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June 29, 2026

Submitted via www.regulations.gov

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

Re: HUD Docket No. FR-6518-P-01, Comments in Response to Proposed Rulemaking: Equal Access to Housing in HUD Programs Revisions

To Whom It May Concern:

The National Fair Housing Alliance and the other undersigned organizations strongly oppose the above-captioned proposed rule, which was published in the Federal Register on April 28, 2026. The proposed rule is one more attack on LGBTQ families. It also amounts to another refusal by HUD to fully enforce critical civil rights laws such as the Fair Housing Act, which bars exactly the sort of discrimination based on sexual orientation and gender identity that this proposed rule purports to authorize and even require. The rule will cause grave harm to individuals and communities and will confuse grantees regarding their legal obligations. We urge that this proposed rule be withdrawn in its entirety, that existing regulations bar discrimination in HUD-funded shelters and housing remain in effect, and that HUD properly construe and enforce the landmark Fair Housing Act (FHA).

NFHA is the voice of fair housing. It works to eliminate housing discrimination, build inclusive communities, and to ensure equal housing opportunity for all people. The other undersigned organizations similarly work to address fair housing issues around the country. Unfortunately, the Trump Administration has attacked fair housing relentlessly and taken numerous actions to exacerbate rather than ameliorate the worsening fair and affordable housing crisis. NFHA views this proposed rule as the next step in the administration's coordinated assault on LGBTQ people, fair housing, and civil rights in general.



The proposed rule rescinds protections for LGBTQ families and individuals implemented in the 2012¹ and 2016 Equal Access Rules², subjecting these families to unlawful discrimination and exclusion, notwithstanding that the Fair Housing Act³ and Section 109 of the Housing and Community Development Act of 1974⁴ should protect them from such discrimination. And the rule even *requires* discrimination, mandating that shelters funded through HUD’s Office of Community Planning and Development (CPD) exclude transgender people from facilities that match their gender identity, and allows those providers to conduct invasive inquiries into their physiology to confirm their HUD-defined “sex.” While the proposed rule’s reasoning focuses on these shelter provisions, the proposed rule sweeps much further, eliminating protections against discrimination based on sexual orientation and gender identity from a host of HUD programs, without any explanation as to why this is sensible policy, let alone consistent with law. In fact, the rule is contrary to civil rights laws’ prohibition on discrimination based on sex, as well as many state and local fair housing laws.

NFHA agrees with other commenters that this proposed rule is flawed for many reasons. This comment focuses on the proposed rule’s failure to acknowledge that the FHA and Section 109 bar discrimination based on sexual orientation and gender identity, and thus bar much of the conduct that this proposed rule authorizes and even requires.

I. The Fair Housing Act and Section 109 bar discrimination in housing and many HUD-funded programs based on sexual orientation and gender identity, and cannot be reconciled with this proposed rule

The proposed rule fails to acknowledge that our civil rights laws bar housing providers and recipients of HUD funding from discriminating based on sexual orientation and gender identity. Two laws, the FHA and Section 109, collectively bar such discrimination with respect to the activities at issue in this rule.

A. After Bostock, discrimination based on sex includes discrimination based on sexual orientation and gender identity

As the Supreme Court held in *Bostock v. Clayton County*, 590 U.S. 644 (2020), “discrimination based on homosexuality or transgender status necessarily entails discrimination based on sex,” *id.* at 669, and “has always been prohibited by Title VII’s plain

¹ Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender, 77 Fed. Reg. 5662 (Feb. 3, 2012).

² Equal Access in Accordance With an Individual’s Gender Identity in Community Planning and Development Programs 81 Fed. Reg. 64763 (Sept. 21, 2016).

³ 42 U.S.C. §§ 3601-3619.

⁴ 42 U.S.C. § 5309.

terms,” *id.* at 662. While *Bostock* was decided in the context of Title VII of the Civil Rights of 1964, which bars employment discrimination based on sex (as well as other protected classes), its reasoning readily extends to both the FHA and Section 109, which similarly bar discrimination based on sex as well as other protected classes. There is no indication that Congress indicated a different meaning for the Fair Housing Act’s comparable bar on sex discrimination.

