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MAYOR'S OFFICE OF STRATEGIC PLANNING & COMMUNITY DEVELOPMENT
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Department of Housing and Urban Development
451 7th St. SW, Room 10276
Washington, D.C. 20410

RE: Comments on Proposed Rulemaking: Housing and Community Development
“Equal Access to Housing IN HUD Programs revisions – Docket No. FR-6518-P-01 –
Proposed Rule

Critical Importance of Equal Access Protections preventing discrimination on the basis of gender identity and sexual orientation.

The City of Somerville, Massachusetts (“Somerville” or “the City”), is a city of approximately 82,000 residents located in the Greater Boston area. For the reasons set forth below, the City of Somerville is strongly opposed to the proposed rule rescinding protections against discrimination in HUD housing programs based on gender identity and sexual orientation. I write these comments as the Director of the City’s Office of Housing Stability. I have three decades of experience working with the homeless (both sheltered and unsheltered), those in unstable housing, and those living in HUD financed housing.

The proposed rule change set forth in FR-6518-P-01 is dangerous and counterproductive in multiple ways. The rule will eliminate anti-discrimination provisions protecting against discrimination based on gender identity and sexual orientation in HUD housing that have been in place since 2016¹ and were put in place in response to documented discrimination against the LGBTQ+ community in housing programs. The proposed change would also require that HUD-funded single-sex shelters deny transgender people access to facilities consistent with their gender identity, or more likely, drive them away from shelters altogether. Additionally, it will create a climate where non-binary and transgender homeless persons are subject to intrusive and

¹ Some protections against gender-based discrimination in HUD housing were instituted in 2012.

humiliating questioning in order to access shelter. This will be impactful in the City of Somerville, where there is a significant population of homeless LGBTQ+ youth and adults.

Putting transgender women at serious risk of harm

Transgender persons are far more likely than the population as a whole to experience homelessness. According to the 2022 U.S Transgender Survey², nearly one third of transgender and gender non-binary persons experience homelessness at some point in their life, eight times more than a comparable study of the general population. Forcing homeless transgender persons or persons with a gender identity other than one that aligns with their “sex at birth” to be denied access to shelters that match their gender identity will force such persons into highly volatile and dangerous situations. This is especially dangerous for transgender women who would be forced into male shelter spaces solely because of their sex assigned at birth. Persons seeking access to shelter are already traumatized by their homelessness and often by a history of violence perpetrated against them. To intentionally force them into single gender shelter spaces with males is likely to put them at risk of violence in the shelter where they may be subject to overt hostility and discrimination, and potentially physical and sexual assault. Even more likely, it will cause homeless transgender individuals to forego shelter altogether and remain on the streets, forced to move into temporary “couch surfing” situations where they are vulnerable to sexual and other abuse, and into other dangerous situations. One of the main purposes of shelter is to help vulnerable people get out of these highly dangerous living situations and into environments where they can find support and assistance to get into stable housing and get back on their feet. The proposed rule will have the, perhaps unintentional, effect of separating homeless transgender individuals from the help and services they so badly need to get out of homelessness.

Somewhat ironically HUD bases this proposed rollback of gender protections at least in part, on the assertion that transgender women pose a threat to cisgender women in shelter environments. This is claimed without HUD providing valid statistical evidence or even any significant and documented examples of violence by transgender females against cisgender females in shelter situations. In fact, [hundreds of anti-sexual assault and domestic violence organizations](#) have signed a national consensus statement that asserts that alleged threats posed by transgender women are based solely on damaging stereotypes without any evidentiary foundation. The rule is also internally contradictory. HUD claims this change is necessary to protect cisgender women in shelter environments, yet the rule would simultaneously require transgender men – individuals who may have been living as men for years, including those who have undergone hormone therapy – to be placed in women’s shelters. It is difficult to see how placing someone who looks, sounds, and identifies as male into a women’s shelter serves the safety interests HUD claims to be advancing.

