

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

June 3, 2019

The Honorable Benjamin S. Carson, Sr., M.D.  
Secretary  
U.S. Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW  
Washington, DC 20410

Dear Secretary Carson:

We write today to express strong opposition to the U.S. Department of Housing and Urban Development's (HUD) recent proposed rule which would roll back essential anti-discrimination protections for transgender individuals experiencing homelessness. These current protections ban discrimination in federally funded housing facilities based on sexual orientation and gender identity. A study by the Center for American Progress and the Equal Rights Center showed that prior to the Equal Access Rule guidance, only 30% of shelters across four states would appropriately house transgender women with other women, and one in five shelters would turn them away outright.<sup>1</sup> This proposed rule released by HUD robs thousands of Americans from adequate shelter and safety and puts their lives at risk.

This announcement comes less than 24 hours after you testified before the House Financial Services Committee indicating that a revision to the Equal Access Rule was not being considered. In fact, you unequivocally stated for the record, "I'm not currently anticipating changing the rule."<sup>2</sup> While we understand that you have since attempted to clarify your testimony in order to prevent members from "misinterpreting" your statements, we remain concerned about the truthfulness and accuracy of your testimony before Congress while you were under oath.

The Equal Access Rule remains as vital a protection today as when it was first put in place. HUD's proposed rule would completely remove these protections by allowing federally-funded housing programs and shelters to discriminate against individuals and families based on gender identity. Transgender individuals who experience homelessness face unique challenges, and it is unacceptable that HUD has refused to carry out its duty to serve those most vulnerable in this country.

The statistics are clear. LGBTQ people, including transgender women and youth, experience homelessness at significantly higher rates than the general population. Close to one in three transgender and gender non-binary people will experience homelessness at some point in their lives.<sup>3</sup> The situation is even more dire for LGBTQ people of color, where nearly one in two report experiencing homelessness. Furthermore, this proposal undermines HUD's objective to address the growing affordable housing crisis across our country. Given the large number of transgender individuals experiencing homelessness,

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<sup>1</sup> Rooney, C., Durso, L.E., Gruberg, S. (2016). *Discrimination Against Transgender Women Seeking Access to Homeless Shelters*. Washington, DC: Center for American Progress.

<sup>2</sup> Secretary Ben Carson. Financial Services Committee Hearing. (May 21, 2019). [https://www.youtube.com/watch?v=JzhNHyhv\\_YQ&feature=youtu.be](https://www.youtube.com/watch?v=JzhNHyhv_YQ&feature=youtu.be)

<sup>3</sup> 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

it seems that this Administration's priority is enabling discrimination, instead of getting as many people into stable housing as possible.

HUD's new proposed rule was submitted to the Office of Information and Regulatory Affairs on April 24, 2019, however it was not until the publication of the Spring Regulatory Agenda on May 22, 2019 that the vaguely titled "Revised Requirements Under Community Planning and Development Programs" was revealed to be yet another attack by the Trump Administration on our country's most vulnerable and marginalized communities. This proposal undermines HUD's stated objective to address the growing affordable housing crisis across our country. Trans women experience housing instability at higher rates than the general population, but it seems that this Administration's priority is enabling discrimination, instead of getting as many people into stable housing as possible.

While HUD claims that this proposal would "offer local homeless shelter providers greater flexibility when making decisions about individuals who may misrepresent their sex to access sex-specific shelters," in 2018, over 300 sexual and domestic violence organizations signed a letter agreeing that transwomen should be housed and served alongside other women.<sup>4</sup> Direct service providers themselves sought further clarification and guidance around the Equal Access Rule to better serve the transgender community. The suggestion that the 2016 rule is a hinderance to providers' ability to serve is contradicted by those very providers.

We are requesting more information about your agency's process leading up to your testimony on May 21, 2019 and the issuing of the proposed rule on the following day. Please provide a response by June 17, 2019 to the following questions:

1. What was the timeline for developing and issuing the Notice of Proposed Rulemaking (NPRM)?
2. When did the agency formally file the NPRM?
3. Which stakeholders (if any) were consulted during the development of and leading up to the announcement of the aforementioned proposed rule?
4. Specifically, what role did you as Secretary of the agency have in the development and approval of the proposed rule?
5. During your testimony before the Committee, you claimed that HUD has continued to enforce both the 2012 and 2016 Equal Access Rules.
  - a) How has the agency processed each of the complaints submitted to HUD regarding anti-LGBTQ discrimination?
  - b) How many complaints of discrimination based on sexual orientation and/or gender identity have been submitted to and received by HUD since 2017?
  - c) What were the outcomes of these complaints?
  - d) How many of these complaints were investigated?
  - e) Were any of these complaints dismissed for being outside of the agency's jurisdiction? If so, how many?

We appreciate the agency's immediate attention to this matter.

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<sup>4</sup> National Consensus Statement of Anti-Sexual Assault and Domestic Violence Organizations in Support of Full and Equal Access for the Transgender Community. (April 13, 2018). <http://www.4vawa.org/ntf-action-alerts-and-news/2018/4/12/national-consensus-statement-of-anti-sexual-assault-and-domestic-violence-organizations-in-support-of-full-and-equal-access-for-the-transgender-community>

Sincerely,



Ayanna Pressley  
Member of Congress



Suzan K. DelBene  
Member of Congress



Jennifer Wexton  
Member of Congress



Katie Hill  
Member of Congress