Text is the primary source of a statute’s meaning, see, e.g., *Carter v. United States*, 530 U.S. 255, 271 (2000) (“[i]n analyzing a statute, we begin by examining the text”). There is no relevant difference between Title VII, which makes it unlawful to discriminate in employment “because of such individual’s . . . sex,” 42 U.S.C. § 2000e-2(a)(1), and the FHA, which bars housing discrimination “because of . . . sex,” 42 U.S.C. § 3604(a). Nor is there any reason to think Congress intended the statutes to operate differently in this respect.

Indeed, decisions under Title VII have been significant sources of guidance for the Supreme Court in answering questions about the scope of standing, the viability of disparate impact theories of liability, and other issues under the FHA. See, e.g., *Trafficante v. Metro. Life Ins. Co.*, 409 U.S. 205, 209 (1972) (standing); *Tex. Dep’t of Hous. & Cmty. Affs. v. Inclusive Cmty. Project, Inc.*, 576 U.S. 519, 530–33 (2015) (citing *Griggs v. Duke Power Co.*, 401 U.S. 424 (1971)) (disparate impact). As the Court recognized in *Inclusive Communities*, cases interpreting Title VII often “provide essential background and instruction” in deciding FHA issues. 576 U.S. at 533. Every circuit court has relied on Title VII precedent when interpreting the FHA.⁵

For all these reasons, the courts to consider the question have universally applied *Bostock* to the FHA and held that it bars discrimination based on sexual orientation and gender identity.⁶ We are not familiar with a single post-*Bostock* court to hold otherwise.

⁵ See, e.g., *Durrett v. Hous. Auth. of City of Providence*, 896 F.2d 600, 602 n.3 (1st Cir. 1990); *Huntington Branch, NAACP v. Town of Huntington*, 844 F.2d 926, 935 (2d Cir. 1988), *aff’d* 488 U.S. 15 (1988); *Resident Advisory Bd. v. Rizzo*, 564 F.2d 126, 148 (3d Cir. 1977); *Hall v. Greystar Mgmt. Servs., L.P.*, 637 F. App’x 93, 98 (4th Cir. 2016); *Equal Emp. Opportunity Comm’n v. Miss. Coll.*, 626 F.2d 477, 482 (5th Cir. 1980); *Hollis v. Chestnut Bend Homeowners Ass’n*, 760 F.3d 531, 537 (6th Cir. 2014); *Kyles v. J.K. Guardian Sec. Servs., Inc.*, 222 F.3d 289, 295 (7th Cir. 2000); *Badami v. Flood*, 214 F.3d 994, 997 (8th Cir. 2000); *Cmty. House, Inc. v. City of Boise*, 490 F.3d 1041, 1048 n.3 (9th Cir. 2007); *Asbury v. Brougham*, 866 F.2d 1276, 1279 (10th Cir. 1989); *Fox v. Gaines*, 4 F.4th 1293, 1296 (11th Cir. 2021); *2922 Sherman Ave. Tenants’ Ass’n v. D.C.*, 444 F.3d 673, 679 (D.C. Cir. 2006).

⁶ See Robert G. Schwemm, *Housing Discrimination Law & Litigation* § 11C:1 (2025) (collecting cases); *Larocque v. Spring Green Corp.*, No. 22-cv-00249, 2024 WL 4198607, at *4 (D.R.I. Sept. 16, 2024); *Johnson v. Conn. Coal. Against Domestic Violence*, No. 3:23-cv1133, 2024 WL 1000730, at *6 (D. Conn. Mar. 8, 2024); *United States v. SSM Props., LLC*, 619 F. Supp. 3d 602, 606 (S.D. Miss. 2022); *Lavelle v. CL W. Mgmt. LLC, Inc.*, No. 2:21-CV-0170-TOR, 2022 WL 10613342, at *8 (E.D. Wash. Oct. 18, 2022); *Scutt v. Dorris*, No. 20-cv-00333, 2021 WL 206356, at *5 (D. Haw. Jan. 20, 2021); see also *Walsh v. Friendship Vill. of S. Cnty.*, No. 19-1395,

