

California Commission on Aging

1300 National Drive, Suite 173 | Sacramento, CA 95834
(916) 419-7591 | CCoA@cco.ca.gov | www.ccoa.ca.gov

GAVIN NEWSOM, Governor

Executive Director
Karol Swartzlander

September 18, 2020

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

Re: **Docket Number:** [HUD-2020-0047](#)

Docket Name: FR-6152-P-01 Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs

Docket RIN 2506-AC53

Dear Office of the General Counsel:

The California Commission on Aging, an independent state advisory body established in state law to advise State, Federal and local governments and agencies on issues affecting older Californians, wishes to express our strong opposition to the proposed changes to the *Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity Rule*. If enacted, this rule change will effectively nullify the “equal access” protections guaranteed by this rule.

The 2016 rule, *Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity*, was designed to ensure that “HUD-assisted and HUD-insured housing (will) be available to all otherwise eligible individuals and families without regard to actual or perceived sexual orientation, gender identity or marital status. (See 24 CFR 5.2001(a).”ⁱ This rule provides protections for those most in need of housing precisely because their gender identity or status makes them targets of discrimination and hate crimes.

Prior to the 2016 rule, only 40% of shelter providers in states with lesbian, gay, bisexual and transgender (LGBT) protections were willing to appropriately house LGBT individuals, while in states without those protections, only 20% offered appropriate shelter to LGBT individuals.ⁱⁱ Repealing the 2016 protections now, at a time when homelessness is already at crisis levels and during a pandemic, makes no sense as a national housing policy or a public health policy.

By allowing shelter operators to use their own discretion in determining whom to house or not, this proposed rule clearly sanctions discrimination against anyone a shelter operator in “good faith” determines does not fit in. The visual guidance provided for shelter operators to use in making these “good faith” determinations is offensive and inappropriate and will jeopardize the safety of LGBT individuals as well as anyone else the operator does not view as suitable.

With older adults among the fastest growing segment of the homeless population, a rule change of this nature is especially worrisome. HUD’s own research has projected the increase in

homeless individuals age 65 and older in its *Worst Case Housing Needs: 2019 Report to Congress*, which found that older adults were the only group for whom worst case housing needs had increased.ⁱⁱⁱ It is also well-documented that the older adult population includes members of the LGBT community, and these individuals are at heightened risk of harassment and physical abuse when homeless.

The California Commission on Aging believes this proposed rule change is both unethical and un-American. It is unthinkable that the federal government would collect tax dollars from its citizens and then use those funds to deny basic services to many of the same taxpayers at a time when they need services the most.

We strongly urge you to withdraw this proposed rule change at the earliest opportunity.

Sincerely,



Betsy Butler
Chair

ⁱ <https://www.hud.gov/sites/documents/PIH-2017-08VAWRA2013.PDF>

ⁱⁱ Center for American Progress, January 7, 2016.

ⁱⁱⁱ Affordable Housing/Worst Case Needs Reports to Congress