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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-6152-P-01, RIN 2506-AC53 Comments in Response to Proposed Rulemaking: Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs

Dear Office of General Counsel:

I am writing on behalf of the Supportive Housing Network of New York, in response to the Department of Housing and Urban Development's (HUD) proposed rule change published in the Federal Register on July 24, 2020 (RIN 2506-AC53; HUD Docket No. FR-6152-P-01) entitled, "Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs." The Supportive Housing Network is a membership organization representing the developers and operators of supportive housing many of whom also run emergency shelters. The Network recognizes that the proposed rule change is a part of the current administration's ongoing efforts to limit the rights and protections for the LGBTQ+ community, particularly transgender people. This proposed rule would strip protections for transgender and gender non-conforming people seeking HUD-funded shelter and is rooted in harmful and dangerous stereotypes about transgender persons, particularly transgender women. As such, we strongly oppose this proposed rule change and urge that it be withdrawn in its entirety.

This proposed rule is antithetical to the mission of all supportive housing providers in ending homelessness, the rate of which is particularly high in the transgender community.

According to the 2015 US Transgender Survey, nearly one-third of transgender and gender non-conforming people experience homelessness at some point in their life.¹ At a crucial juncture in this nation's history, with unprecedented job loss and inevitable spikes in homelessness, the administration should be taking precautions to ensure equitable access to shelter for everyone, especially the transgender community. The National Alliance to End Homelessness reported that 63 percent of transgender people experiencing homelessness are unsheltered, compared to only

¹ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>



49 percent of their cis-gendered counterparts. Additionally, homelessness among the transgender population has increased by 118 percent since 2016².

Preserving and enforcing the Equal Access Rule is critical to ensuring the safety of transgender people in need of shelter, and protecting transgender people's access to shelter does not endanger the safety or privacy of others.

It is, in fact, transgender shelter residents who are more likely to experience violence in shelters and are thus in need of protections. According to the 2015 US Transgender Survey, over half of transgender survey respondents who stayed in a shelter in the past year were verbally harassed, physical attacked, and/or sexually assaulted because of their gender identity.³ Because of this, transgender people experiencing homelessness are less likely to seek out traditional shelter, for fear of violence and discrimination.

Furthermore, evidence shows that respecting the needs of transgender clients does not diminish nor endanger the rights, health, or safety of other shelter occupants. Nondiscrimination protections similar to the 2016 Equal Access Rule have been in place for years in over 20 states and over 300 localities and have helped increase fairness and opportunity for vulnerable people. Research shows these protections have not produced any increase in public safety issues.⁴⁵ However, the transgender population *does* face heightened levels of violence and victimization, making them highly vulnerable. NAEH reports that in 2019, at least 26 trans-identifying people were murdered, most likely due to their gender identity. Additionally, without access to safe shelter or housing, transgender people are forced to engage in risky behaviors, making them more prone to interactions with the criminal justice and hospital systems. Unsheltered transgender people are 10 times more likely to have interactions with the police, and three times more likely to visit the emergency room than those in shelter.⁶

If the goal of the proposed rule change is truly to ensure the safety of shelter occupants, then HUD must enforce the Equal Access Rule and prioritize the health and wellbeing of transgender clients by respecting their gender identity.

² Transgender Homeless Adults & Unsheltered Homelessness: What the Data Tell Us. (2020). National Alliance to End Homelessness. <https://endhomelessness.org/wp-content/uploads/2020/07/Trans-Homelessness-Brief-July-2020.pdf>

³ James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality. <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>

⁴ Amici Curiae Brief of School Administrators from Thirty Three States and the District of Columbia in Support of Plaintiff-Appellant. G.G. v. Gloucester County School Board. Appeal: 15-2056 (2017). https://www.aclu.org/sites/default/files/field_document/school_admin_amicus.pdf

⁵ Hasenbush, A., Flores, A.R. & Herman, J.L. Gender Identity Nondiscrimination Laws in Public Accommodations: a Review of Evidence Regarding Safety and Privacy in Public Restrooms, Locker Rooms, and Changing Rooms. Sex Res Soc Policy 16, 70–83 (2019). <https://doi.org/10.1007/s13178-018-0335-z>

⁶ Transgender Homeless Adults & Unsheltered Homelessness: What the Data Tell Us. (2020). National Alliance to End Homelessness. <https://endhomelessness.org/wp-content/uploads/2020/07/Trans-Homelessness-Brief-July-2020.pdf>



Housing is healthcare, and doing away with protections and limiting access to shelter puts the transgender community at increased risk of contracting COVID-19.

In the midst of a pandemic, this proposed rule change would increase the number of unsheltered homeless on city streets, increasing the number of people potentially exposed to a virus that has already devastated our communities. To limit access to shelter and housing is to limit access to protection from COVID-19. Sixty percent of unsheltered trans-identified people have co-occurring disorders, compared to only three percent of sheltered individuals, while thirty eight percent reported having a chronic health issue compared to only three percent of their sheltered counterparts. The data is stark: unsheltered transgender people are at highly vulnerable and one population most at risk of contracting and/or spreading coronavirus. We urge HUD to immediately withdraw its current rule change proposal and dedicate its efforts to mitigating the current effects that COVID-19 has had on housing stability not only for the LGBTQ+ community, but for everyone. The country is in the midst of an economic, health, and housing crisis. The administration should not be devoting scarce agency resources to facilitating discrimination and perpetuating stereotypes.

In conclusion, as supportive housing providers, we are dedicated to ending homelessness and eliminating the barriers that keep our clients from remaining stably housed. The Network believes everyone is entitled to these services, regardless of gender identity. Should unhoused transgender and gender non-conforming individuals be denied access to shelter, their path to permanent housing will be unjustly blocked.

Thank you for the opportunity to submit comments on the proposed rule change. Please do not hesitate to contact the Network for more information.

Sincerely,

Laura Mascuch
Executive Director