

SHELTER ACCESS FOR TRANSGENDER PEOPLE EXPERIENCING HOMELESSNESS

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One in three transgender people experience homelessness at some point in their lives, according to a 2022 report from the [National Center for Transgender Equality](https://tr.ee/SWpBxr) (<https://tr.ee/SWpBxr>). Lesbian, gay, bisexual, transgender, and queer (LGBTQ)-identifying young people [make up 40% of the homeless youth population](https://tr.ee/05BofO), but less than 10% of the population overall (<https://tr.ee/05BofO>). LGBTQ people—in particular transgender youth—are more likely to experience homelessness and housing instability for a number of reasons, including family rejection, employment discrimination, and discrimination in housing and shelter access.

The Homelessness Research Institute of the National Alliance to End Homelessness [found](https://tr.ee/2mhJdJ) (<https://tr.ee/2mhJdJ>) in 2024 that emergency shelters are often unsafe for transgender people experiencing homelessness. Similarly, the 2015 U.S. Transgender Survey found that 70% of respondents reported mistreatment in shelters due to their gender identity, and 44% reported they had to leave shelters due to poor or unsafe conditions.

In 2012, HUD issued its Equal Access Rule (EAR) to protect access to federally assisted shelter based on gender identity, sexual orientation, and marital status. The rule was amended in 2016 to address significant barriers transgender and gender nonconforming people faced in shelters. The EAR provides critical protections for people who may otherwise face discrimination in seeking shelter or access to other HUD-supported programs.

In its first and second terms, the Trump administration has worked to dismantle federal protections for transgender people and other members of the

LGBTQ community. In 2020, the Trump administration amended the EAR to allow for shelter providers to use physical characteristics as “reasonable considerations” to determine a person’s biological sex. The proposed rule would have allowed HUD-assisted shelters to discriminate against transgender people, leaving some of the most marginalized people without support. The 2020 rule was an explicit attack on a community that already faced steep barriers to accessing shelter. Advocates rallied against the proposed rule and defeated changes to the EAR that would have permitted discrimination in federally assisted housing and shelter.

While the Biden administration withdrew the proposed changes to the EAR in 2021, in 2025 the Trump administration’s HUD announced it would no longer enforce the rule. Though the HUD rule remains in place, without staff at HUD to enforce the rule and with fewer federal protections to defend against exclusionary shelter policies, LGBTQ people are at risk of discrimination.

Housing and shelter providers may still be subject to state and local anti-discrimination laws (see [Human Rights Campaign’s State Maps](#) for a map of states that prohibit housing discrimination based on sexual orientation and gender identity; <https://tr.ee/O2fojl>); still, federal policy is crucial to ensuring the consistent enforcement of civil rights protections across the country.

Continued advocacy on this issue is critical. As the time of this writing, the Trump administration had not yet published a proposed changes to the EAR in the *Federal Register*. Once they are publicly available, advocates will have 30, 60, or 90 days to submit comments on the proposed changes.

Equal Access Rule: Necessary for Shelter Access & Ending Homelessness

HISTORY OF THE EQUAL ACCESS RULE

On February 3, 2012, HUD published its final rule entitled [“Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity”](https://tr.ee/M62hNV) (<https://tr.ee/M62hNV>). The 2012 Equal Access Rule was created to ensure that HUD’s housing programs would be open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status. On September 21, 2016, HUD published a follow-up rule, [“Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs”](https://tr.ee/z5LgGd) (<https://tr.ee/z5LgGd>) which built upon the Equal Access Rule of 2012, ensuring equal access to HUD’s Office of Community Planning and Development (CPD) programs, specifically shelters, in accordance with a shelter seeker’s gender identity. HUD’s 2016 Equal Access Rule amendments constitute crucial policy to improve the treatment of transgender and gender-nonconforming individuals in securing emergency shelter.

TRUMP ADMINISTRATION’S 2020 ANTI-TRANSGENDER EQUAL ACCESS RULE

On July 24, 2020, the Trump administration published its proposed anti-transgender changes to the Equal Access Rule, [“Making Admission or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs”](https://tr.ee/OfwP1S) (<https://tr.ee/OfwP1S>). This proposed rule would have weakened protections for transgender people experiencing homelessness and seeking emergency shelter, allowing shelter providers to deny admission or access to services consistent with a person’s gender identity.

Features of the harmful proposed rule included:

- Revisions to the definition of gender identity to mean actual or perceived gender-related characteristics

(deleting the current rule’s “the gender by which a person identifies, regardless of the sex assigned to that person at birth and regardless of the person’s perceived gender identity”).

