

**Congress of the United States**  
**Washington, DC 20515**

July 30, 2020

The Honorable Ben S. Carson Sr., M.D.  
Secretary  
U.S. Department of Housing and Urban Development  
451 7th Street S.W.  
Washington, DC 20410

Dear Secretary Carson:

We write to voice our opposition to the Department of Housing and Urban Development's (HUD) proposed rule change to the Equal Access Rule, HUD Docket No. FR-6152-P-01, RIN 2506-AC53, "Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs." This proposed change to the Equal Access Rule weakens protections for transgender individuals experiencing homelessness, essentially empowering federally funded emergency homeless service providers to discriminately turn them away. We strongly urge that HUD immediately rescind this anti-transgender proposal.

The Equal Access Rule of 2012 ensured that HUD's Community Development and Planning Programs are open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status. The Equal Access Rule of 2016 further clarified these protections by providing notice to shelter providers of their responsibility to grant equal access in accordance to an individual's self-expressed gender identity, further ensuring that hundreds of thousands of people have access to a basic human necessity, safe shelter. HUD's proposed rule change would sow confusion among service providers as to their responsibilities to serve transgender and nonbinary people under the law. In some cases, it would empower shelter providers that want to discriminate against transgender people to do so. For transgender and nonbinary people who are experiencing homelessness, the lack of confidence in the existence of protections against discrimination is likely to result in many people feeling forced to remain on the street, where they are at further risk of physical violence, abuse, and other physical and mental health effects of homelessness.

This anti-transgender proposal directly targets a group that has historically and disproportionately suffered from the hardships of homelessness. Transgender individuals are far more likely than the general population to experience homelessness and discrimination while seeking emergency sheltering services. According to the 2015 US Transgender Survey, nearly one-third of transgender people experience homelessness at some point in their life and 70 percent reported mistreatment in shelter due to their gender identity. Only 50 percent of the LGBTQ+ population lives in states prohibiting housing discrimination based on sexual orientation and gender identity. The Equal Access Rule of 2016 filled a gap by providing substantive protections nationwide and ensuring that transgender people can pursue safe sheltering that is consistent with their gender identity without fear of discrimination. Removing these protections puts individuals living in states without protections at risk of being left on the streets.

We also cannot ignore the critical intersection with race. It should be noted that Black, Indigenous and People-of-Color face particular vulnerabilities, experiencing disproportionately higher rates of homelessness and discrimination. Of the 19% of transgender people who reported experiencing homelessness in their lifetime, 41% were Black, 33% were American Indian, 32% were multiracial, and 32% were Latino/a.

The housing system has already failed the LGBTQ+ community, particularly transgender people. Allowing homeless and emergency service providers to deny admission to an individual "based on good faith" beliefs and perception based on physical characteristics invites sex stereotyping and discrimination. The adoption of this rule would only unnecessarily exacerbate these systemic failures and further harm the transgender community and its most vulnerable members.

The Trump administration's proposed rule consistently cites supposed safety concerns as a reason for the need of the proposal, but HUD provides no evidence that allowing transgender people to access facilities in accordance with their gender identity puts others at risk. Nondiscrimination protections have been in place for years in over 20 states and over 300 localities without any increase in public safety issues. This fictitious justification only perpetuates harmful and dangerous stereotypes of transgender people who are seeking safe shelter and other emergency services.

The proposed rule also suggests that "the 2016 rule burdened those shelters with deeply held religious convictions." Again, HUD cites no evidence that the existing rule is placing an undue burden on faith-based shelter providers. In response to a Freedom of Information Act request in 2017, HUD was unable to locate any requests for waivers or accommodations or complaints made under the 2012 and 2016 Equal Access Rule. This, again, demonstrates that HUD is seeking to justify such a malicious attack on transgender people without any evidence or validity in their claims.

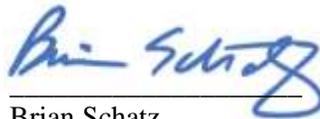
This type of discriminatory policy is always inappropriate and unjust. Proposing a rule that targets an already marginalized group is especially egregious as we are amidst a global pandemic, where economic, health, and housing insecurity are at an all-time high. This effort is clearly inconsistent with HUD's mission to "build inclusive and sustainable communities free from discrimination." Instead of disrupting access to safe shelter and emergency services for transgender people, we urge you to immediately rescind the proposal. We suggest you instead focus your efforts on ensuring adequate and equitable solutions to mitigate the effects that COVID-19 has had on housing stability and shelter access for not only the transgender community, but for all individuals in need.

Sincerely,



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Jennifer Wexton  
Member of Congress



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Brian Schatz  
United States Senator



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Frank Pallone, Jr.  
Member of Congress



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Joseph P. Kennedy, III  
Member of Congress



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Maxine Waters  
Member of Congress



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Sherrod Brown  
United States Senator

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Member of Congress

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Kirsten Gillibrand  
United States Senator

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Eleanor Holmes Norton  
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United States Senator

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Member of Congress

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Catherine Cortez Masto  
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Member of Congress

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Elizabeth Warren  
United States Senator

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Cindy Axne  
Member of Congress

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Patrick Leahy  
United States Senator

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Member of Congress

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Tina Smith  
United States Senator

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Member of Congress

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United States Senator

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Member of Congress

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