Jeopardizing housing stability for those with Section 8 vouchers

The Somerville Office of Housing Stability receives requests for housing stability services from over 1000 Somerville households each year. We regularly assist families with Section 8 vouchers to find apartments where they can use their vouchers in what is a very challenging housing climate with extremely high rents and very low vacancy rates. Despite the fact that discrimination based on source of income, including being a Section 8 voucher holder, is

² <https://endhomelessness.org/resources/nationwide-survey-shows-widespread-discrimination-against-gender-expansive-people-including-in-emergency-shelters>

unlawful in Massachusetts, landlords regularly prevent families with vouchers from renting their available units. This can be done through avoidance (not returning phone calls or no call backs after an apartment viewing), claims that units just got rented, or more directly by refusing to show units to voucher holders. Given the difficulty of leasing up with Section 8 vouchers in a high-cost area like Somerville, it is incredibly important that those households that have successfully leased up in rental housing with their voucher are able to remain stable as long as possible in their unit. Since voucher size is based in part on age and gender/sex (until now gender identification) this proposed rule change could require housing authorities to change voucher sizes for existing tenants impacted by the new gender/sex rules. This could cause stably housed tenants to become unstable and at risk of eviction if voucher sizes get downgraded. When a voucher gets downgraded to a smaller bedroom size, the amount of the rent that a Local Housing Authority will pay for the unit decreases significantly. As a result, if the tenant wants to remain in their home, the tenant will need to pay both 30% of their income **and** the amount by which the LHA has decreased its payment due to a decrease in bedroom size which can lead to skyrocketing and destabilization tenant rent shares³.

Intrusive questions, increased social isolation, less access to housing stability and employment resources

A 2020 report by the [Williams Institute](#) found that LGBT individuals are already more likely than others to experience housing instability, housing discrimination, homelessness, social isolation and loss of family support, and financial insecurity. To effectively serve this already vulnerable population it is critical that HUD programs create welcoming environments so that shelters are seen as a safer alternative than the streets. It is also critical to recognize that this rule does not only endanger transgender individuals. It creates a mechanism for intrusive and degrading scrutiny of anyone seeking shelter. The proposed rule allows HUD-funded programs, including same-sex shelter providers to “require reasonable assurances or evidence to establish a person’s ‘sex,’” but it provides no meaningful guardrails on what that looks like in practice. Any person whose appearance does not conform to a shelter worker's subjective expectations could be subjected to invasive questioning or demands for documentation. In the most extreme cases, this standard invites the inspection of people’s bodies as a condition of receiving emergency housing. This is degrading for anyone, but it is especially dangerous for people who are already in crisis, fleeing domestic violence, or experiencing trauma. A rule intended to protect safety should not introduce a new form of humiliation as the price of accessing shelter.

I have worked on housing issues my entire adult life (I am now 64) landing my first professional job in a family shelter in Massachusetts. I know from firsthand experience that well run shelters do not only provide emergency housing; they provide connection with critical counseling, employment and income maximization services, as well as critical social connections. If LGBTQ+ persons are denied access to shelter or if they are afraid to access shelter in this new restrictive landscape, they lose out on so much more than just a bed; they lose out on the very programs and services that can help them out poverty and into self-sufficiency. Shelters and the services they provide are often *truly* transformative.

³ For example, if a voucher administered by the Somerville Housing Authority (“SHA”) is downgraded from a three bedroom to a two bedroom in the 02143-zip code, SHA would pay approximately \$770 less per month toward that participants contract rent. To stay in place, the tenant would need to pay the \$770 in addition to paying 30% of their income for rent and utilities often creating an unsustainable rent burden.

Conclusion

For the reasons set forth above and so many others that I know HUD will hear from commenters opposing this new rulemaking, I urge you in the strongest manner to withdraw this proposal and to keep critical anti-discrimination protections based on gender identity in place. It helps no one to force homeless persons into the street without the compassion they deserve and the services they so badly need.

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