Meanwhile, most states have now either interpreted or amended their fair housing statutes to protect LGBTQ people. Not only do many states have explicit LGBTQ protections, regulators and courts in many states with comparable fair housing statutes have construed their laws to prohibit discrimination based on sexual orientation or gender identity in at least some circumstances.⁷

Thus, those who actually work through the legal analysis all agree—after *Bostock*, the FHA protects against discrimination based on sexual orientation and gender identity, as do other fair housing laws around the country. The existing Equal Access Rule regulations,

2020 WL 5361010, at *1 (8th Cir. July 2, 2020) (vacating district court’s dismissal of FHA sexual-orientation-discrimination claim and remanding for reconsideration in light of *Bostock*).

⁷ See Press Release, Ariz. Att’y Gen., Attorney General Mayes Announces Fair Housing Act Settlement between LGBTQ Customers and Mortgage Company (Apr. 18, 2023), <https://www.azag.gov/press-release/attorney-general-mayes-announces-fair-housing-act-settlement-between-lgbtq-customers> [<https://perma.cc/MH53-VHEJ>]; Fla. Comm’n on Hum. Rels., Sexual Discrimination (Feb. 3, 2021), <https://fchr.myflorida.com/sexual-discrimination> [<https://perma.cc/6DZV-CSWH>]; Kan. Hum. Rts. Comm’n, Guidance from the Kansas Human Rights Commission on Sex Discrimination in Employment, Public Accommodations, and Housing (Sept. 18, 2020) 18, 2020), <http://www.khrc.net/pdf/KHRC%20Guidance%20on%20Sex%20Discrimination%20in%20Employment,%20Public%20Accommodations,%20and%20Housing%20on%20letterhead%20rev%20dwh.pdf> [<https://perma.cc/AP9F-AB6H>]; Ky. Hum. Rts. Comm’n, *Frequently Asked Questions: I believe I have been discriminated against based on my sexual orientation/gender identity. Can I file a claim with KCHR?* (accessed Nov. 5, 2025), <https://kchr.ky.gov/About/Pages/FAQs.aspx>; Neb. Equal Opportunity Comm’n, Outreach Initial Inquiry Questionnaire (accessed Nov. 5, 2025), <https://neoc.nebraska.gov/sites/default/files/2025-09/NEOC%20Inquiry%20ENG.pdf> [<https://perma.cc/ZBG4-VLH7>]; Press Release, N.D. Dep’t Lab. & Hum. Rts., NDDOLHR Now Accepting and Investigating Charges of Discrimination Based on Sexual Orientation and Gender Identity (June 18, 2020), <https://web.archive.org/web/20201017054802/https://www.nd.gov/labor/news/nddolhr-now-accepting-and-investigating-charges-discrimination-based-sexual-orientation-and>; Ohio Civil Rts. Comm’n, *Discrimination based on Sexual Orientation and Gender Identity* (archived Dec. 17, 2021), <https://web.archive.org/web/20211217171914/https://www.crc.ohio.gov/FilingCharge/LGBTQ.aspx>; 53 Pa. Bull. 3188 (June 17, 2023).

