



NATIONAL LOW INCOME HOUSING COALITION

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

RE: Equal Participation of Faith-Based Organizations in Activities:
Implementation of Executive Order 13831
RIN 2501-AD91: Notice of Proposed Rulemaking,
Docket ID HUD-2020-0017-0001

The following comments are submitted on behalf of the National Low Income Housing Coalition (NLIHC) in response to the Department of Housing and Urban Development's (HUD) Notice of Proposed Rulemaking (NPRM) to express our opposition to the proposed rule for implementing Executive Order 13831. We urge HUD to withdraw this proposal.

NLIHC is dedicated solely to achieving socially just public policy that ensures people with the lowest incomes in the United States have affordable and decent homes. Our members include state and local housing coalitions, residents of public and assisted housing, nonprofit housing providers, homeless service providers, fair housing organizations, researchers, public housing agencies, private developers and property owners, local and state government agencies, faith-based organizations, and concerned citizens. While our members include the spectrum of housing interests, we do not represent any segment of the housing industry. Rather, we focus on policy and funding improvements for extremely low-income people who receive and those who need federal housing assistance.

NLIHC is concerned about the potential impact the proposed rule could have on low-income people seeking housing-related services, particularly the implications for religious minorities, non-religious individuals, women, and LBTBQ people. Many faith-based organizations have partnered with the government for years to help ensure low-income people and people experiencing homelessness find safe, accessible, and affordable housing. However, this proposed rule would allow such organizations to discriminate against people in need of assistance or create barriers to services based on religious beliefs instead of what is in the best interest of the individual seeking help.

The proposed rule replaces religious freedom protections finalized by the Obama administration, which based its rule on recommendations made by a diverse council committed to improving services and strengthening religious liberty. The proposal eliminates two critical components of the current rule that help ensure people can fairly access needed assistance: the alternative provider and written notice requirements. Contrary to HUD's claims, neither of these requirements are particularly burdensome for providers, but do create additional barriers for those seeking assistance or shelter.

The alternative provider requirement asks grantees of federal funding to provide anyone seeking assistance with information about alternative options if they feel uncomfortable with the religious character of the services. Providers have the capacity and knowledge to help refer people to other organizations where they may feel more comfortable. However, a low-income person seeking housing assistance would likely have much more limited access to resources that would allow them to easily find alternatives. Removing this requirement could result in people foregoing services because they feel unwelcome or discriminated against if the faith-based organization condemns their identity or beliefs. Of particular concern are LGBTQ people experiencing homelessness, who may decide not to seek shelter if they believe or have experienced discrimination. LGBTQ people experience homelessness at much higher rates than the broader population and are also at increased risk of facing violence if living unsheltered. Also impacted are religious minorities, non-religious individuals, and others whose identity or beliefs may not align with a provider's.

The proposed rule also eliminates the written notice requirement, which ensures those seeking assistance are aware of their rights, including that a provider cannot discriminate based on religious belief or force someone seeking services to participate in religious activities. Refusing to inform beneficiaries of their rights leaves them vulnerable because they do not know that they can object to discrimination, proselytization, or religious coercion. Again, implementing such a requirement comes at a low cost for providers but helps prevent discrimination in government-funded programs. Demanding people participate in religious activities before having access to housing assistance, such as emergency shelter, could lead to increased housing instability and homelessness.

The proposed rule includes new provisions that say faith-based organizations could be exempt from certain program requirements and may refuse to provide services otherwise required by a grant award. Additionally, this proposal would allow faith-based organizations to base employment on the basis of acceptance of or adherence to the particular religious tenets of the organization. HUD's proposal would allow a faith-based organization to fire or refuse to hire someone who practices the organization's religion but is a woman who uses birth control or an unmarried woman who is pregnant.

Because the proposed rule could lead to fewer low-income people receiving critical housing assistance, NLIHC urges HUD to withdraw this proposal and reinstate the previous regulations that maintain the alternative provider and written notice requirements.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact Sonya Acosta, NLIHC policy analyst, at sacosta@nlihc.org to provide further information.



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National Low Income Housing Coalition