

June 29, 2026

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

RE: Docket No. FR-6518-P-01, Equal Access to Housing in HUD Programs Revisions

The Council of State Community Development Agencies (COSCD A) appreciates the opportunity to comment on HUD's proposed revision of the Equal Access Rule (EAR). COSCD A is a national association of state agencies that administer HUD's Community Planning and Development (CPD) grant programs. We focus primarily on community development, housing, homelessness, and disaster recovery grants. Our members have a wealth of experience administering federal funds to improve their states.

For the reasons we outline below, COSCD A writes in opposition to HUD's EAR revisions. COSCD A does not have the expertise to make moral judgements about "gender ideology" as it pertains to federal grants. However, we acknowledge that there are individuals who self-identify along a wide spectrum of sexual orientations and gender identities. We urge HUD to re-consider its proposed revision of EAR protections and instead focus on proven strategies to reduce homelessness.

### **HUD's Proposed Rule Could Increase Homelessness Among Vulnerable Populations**

COSCD A is concerned that instead of reducing homelessness, this proposed rule could increase homelessness among populations that are already vulnerable to housing instability. Research shows that LGBT (lesbian, gay, bisexual, and transgender) individuals already experience high rates of homelessness and housing instability.

- A 2020 study found that LBGT young adults aged 18 – 25 have a 2.2 times greater risk of homelessness than non-LBGT people.<sup>1</sup>
- 55% of transgender women who reported being denied housing or were evicted because of their gender identity experienced prolonged homelessness.<sup>2</sup>
- 30% of respondents to the 2022 US Transgender Survey had experienced homelessness in their lifetimes.<sup>3</sup>

Under HUD's proposed EAR revisions, shelter providers would be mandated to house individuals according to their "sex," as defined in a January 2025 Executive Order<sup>4</sup>:

*"Sex" shall refer to an individual's immutable biological classification as either male or female. "Sex" is not a synonym for and does not include the concept of "gender identity."*

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<sup>1</sup> UCLA School of Law, 2020. [LGBT People and Housing Affordability, Discrimination, and Homelessness](#).

<sup>2</sup> CDC, 2024. [National HIV Behavioral Surveillance Among Transgender Women, Seven Urban Areas, United States, 2019-2020](#).

<sup>3</sup> US Transgender Survey, 2024. [Early Insights: A Report of the 2022 U.S. Transgender Survey](#).

<sup>4</sup> The White House, 2025. [Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#).

The proposed rule does not describe how homeless assistance providers would verify a person’s sex, outside of removing a prohibition on “seeking information to confirm the sex of an individual” and allowing providers to “require reasonable assurances or evidence to establish a person’s sex.” Many homeless individuals face barriers to obtaining personal identification cards, such as a driver’s license.<sup>5</sup> Homeless individuals may not have access to birth certificates or other medical records to verify their sex at birth. In the absence of such documentation, it is unclear how HUD expects shelter providers to confirm an individual’s sex. Without further clarity, HUD’s directive to house individuals according to their sex at birth would be confusing and unworkable for homeless assistance providers.

HUD’s proposed EAR revisions could lead to stricter admissions policies at HUD-funded shelters and housing programs across the nation as providers attempt to comply. The impact on LGBT individuals could be twofold: homelessness could increase both for LGBT individuals who are actively seeking shelter—due to stricter policies—and among individuals who are hesitant to seek shelter where legal protections are no longer in place. Homelessness would likely increase among this already vulnerable population.

An increase in homelessness among LGBT individuals also raises public health concerns. Individuals in this population have a higher risk of contracting HIV. Housing is a key factor that determines an individual’s risk of avoiding HIV and/or successfully obtaining treatment. Consider the following:

- Transgender women have among the highest HIV burdens in the United States.<sup>6</sup>
- Transgender women are 49 times more likely to be infected with HIV than cisgender individuals.<sup>7</sup>
- Gay and bisexual men account for about 67% of all new HIV infections in the United States despite representing a small fraction of the total population.<sup>8</sup>
- Housing assistance programs improve HIV-related outcomes and diminish HIV risk behaviors.<sup>9</sup>

HUD cannot change an individual’s understanding of their own gender identity or sexual orientation. Instead, HUD should focus on what it can control: ensuring to the greatest extent possible that individuals in need of shelter are able to access such shelter and move forward with their lives.