- Allowing shelter providers to place and accommodate individuals depending on the shelter provider’s policies for determining someone’s sex.
- Allowing shelter providers to deny admission using a range of factors, including the provider’s “good faith belief” that an individual is not of the sex that the shelter serves (e.g., a women’s shelter), an individual’s sex as reflected in official government documents, or the gender with which a person identifies.
- Allowing shelter providers to use physical characteristics as “reasonable considerations” to determine a person’s biological sex. This may include factors such as height, the presence of facial hair, the presence of an Adam’s apple, and other physical characteristics that the Trump administration claimed, “when considered together, are indicative of a person’s biological sex.”

Despite admitting a lack of data, HUD based its 2020 justifications on anecdotal evidence and dangerous stereotypes, demands of “religious freedom”, unfounded regulatory burdens on shelters, and other false, misleading, and discriminatory claims. Due in part to the tremendous success of the Housing Saves Lives campaign and efforts by advocates nationwide, the publication of the final rule was delayed and never published by the Trump administration in 2020.

The Housing Saves Lives campaign, co-led by over 50 organizations including NLIHC, [encouraged advocates](#) to submit comments during the 60-day comment period in opposition to the Trump administration’s 2020 proposed rule (<https://tr.ee/4d8ABu>). Together, the campaign worked with members of Congress to urge HUD to rescind the rule, hosted a Week of Action with an array of national events led by partner organizations, recruited mayors and other public officials from across the nation to submit a public comment letter opposing the proposed rule, submitted op-eds, and contributed to news articles. More than 66,000 public comments were submitted during the 60-day period, becoming the largest ever comment campaign on a HUD regulation.

BOSTOCK V. CLAYTON COUNTY RULING

On June 15, 2020, The United States Supreme Court issued a landmark ruling on the civil rights of LGBTQ people. In a 6-3 vote in *Bostock v. Clayton County, Georgia and R.G. & G.R. Harris Funeral Homes Inc. v. Equal Employment Opportunity Commission*, the court held that Title VII of the “Civil Rights Act” bars discrimination based on gender identity and sexual orientation. This landmark civil rights ruling protects LGBTQ people from discrimination in employment, extending protections for millions of LGBTQ workers and making it illegal to be fired for simply being LGBTQ. The majority’s interpretation is consistent with the Equal Access Rule’s 2016 provision to ensure protections for transgender people from discrimination in homeless shelters and HUD-funded services.

Title VIII of the “Civil Rights Act of 1968” (the “Fair Housing Act”) and its proceeding amendments made it unlawful to sell, rent, or otherwise make unavailable or deny a dwelling to anyone because of race or color, religion, sex, national origin, familial status, or disability. In addition to the Equal Access Rule of 2012 and the addition to it in 2016, HUD has historically enforced the Fair Housing Act’s prohibition of sex stereotyping to protect LGBTQ people. The Bostock ruling will continue to influence fair housing rulings because the lower courts often rely on Title VII when interpreting the Fair Housing Act.

BIDEN ADMINISTRATION AFFIRMS LGBTQ SHELTER ACCESS

On January 20, 2021, then-President Joe Biden signed [Executive Order 13998](https://tr.ee/nHOXMh) directing the federal government to fully implement the U.S. Supreme Court’s landmark ruling in *Bostock v. Clayton County, Georgia*. The order reinforced laws that prohibited sex discrimination, including the “Fair Housing Act,” which prohibits discrimination on the basis of gender identity or sexual orientation. This order repudiated the anti-transgender rhetoric that was commonplace in the previous Trump administration and instructed the heads of all federal agencies to review agency actions relating to sex discrimination and make

decisions consistent with the instruction of the order within 100 days. The order required agency directors to consider whether to revise, suspend, or rescind such agency action, or create new agency actions, as necessary to fully implement statutes that prohibit sex discrimination and the policy set forth in the Executive Order.

HUD withdrew on April 27, 2021 the proposed rule from the previous administration, [“Making Admissions or Placement Determinations Based on Sex in Facilities Under Community Planning and Development Housing Programs; Withdrawal; Regulatory Review”](https://tr.ee/zTbwxT) (<https://tr.ee/zTbwxT>). HUD also restored most guidance and technical assistance from the 2016 Equal Access Rule to CPD-funded emergency shelters, temporary housing, buildings, housing, and other programs that were designed to ensure they comply with the rule. HUD continued to release technical assistance resources to HUD grantees.

TRUMP ADMINISTRATION PREPARES TO REINSTATE HARMFUL ANTI-TRANSGENDER PROPOSAL

On January 20, 2025, President Trump signed [Executive Order 14168](https://tr.ee/plFlej) denying civil rights protections to LGBTQ individuals, including in HUD-assisted housing. Shortly after, HUD Secretary Scott Turner [announced](https://tr.ee/TG0ahe) HUD would stop enforcing the EAR and directed HUD staff “to halt any pending or future enforcement actions related to HUD’s 2016 Equal Access Rule. The HUD Secretary noted that refusing to enforce the EAR “will ensure housing programs, shelters and other HUD-funded providers offer services to Americans based on their sex at birth.”

