org/issues/housing-homelessness> (last visited May 27, 2026).

¹¹ Center for American Progress, *Discrimination Against Transgender Women Seeking Access To Homeless Shelters*, Jan. 7. 2016.

¹² R. Henry, P. Perrin, B. Coston, J. Calton, *Journal of Interpersonal Violence*, 36, 3374-3399, *Intimate Partner Violence and Mental Health Among Transgender/Gender Nonconforming Adults* (May 2018).

¹³ M. Morton, G. Samuels, A. Dworsky, S. Patel, *Missed Opportunities: LGBTQ youth homelessness in America*, Chapin Hall at the University of Chicago (2025).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ National Gay and Lesbian Task Force Policy Institute, National Coalition for the Homeless, *Transitioning Our Shelters: A Guide To Making Homeless Shelters Safe For Transgender People* (2012).

Removing the Equal Access Rule will also exclude people of all identities from services. At a time when homelessness is increasing and affordable housing is extremely scarce, the nation cannot afford to unnecessarily exclude anyone from shelter. With the proposed documentation requirements, an individual who cannot produce identification to prove their assigned sex at birth, which may be lacking due to their homelessness or lack of resources, may lose access to shelter. The harder it is for someone to seek shelter, the greater their risk of continued unsheltered homelessness, physical ailments, violence, and extreme weather.

III. Gutting the Equal Access Rule will increase homelessness and strain local budgets.

A dire affordable housing crisis and overwhelmed social safety net drive nearly 19,000 people into homelessness each week and challenge local homeless service providers to rehouse those experiencing homelessness.¹⁸ In 2024 alone, homelessness increased by 18% and service providers reported having to turn away individuals experiencing homelessness due to insufficient resources and staffing.¹⁹ First time homelessness is also on the rise, increasing by 23% since 2019.²⁰ Discriminatory policies, stigma, and a lack of coordinated support services make it harder for specific groups, including LGBTQI+ individuals.²¹ Despite these stark statistics, funding from the federal government for affordable housing and homeless services has not kept pace with the need.

A. Housing and homeless services in Chicago and Illinois will be deeply impacted.

The NPRM will deeply and negatively impact homeless services in Chicago and Illinois. Illinois' overall Point-in-Time count from January 2024 to January 2025, the data reports 14,571 Illinois residents were unsheltered, staying in an emergency shelter, or living in transitional housing on a *single night* of the year in 2024.²² However, the traditional Point-in-Time (PIT) method dramatically undercounts the actual amount of homelessness, because it does not account for those temporarily staying with others. By accounting for individuals who are temporarily staying with others or "doubling up" by analyzing data from the American Community Survey, the Chicago Coalition to End Homelessness estimates that more than 118,000 people in Illinois experienced doubled-up homelessness in 2020.²³ The Illinois Department of Human Services also identified that there were 33,159 people receiving shelter or transitional housing services (which would be subject to the new rule) in Fiscal Year 2024.²⁴ As well, the Illinois State Board

¹⁸ D. Soucy, A. Hall, J. Moses, National Alliance to End Homelessness, *State of Homelessness: 2025 Edition*.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

²² Ill. Dept. of Human Serv., *Home Illinois: Illinois' Plan to Prevent and End Homelessness - Annual Report (Dec. 2025)*.

²³ Chicago Coalition To End Homelessness, *Illinois State of Homelessness Report (2022)*.

²⁴ Ill. Dept. of Human Serv., *Emergency and Transitional Housing Program Annual Report FY 2024*.

of Education (ISBE) reported 55,982 students experiencing homelessness during the 2022-23 school year.²⁵

Should the rule be finalized, homeless service providers, which overwhelmingly signaled their support of the rule when HUD previously tried to rescind it in 2020, will create red tape for homeless service providers who will have to verify each client's gender and turn away any client without such information. These providers already operate on shoestring budgets and do not have enough staff or time to comply with new, unnecessary rules. By excluding people from shelters, Illinois communities will see increased rates of costs, emergency services use, illness, and death due to homelessness. Rather than force them to implement this cruel rule, Illinois and its local governments need more funding for homeless services and affordable housing and a greater ability to meet everyone's needs.

IV. The NPRM's Threatens Important State and Local Protections for LGBTQI+ Individuals.

State and local civil rights laws are often far ahead of federal civil rights law changes that are slower to evolve consistent with contemporary society. Illinois and its localities have long served as champions of advancing LGBTQI+ laws and protections and should be allowed to continue to enforce and seek compliance with those laws without the fear of losing federal funding. For example, the City of Chicago Human Rights Ordinance protects individuals from discrimination on the basis of their gender identity.²⁶ The Illinois Human Rights Act also protects individuals from discrimination on the basis of sexual orientation, which expressly includes "gender-related identity."²⁷

Similar nondiscrimination protections have been in place for years in over 20 states and over 200 localities and have helped increase fairness and opportunity for vulnerable people.²⁸ The Fair Housing Act does not prohibit state and local governments from including more groups as protected classes.²⁹ And gender identity is covered under the protected class of sex within the FHA, contrary to the position taken in the NPRM.³⁰

²⁵ Ill. Dept. of Human Serv., *Home Illinois: Illinois' Plan To Prevent and End Homelessness - Annual Report* (Oct. 2024).

²⁶ City of Chicago Fair Housing Ordinance, Sec. 2-160-020; Sec. 5-08-010.

²⁷ Illinois Human Rights Act, 775 ILCS 5/1-103(O-1).

²⁸ Movement Advancement Project, *Nondiscrimination Laws - Housing*, <https://mapresearch.org/equality-map/nondiscrimination-laws/> (last visited May 28, 2026).

²⁹ The Fair Housing Act, 42 U.S.C. § 3615.

³⁰ In 2020, in the case of *Bostock v. Clayton County*, 590 U.S. 644, the United States Supreme Court found that the protected class of "sex" under Title VII of the Civil Rights Act of 1964 necessarily applies to discrimination based on sexual orientation and transgender identity. The federal Fair Housing Act has identical language prohibiting discrimination in housing "because of . . . sex,." Given the similar language, structure, and purpose of both statutes, courts have a long-standing practice to use Title VII cases to guide their interpretation of the Fair Housing Act; see also U.S. Dept. of Hous. and Urb. Dev., Memorandum - *Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act* (Feb. 11, 2021).

The proposed rule threatens the enforcement of these protections, by proposing to add § 5.106(e) stating that these requirements preempt any conflicting local laws or policies and that violations of the federal requirements will be subject to all applicable penalties, including loss of federal funding under the CPD program. HUD states that it believes this would advance the important policy objectives of this proposed rule by ensuring maximum uniformity and compliance. HUD also states that it is considering expressly preempting local laws that may conflict with these requirements for state or local entities receiving CPD funds.

State and local governments, including Illinois and the localities who seek to advance fair housing and human rights for transgender, non-binary, and gender non-conforming individuals, should not be punished with the threatened loss of their homeless prevention dollars. This administration's transphobic agenda should not be weaponized against the state of Illinois, its localities, homeless service providers, and individuals who are unhoused or at risk of homelessness.

Conclusion

The undersigned organizations strongly oppose the proposed rule as discriminatory, unnecessary, and contrary to the letter and spirit of law and our values as an inclusive, welcoming community. We urge HUD to withdraw its current proposal, and dedicate its efforts to advancing policies that increase the supply of affordable housing for all individuals, regardless of their gender identity.

Sincerely,

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