

# LONG TERM CARE COMMUNITY COALITION

*Advancing Quality, Dignity & Justice*

June 25, 2026

Submitted via Regulations.gov

Re: HUD Proposed Rule, "Equal Access to Housing in HUD Programs Revisions," Docket No. FR-6518-P-01, RIN 2501-AE12

Dear Secretary Turner:

The Long Term Care Community Coalition (LTCCC), joined by the undersigned organizations, submits this comment in strong opposition to HUD's proposed rule, "Equal Access to Housing in HUD Programs Revisions," published April 28, 2026.

LTCCC is a nonprofit, nonpartisan organization dedicated to improving care, dignity, and quality of life for older adults and people with disabilities.

We are deeply concerned that the proposed rule would weaken critical nondiscrimination protections, increase barriers to safe housing and shelter, and invite discriminatory and intrusive practices against transgender, nonbinary, and gender nonconforming individuals, including older adults and people with disabilities who already face heightened risks of housing insecurity, social isolation, abuse, and institutionalization.

HUD proposes to remove references to "gender," "gender identity," and "actual or perceived sexual orientation, gender identity" from numerous HUD regulations and replace them with "sex," defined by Executive Order 14168 as an immutable biological classification. HUD states that the proposal would apply across HUD programs, including Section 8, fair housing administration, mortgage programs, homelessness programs, domestic violence-related programs, and community development programs.<sup>1</sup>

This change would not only affect transgender and gender nonconforming individuals, it would also eliminate explicit HUD regulatory protections against discrimination based on sexual orientation. As a result, lesbian and gay individuals could face an increased risk of discrimination in HUD-funded housing without clear, consistent, and enforceable program-level safeguards.

We urge HUD to withdraw the proposed rule.

First, the proposal is inconsistent with the legal understanding that discrimination against a person because they are transgender or because of sexual orientation is a form of sex discrimination. In *Bostock v. Clayton County*, the Supreme Court held that when an employer penalizes a person for

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<sup>1</sup> HUD Proposed Rule, "Equal Access to Housing in HUD Programs Revisions," Docket No. FR-6518-P-01, RIN 2501-AE12. <https://www.federalregister.gov/documents/2026/04/28/2026-08244/equal-access-to-housing-in-hud-programs-revisions>

being homosexual or transgender, the employer necessarily treats that person differently because of sex.<sup>2</sup> HUD itself previously concluded that the Fair Housing Act's prohibition on sex discrimination should be administered and enforced to prohibit discrimination based on sexual orientation and gender identity, relying on the comparability of the Fair Housing Act's sex-discrimination provisions to Title VII after *Bostock*.<sup>3</sup> In announcing this prohibition, HUD specifically stated that "the same discrimination that the Supreme Court has said is illegal in the workplace is also illegal in the housing market."<sup>4</sup>

Second, the proposal fails to provide the reasoned explanation required when an agency reverses longstanding policy. The Supreme Court has long made clear that rescinding a rule is subject to "arbitrary and capricious" review, and that an agency must examine relevant data and articulate a satisfactory explanation for its action, including a rational connection between the facts found and the choice made.<sup>5</sup> In particular, when an agency changes course, it must acknowledge the change and account for the facts, circumstances, and reliance interests engendered by the prior policy. HUD's proposal does not meet that standard. Although HUD acknowledges that the rule would deny some individuals access to their preferred single-sex shelters or accommodations, the proposal does not meaningfully assess the likely harms to residents, tenants, shelter-seekers, providers, or state and local partners who have relied on Equal Access protections for more than a decade. Nor does HUD adequately consider whether any stated concerns could be addressed through narrower, individualized, and nondiscriminatory measures rather than a broad reversal that removes explicit protections across numerous HUD programs.

Third, the proposal would authorize intrusive and discriminatory practices. HUD states that the rule would remove prohibitions on providers seeking information to confirm a person's sex and would allow a facility provider to require "reasonable assurances or evidence to establish a person's sex." This would invite inconsistent, invasive, and stigmatizing demands for documentation or other proof. Such practices are especially dangerous for older adults, people with disabilities, survivors of violence, and individuals experiencing homelessness, for whom delays or denials in housing or shelter access can have severe health and safety consequences.

Fourth, the proposal would create conflict and confusion for providers. HUD states that the rule would add a preemption provision for conflicting state or local laws and subject violations to penalties, including loss of federal funding. Many states and localities prohibit discrimination based on gender identity or sexual orientation. HUD should not place housing providers in the untenable position of choosing between federal funding compliance and state or local civil rights obligations.

Fifth, the proposal undermines HUD's mission. HUD-funded programs exist to expand access to safe, stable housing and reduce homelessness. A rule that deters vulnerable individuals from seeking

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<sup>2</sup> *Bostock v. Clayton County*, Volume 590 U. S. Part 2 Pages 644–805 (2020).

[https://www.supremecourt.gov/opinions/19pdf/590us2r44\\_6kgn.pdf](https://www.supremecourt.gov/opinions/19pdf/590us2r44_6kgn.pdf)

<sup>3</sup> U.S. Department of Housing and Urban Development. (2021, February 11). *HUD to Enforce Fair Housing Act to Prohibit Discrimination on the Basis of Sexual Orientation and Gender Identity* [Press Release].

<https://archives.hud.gov/news/2021/pr21-021.cfm>

<sup>4</sup> *Id.*

<sup>5</sup> See, for example, the Supreme Court's ruling in *Motor Vehicle Mfrs. Ass'n v. State Farm Mutual Automobile Ins. Co.*, 463 U.S. 29 (1983), in which the Court found that the National Highway Traffic Safety Administration's rescission of a public safety requirement failed the "arbitrary and capricious" standard. <https://supreme.justia.com/cases/federal/us/463/29/>

housing or shelter, or enables providers to deny access based on gender identity, will predictably worsen housing instability and expose people to avoidable harm. HUD acknowledges that the proposal would result in individuals being denied access to their preferred single-sex shelters or accommodations. That acknowledged harm is not adequately justified.

For these reasons, LTCCC and the undersigned organizations respectfully urge HUD to withdraw the proposed rule and retain existing Equal Access protections. HUD should affirm that all eligible individuals, including transgender, nonbinary, and gender nonconforming people, must be able to access HUD-funded housing and services safely, equally, and with dignity.

Respectfully submitted,



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On behalf of:

Alliance of New York Family Councils  
California Advocates for Nursing Home Reform  
California Community Living Network  
California Women's Law Center  
Center for Elder Law & Justice  
Coalition of Institution Aged and Disabled  
Community Legal Services in East Palo Alto  
East Haddam Youth and Family Services  
Gerontological Society of America  
Justice in Aging  
Legal Assistance to the Elderly  
Michigan Elder Justice Initiative  
Mobilization for Justice  
National Association of Local Long Term Care Ombudsman (NALLTCO)  
New Disabled South  
Northern Nevada Legal Aid  
Northern Regional Center for Independent Living (NRCIL)  
Pride In Aging RI  
Pride Northwest Inc  
Rainbow Family 808  
San Juan School District