Though HUD is no longer enforcing the 2016 Equal Access Rule, the rule is still in place and housing and shelter providers may still be subject to state and local anti-discrimination laws (see [Human Rights Campaign’s State Maps](#) for a map of states that prohibit housing discrimination based on sexual orientation and gender identity; <https://tr.ee/O2fojl>).

HUD sent [proposed revisions to the Equal Access Rule \(https://tr.ee/wR9qXJ\)](https://tr.ee/wR9qXJ) to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) on February 12, 2025. As of December 2025, the proposed Equal Access Rule eliminating protections for transgender people has not yet been published in the *Federal Register*.

LEGISLATIVE ACTION

In the 119th Congress, Senator Jeff Merkley (D-OR) and Representative Mark Takano (D-CA) introduced “[The Equality Act](https://tr.ee/mpYvZG),” (H.R.15/S.1503; <https://tr.ee/mpYvZG>), which would expand civil rights protections to LGBTQ people by banning discrimination based on sexual orientation and gender identity in housing, education, employment, and other areas. The bill defines and includes sex, sexual orientation, and gender identity among the classes protected against discrimination or segregation and amends the 1964 “Civil Rights Act” to explicitly prohibit discrimination on the basis of sexual orientation and gender identity in employment, education, housing, credit, jury service, public accommodations, and federal funding.

Also in the 119th Congress, Representatives Schneider (D-IL) and Fitzpatrick (R-PA) introduced the “Fair and Equal Housing Act,” (H.R. 3696, <https://tr.ee/Ruslwu>) which would prohibit housing discrimination based on sexual orientation and gender identity. If enacted, the bill would include “sexual orientation” and “gender identity” as protected characteristics under the Fair Housing Act. Currently, the Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

How Advocates Can Take Action

Advocates should prepare to engage their networks to defend the 2016 Equal Access Rule. The National Alliance to End Homelessness (NAEH), Advocates for Trans Equality (A4TE), Center for LGBTQ Economic Advancement & Research (CLEAR), and SAGE released an [Equal Access Rule Story Collection Portal \(https://tr.ee/EaVsCV\)](https://tr.ee/EaVsCV) to elevate stories highlighting the

importance of the Equal Access Rule. If you or someone you know has faced barriers to accessing shelter and housing resources based on gender identity, sexual orientation, or marital status or has benefited from policies that protect equal access to housing services, respond to the portal questionnaire [here \(https://tr.ee/EaVsCV\)](https://tr.ee/EaVsCV).

NAEH also released a fact sheet for [congressional staff \(https://tr.ee/dbKJdE\)](https://tr.ee/dbKJdE) and a fact sheet for [advocates and housing providers \(https://tr.ee/3dGchV\)](https://tr.ee/3dGchV).

Urge Legislators to:

- Oppose efforts to repeal or weaken the Equal Access Rule, a vital tool to ensure that resources and emergency shelters are accessible for everyone.
- Pass the “Equality Act” to expand civil rights protections to LGBTQ individuals by banning discrimination based on sexual orientation and gender identity in housing, education, employment, and other areas.
- Pass the “Fair and Equal Housing Act” to prohibit housing discrimination based on sexual orientation and gender identity.
- Address issues of discrimination and violence against transgender people, especially Black and Latinx women.

Urge HUD to:

- Withdraw the notice of proposed rulemaking, “Equal Access to Housing in HUD Programs Revisions,” and instead enforce the 2016 Equal Access Rule protecting access to shelter regardless of gender identity, sexual orientation, or marital status.
- Work to address the housing and emergency shelter needs of the LGBTQ community.

For More Information

The “Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs” (2016 Equal Access Rule) is at <https://www.govinfo.gov/content/pkg/FR-2016-09-21/pdf/2016-22589.pdf>

The “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity” (2012) is at <https://www.govinfo.gov/content/pkg/FR-2012-02-03/pdf/2012-2343.pdf> (<https://tr.ee/aTJNFv>)

Trump’s Executive Order 14168 denying civil rights protections to LBGTO individuals, including in HUD-assisted housing is at <https://tr.ee/plFlej>

HUD’s press release, “Secretary Scott Turner Halts Enforcement Actions of HUD’s Gender Identity Rule” is at <https://tr.ee/TG0ahe>

NAEH’s report, “Federal Data Demonstrates the Need for Safe, Supportive, and Specific Housing for Gender-Expansive People” is at <https://tr.ee/8npU61>