
HUD's Proposed Rule Would Allow Discrimination Against Transgender People

Statement from Ann Oliva, Visiting Senior Fellow

As a senior civil servant who worked on the development of HUD's 2012 Equal Access Rule and the 2016 amendments, I can attest that those policies were based on solid evidence on how to ensure that those who need shelter have access to it without discrimination or harassment. The rule was informed by stakeholders on the front lines of helping transgender and nonbinary people access shelter in a safe environment.

By contrast, the proposed rule that the Trump Administration is expected to issue tomorrow would legitimize discrimination against transgender and nonbinary people and create more barriers for those who need help the most. We at the Center stand with our transgender and nonbinary neighbors, staff, advocates, and national partners against this government-sanctioned discrimination. The purpose of homeless programs is to make sure that those seeking shelter have access to a safe place to live, not to erect discriminatory barriers.

Background

HUD's original [Equal Access Rule, released in 2012](#), was developed to ensure that its housing programs are available and accessible to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status. However, the 2012 rule did not address how transgender people should be accommodated in single-sex shelters or facilities. In 2016, HUD [amended the rule](#) to specify that individuals must be accommodated in accordance with their gender identity.

HUD is [expected to issue](#) its proposed changes to the Equal Access Rule for public comment on July 24. These changes, if finalized, would have a substantial negative impact on transgender and nonbinary people seeking shelter by *allowing shelter operators to discriminate against them*. Specifically, the proposed rule removes the provisions added in 2016 to ensure that transgender and nonbinary people have equal access to shelter accommodations based on their gender identity and do not face invasive and discriminatory questions or requirements to document their sex when entering a program.

HUD is basing these changes on false claims, anecdotal information, and prejudice. The proposed rule sends a clear message that discrimination against transgender and nonbinary people is OK.

Evidence collected by the [National Center for Transgender Equality](#) and others shows that transgender people face widespread physical and sexual violence on the street and in many aspects of life. More than a quarter of transgender people have faced a bias-driven assault and the rates are even higher for transgender women and people of color. Under this new rule, a transgender person who presents themselves for help at a shelter is no longer guaranteed the compassionate assistance that all other survivors of homelessness, trauma, and abuse may receive. Instead, they may be subject to offensive and invasive demands by intake staff who, under the proposed rule, could question a person's gender based on an arbitrary, undefined "good faith" standard that may include judgement about their clothes or physical features like the length of their hair.

While the proposed change requires a facility that discriminates against transgender people to refer them to an alternate accommodation, this remedy is inadequate. A community may have limited shelter provider options, for example, or every shelter provider in the community could prohibit entry based on the proposed rule's allowances. People experiencing homelessness already face multiple barriers to entry, such as limited capacity, sobriety rules, and family size limitations. This additional barrier for transgender and nonbinary people would likely cause vulnerable people to choose to stay in dangerous or unsheltered situations over a system that overtly discriminates against them. This is especially dangerous for transgender and nonbinary youth, people of color, and survivors of intimate partner violence.

HUD cynically claims that the proposed change is needed to protect survivors of domestic and sexual violence. In reality, the [National Network to End Domestic Violence](#), which recognizes the needs of transgender survivors of domestic and sexual violence, has condemned other Administration proposals to narrowly define gender because "inaccurate and narrow definitions of gender will further alienate and endanger survivors." Similarly, the government-sanctioned discrimination in HUD's new proposal would put the lives of transgender people at risk.

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