State fair housing statutes expressly cover either sexual orientation or gender identity (or both) in 25 other states and territories: California, Colorado, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Utah, Vermont, Virginia, Washington, and Wisconsin. See Cal. Gov. Code § 12955 (2025); Colo. Rev. Stat. § 24-34-502 (2025); Conn. Gen. Stat. § 46a-64c, -81e (2025); Del. Code Ann. tit. 6, § 4603 (2025); D.C. Code § 2-1402.21; Haw. Rev. Stat. § 515-3; 775 Ill. Comp. Stat. 5/1-103(O-1), (Q), 5/3-102 (2025); Iowa Code § 216.8 (2025); Me. Stat. tit. 5, § 4581-A (2025); Md. Code Ann., State Gov’t § 20-705 (West 2025); Mass. Gen. Laws ch. 151B, 4-3A, 3B, 6, 7 (2025); Mich. Comp. Laws § 37.2102 (2025); Minn. Stat. § 363A.09 (2025); Nev. Rev. Stat. § 118.100 (2025); N.H. Rev. Stat. Ann. §§ 354-A:10, 354-A:12.VI; N.J. Stat. Ann. § 10:5-4 (2025); N.M. Stat. Ann. § 28-1-7.G (West 2025); N.Y. Exec. Law § 296.2-a (McKinney 2025); Or. Rev. Stat. § 839-005-0205 (2025); 34 R.I. Gen. Laws § 34-37-2 (2025); Utah Code Ann. § 57-21-5 (2025); Vt. Stat. Ann. tit. 9, § 4503(a); Va. Code Ann. § 36.96.3 (2025); Wash. Rev. Code Ann. § 49.60.222 (2025); Wis Stat. § 106.50 (2025).

though issued before *Bostock*, correctly anticipated that decision by ensuring equal access based on sexual orientation and gender identity across a variety of HUD programs. They are fully consistent with the current state of the law in providing, for example, that HUD-assisted and insured housing “shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status,”⁸ while CPD-funded facilities with shared sleeping or bathing facilities must treat people in accordance with their gender identity⁹ and not subject them to intrusive questioning.¹⁰

The proposed rule seems to disagree with the above, stating in a footnote that the current rule “incorrectly state[s] that discrimination because of gender identity is covered within the FH A’s prohibition of sex discrimination.” Equal Access to Housing in HUD Programs Revisions, 91 Fed. Reg. 22,779, 22,781 n.11 (Apr. 28, 2026) (citation modified) (quoting 81 Fed. Reg. at 64770). But it does not explain *why* that statement is wrong in light of *Bostock*. As noted above, there is no authority it can cite other than an Executive Order (which, of course, is not law), and it makes no attempt to explain why all the authority described above (including HUD’s own previous, well-reasoned opinion) is wrong. Indeed, the word “*Bostock*” does not appear in the proposed rule. HUD may wish this controlling Supreme Court opinion did not exist, but it does.

To be sure, HUD in this Administration has been unlawfully acting as though *Bostock* did not exist, or at least does not apply to the FA, including but not limited to refusing to accept and investigate complaints alleging discrimination based on sexual orientation and gender identity. But until now it has purported to do so based on its (supposed) authority to prioritize among complaints.¹¹ It has not, until now, officially stated that the FHA does not bar such discrimination, let alone released a legal analysis that would justify such a position.

If HUD is going to issue a rule premised on the reversal of its legal views regarding the application of *Bostock* to the FHA, it needs to explain itself. It cannot simply authorize and require discrimination without attempting to square its action with controlling civil rights law. As described above, it will prove unable to do so.

Although HUD does not mention Section 109, a similar analysis applies to that law. Section 109 provides that no person shall, “on the ground of . . . sex be excluded from

⁸ 24 C.F.R. § 5.105(a)(2).

⁹ 24 C.F.R. § 5.106(c).

¹⁰ 24 C.F.R. § 5.106(b).

¹¹ See Memorandum from John Gibbs, Principal Deputy Assistant Sec’y for Fair Hous. & Equal Opportunity, Fair Housing Act Enforcement and Prioritization of Resources 3 (Sept. 16, 2025), <https://www.hud.gov/sites/dfiles/Main/documents/Fair-Housing-Act-Enforcement-Prioritization-Resources.pdf> [<https://perma.cc/3FM7-HQNY>].

participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this chapter [i.e., community development funds].” 42 U.S.C. 5309(a). For all the reasons described above, Section 109’s comparable bar on discrimination based on sex also bars discrimination based on sexual orientation or gender identity by recipients of HUD community development funds.

B. The Fair Housing Act and Section 109 collectively bar discrimination in virtually every program covered by this proposed rule

To the extent HUD tries to sidestep the FHA question by maintaining that the programs at issue in this rule are not covered by the FHA, it is mistaken.

