

TLDEF Leads Coalition Opposing HUD Anti-Transgender Emergency Housing Rule

Seven Transgender Rights Groups Submit Comments Demonstrating Proposed Rule Lacks Legal Basis



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(Washington, DC – September 22, 2020) Today, the Transgender Legal Defense & Education Fund (TLDEF) joins with six local transgender and LGBTQ organizations in submitting comments to the U.S. Department of Housing & Urban Development opposing a proposed rule that would encourage discrimination against transgender and non-binary people based on the crudest possible stereotypes.

The proposed rule, titled “Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs,” encourages homeless shelters to house inhabitants by relying upon arbitrary gender-based stereotypes. For example, women who are stereotyped as being masculine because they are tall or have an “Adam’s apple” could be housed with men or turned away by a homeless shelter with a policy of serving only women. Similarly, men who are stereotyped as feminine, perhaps because they are short, could be housed with women. The proposed regulation is unprecedented in modern U.S. history.

“This latest attempt by the administration is a part of an illegal, wholesale effort to gut protections for transgender people,” said **TLDEF Executive Director Andy Marra**. “HUD’s proposed rule is a cruel invitation for emergency housing providers to close their doors on the very individuals who rely most upon these services for their survival. We advise the agency to end its pursuit of discriminatory and unlawful acts targeting transgender people.”

TLDEF, in partnership with Arianna’s Center, GMHC, Marsha’s House, Metro Trans Umbrella Group, Princess Janae’s Place, and Translatinx Network [submitted comments](#) opposing the proposed rule on September 22. The coalition of groups provides assistance to transgender people who are housing insecure and often need to turn to emergency shelters. The joint comments are part of a nationwide effort to represent transgender people who rely on such services for their survival.

The comments include individual stories from past TLDEF clients and other transgender people, especially Black and Brown transgender women, who have faced discrimination while in emergency shelters. The comments explain that the proposed rule is unconstitutional, unworkable in practice, violates numerous federal statutes, and would expose transgender people to further discrimination and violence. The public comment period ends today, just 60 days after the proposed rule was introduced. The federal government is required by law to review and summarize public comments before finalizing the rule and implementing it in law.

The proposed rule would permit emergency shelters to indiscriminately house or outright refuse housing to a person according to the shelter’s own perception of a person’s sex, disregarding the sex that a person says they are or which appears on their identity documents. This would violate the Fair Housing Act, which prohibits sex discrimination by homeless shelters; and disregard the Supreme Court’s decision in [Bostock v. Clayton County, Georgia](#), issued just three months ago, which affirms that federal civil rights laws prohibit discrimination on the basis of transgender status, as well as decades of precedent prohibiting sex stereotyping.

The proposed rule expressly singles out transgender women, which it calls “men,” as posing a risk to cisgender women—a falsehood based solely on anti-transgender stereotypes. It ignores that transgender women, especially Black and other transgender women of color, are at the greatest risk of violence, especially when homeless and deprived of access to shelter.

According to a [national study](#), nearly one in three transgender people have experienced homelessness. Of those who have stayed in a shelter, 70% report mistreatment including verbal or physical harassment or sexual assault because of their gender identity. 28 transgender people, mostly women of color, have been murdered so far this year, according to a survey updated early last month.

Transgender Legal Defense & Education Fund is committed to ending discrimination based upon gender identity and expression and to achieving equality for transgender people through test-case litigation, direct legal services, public policy, and public education efforts. For more information, visit TLDEF.org

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