### **HUD Should Not Preempt State Fair Housing Laws**

There is an existing landscape of state fair housing laws that provide legal protection for LGBT individuals. According to a recent data mapping project, state laws range from explicitly prohibiting housing discrimination based on sexual orientation and gender identity (22 states) to providing some protections (9 states) to providing no explicit housing protections based on sexual orientation/gender identity in state law (19 states).<sup>10</sup> COSCDA is concerned about the impact of HUD’s proposed rule on states’ rights and access to federal funds.

HUD’s proposed rule includes a non-compliance provision: “Non-compliance with these regulations by state or local entities due to adherence to conflicting local laws or policies may be considered a violation of federal requirements, subject to appropriate enforcement actions, including but not limited to the withholding or revocation of federal funds.” Homeless assistance providers in states with fair housing laws based on sexual

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<sup>5</sup> Government Accountability Office (GAO), 2024. [Homelessness: Barriers to Obtaining ID and Assistance Provided to Help Gain Access](#)

<sup>6</sup> CDC, 2024. [National HIV Behavioral Surveillance Among Transgender Women, Seven Urban Areas, United States, 2019-2020.](#)

<sup>7</sup> Ibid.

<sup>8</sup> CDC, 2024. [Fast Facts: HIV and Gay and Bisexual Men.](#)

<sup>9</sup> AIDS Behav., 2020. [Socioeconomic, Behavioral, and Clinical Characteristics of Persons Living with HIV Who Experience Homelessness in the United States, 2015 – 2016.](#)

<sup>10</sup> Movement Advancement Project, 2026. [Nondiscrimination Laws: Housing.](#)

orientation/gender identity would need to reject or change their state laws or risk losing valuable federal resources. COSCDA does not believe this choice is fair or productive.

In addition to fair housing laws, HUD's proposed rule may conflict with provisions of the *Violence Against Women Reauthorization Act of 2022* (VAWA). This legislation includes housing protections for survivors of domestic violence, sexual assault, etc. regardless of sex, gender identity, or sexual orientation. HUD's proposed EAR revisions could conflict with the intent of VAWA statute, thus overstepping HUD's authority. COSCDA urges HUD not to preempt state or local law on this matter and to consider whether the proposed EAR revisions conflict with existing statute.

### **HUD Should Focus on Proven Strategies to Reduce Homelessness**

HUD is uniquely positioned to provide affordable housing units and decrease homelessness across the nation. Section 102 of the *Cranston-Gonzalez National Affordable Housing Act* defines the objective of national housing policy as reaffirming the "long-established national commitment to decent, safe, and sanitary housing for every American by strengthening a nationwide partnership of public and private institutions able to ensure that every resident of the United States has access to decent shelter or assistance in avoiding homelessness."<sup>11</sup> We emphasize that this policy objective applies to every resident of the United States, regardless of their personal identity. HUD's stated mission is to "create strong, sustainable, inclusive communities and quality affordable homes for all."<sup>12</sup> Further, the Trump Administration signaled a commitment to decreasing unsheltered homelessness on "America's streets" in a July 2025 Executive Order<sup>13</sup>.

HUD should evaluate whether its proposed EAR revisions align with its mission to help provide housing for all Americans. COSCDA believes that this proposal runs counter to HUD's mission; we urge the Department to focus more on securing shelter for the estimated 745,652 people experiencing homelessness in the United States<sup>14</sup> than on directly or indirectly limiting which individuals can receive housing from HUD-funded programs. COSCDA urges HUD to withdraw this proposed rule.

Again, thank you for the opportunity to comment on HUD's proposed EAR revisions. COSCDA looks forward to continuing our partnership with HUD. Our members stand ready to work with HUD on implementing successful grant programs that provide affordable housing, prevent homelessness, and strengthen communities. For further communications, reach out to Jenna Hampton Pomponi ([jhampton@coscda.org](mailto:jhampton@coscda.org)).

Sincerely,



Tess Hembree  
Executive Director, COSCDA

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<sup>11</sup> 42 U.S.C. § 12702

<sup>12</sup> U.S. Department of Housing and Urban Development (HUD), Mission and Vision. [Grants.gov](https://www.hud.gov/grants).

<sup>13</sup> The White House, 2025. [Ending Crime and Disorder on America's Streets](#).

<sup>14</sup> HUD, 2025. [HUD Releases 2025 Annual Homelessness Assessment Report to Congress](#).