

# HUD Equal Access Rule Webinar

## Protecting Equal Access to HUD Programs



National Alliance to  
**END HOMELESSNESS**

**[ENDHOMELESSNESS.ORG](https://endhomelessness.org)**

# Today's Webinar


Equal Access Rule overview, history, and importance.



Breakdown of the Administration's latest attack on this key set of protections.



Stories from partners across different fields affirming the importance of the rule.



Tools to take action to defend the rule and sound the alarm in your community.

# HUD's Equal Access Rule: Why It Matters



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# WHAT IS THE EQUAL ACCESS RULE?

- HUD's Equal Access Rule (EAR), originally published in 2012 and updated in 2016 protects against discrimination based on sexual orientation and gender identity (2012) and across all HUD programs and ensures access to single-sex shelters is in accordance with self-identified gender identity.

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## EAR Protections

- HUD's housing programs open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status
- Transgender and gender non-conforming clients have access to single-sex shelters according to their gender identity (must accept shelter seekers self-identified name, pronouns, and gender identity)
- Individuals may not be subject to provide "evidence" of gender identity.

## EAR Enforcement

- Individuals can report to HUD instances of discrimination and lack of adequate shelter access (in addition to HUD program monitoring).
- The rule requires that HUD investigate these complaints to uphold sexual orientation and gender identity protections in housing and shelter services.

# Equal Access Rule: A Brief Timeline

2012: HUD publishes initial Equal Access Rule



2016: HUD updates Equal Access Rule


2020: HUD unsuccessfully seeks to repeal Equal Access Rule

2025: Executive Order and halting of any HUD enforcement of the Equal Access Rule


2026: HUD renews attempt to gut Equal Access Rule

# Reinforcing the Need

Research suggests that discrimination and stigma make it harder for transgender and gender-expansive people to find employment and housing, pushing them into homelessness.



**30 percent** of survey respondents have experienced homelessness during their lifetime: **8x more** than a comparable study of the general population.



1 in 14 respondents experienced homelessness in the previous 12 months



Nearly all respondents experienced abusive treatment while homeless and 58% had been denied access due to their gender.

# What is HUD Proposing?

A new regulatory definition of “sex”

Removes all references to “gender,” “gender identity,” and “actual or perceived sexual orientation” from HUD. It replaces these terms with a new definition of “sex” which it defines as an “individual’s immutable biological classification as either male or female.”

Requirement that HUD-funded shelters discriminate against transgender people

Requires admissions, placement, and accommodations be made in accordance with an individual’s HUD-defined biological sex, rather than self-identified gender identity. Requires grantees to follow the new definitions or risk the loss of federal funds, even if state and local laws conflict with the new guidance and grantees are faced with a loss of state or local funding.

Permission for providers to require evidence of sex

Removes prohibitions on inquiries into gender identity and allows providers to “require reasonable assurances or evidence to establish a person’s sex.”

Removal of protections across HUD programs

Removes protections against discrimination based on gender identity and sexual orientation across HUD programs.

# What are HUD's Justifications?

White House directive to remove “gender identity” policy

The Executive Order was clear in its opposition for the EAR, but it does not provide sufficient legal authority to change the definition of words and eliminate civil rights protections.

Lack of authority to expand fair housing protections based on gender identity.

The Bostock Supreme Court ruling combined with the Fair Housing Act provides the Congressional and judicial direction required for HUD to issue the EAR, in addition to HUD's general rulemaking authority.

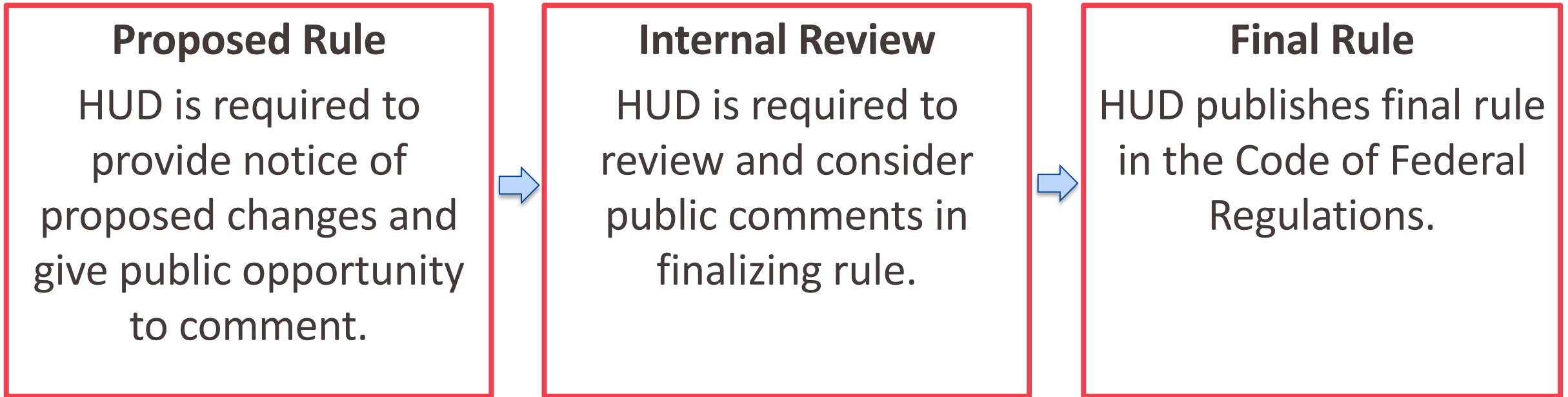
Protect women seeking shelter

HUD does not back up this claim with evidence that the EAR resulted in women experiencing harassment or assault. During the 2020 repeal effort, over 300 domestic violence shelter providers signed onto a public letter in support of the EAR.

Defense of religious liberty of faith-based service providers

HUD does not back up this claim with evidence. Numerous faith-based organizations opposed the repeal effort in 2020. There are no records of complaints pertaining to the EAR, and HUD has not responded to FOIA requests seeking data on the number of religious waiver requests.

# Understanding the EAR Comment Period



Note: This process may vary by regulation and agency.

# Take Action: Your Comment Matters!

Submitting public comments has many concrete and important impacts, and helps to do the following:

- **Build the Record.**
- **Show the Strength of Opposition.**
- **Provide Opportunity for Collective Action.**

**Every comment counts!**