As an initial matter, most of the transactions for which HUD purports to strip protections against discrimination—without any explanation for why it is doing so—unequivocally involve dwellings covered by the FHA. For example, the proposed rule removes protections against discrimination for admission to, and occupancy of, public housing. See Proposed Rule Amendment Text 60 (amending 24 C.F.R. 960.206(b)(1)(iii)). It removes such protections for supportive housing for the elderly and persons with disabilities. *Id.* 53-59 (amending 24 C.F.R. 891.410-750). And it removes such protections for single family mortgage insurance (FHA lending). *Id.* at 18 (amending 24 C.F.R. 203.33). And much more—indeed, while HUD’s *justification* for the proposed rule is predominantly about shelters, the *impact* of the rule extends far and wide into HUD programs, most of which involve transactions covered by the Fair Housing Act and have nothing to do with shelters.

None of this is explained at all, let alone adequately. Put simply, this proposed rule purports to authorize a broad swath of discrimination that the FHA bars.

Even with respect to shelters, the FHA has much to say. The proposed rule states that the “Fair Housing Act forbids sex discrimination as to covered dwellings, but not as to free, temporary, emergency shelters or other buildings or facilities, which therefore evinces the intent of Congress to permit single-sex housing in the latter case.” 91 Fed. Reg. at 22,781. As this heavily caveated language implicitly acknowledges, courts have determined that in some cases, shelters are covered dwellings under the federal FHA. HUD said as much in finalizing the 2016 Equal Access Rule, explaining that whether a shelter is a “dwelling” covered by the FHA depends on factors such as length of stay. See 81 Fed. Reg. 64,763, 64,771 & nn. 13-20. HUD does not now claim otherwise, nor could it. It merely

states that the FHA does not apply to “free, temporary, emergency shelters”—at best a subset of the shelters regulated by this rule.

HUD does at least acknowledge that many shelters covered by this rule are in jurisdictions that bar the conduct HUD would require of them. It proposes to preempt such law to avoid that conflict. 91 Fed. Reg. at 22780 (describing proposed § 5.106(e)). But nowhere does HUD explain what would give it the authority to preempt state or local anti-discrimination law, much less law that, as described above, is fully consistent with federal civil rights law. Indeed, HUD states (wrongly) that the current Equal Access Rule is not based on any valid regulatory authority. But if that is true, then where does HUD find the regulatory authority to require conduct barred by state and local laws, much less preempt them? It does not say. Certainly HUD will not find that authority in the FHA, which conflicts with rather than supporting the proposed rule and which is fully consistent with the state and local law that HUD proposes to preempt.

Finally, HUD ignores entirely the impact of Section 109. Section 109 bars sex discrimination in facilities funded by community development programs just as the FHA does with respect to covered dwellings. HUD makes no attempt to explain how HUD-funded shelters can comply with Section 109 while complying with this rule.

C. This rule purports to allow and even require discrimination barred by statute

As should be evident from the above, this proposed rule cannot be reconciled with the civil rights laws that govern housing transactions and community development programs.

With respect to the non-shelter programs at issue, the proposed rule deletes the regulatory requirement to avoid discriminating based on sex and sexual orientation, although such discrimination is barred by statute no matter what the regulation says. At the very least, this action risks confusing HUD program participants regarding their legal obligations. If HUD believes that the statutes do *not* apply here and bar such discrimination, it should say so. Or if HUD believes there is a legitimate reason to create ambiguity where there is presently clarity, it should say so. Instead, HUD justifies this action solely by reference to an executive order which is itself contrary to *Bostock*’s reasoning. An Executive Order cannot supersede a Supreme Court decision.

With respect to shelters, as described above, at least some of the shelters regulated by this rule—and required by it to discriminate against transgender people—are required by the FHA to avoid such conduct. HUD does not explain how such shelters should navigate the conflict that HUD has created for them. The proposed rule creates a compliance

nightmare, in which shelters potentially are subject to diametrically opposed federal obligations depending on whether they happen to be dwellings under the FHA. HUD does not explain the mechanics by which every shelter will determine whether it is covered by the FHA – and thus *cannot* obey this proposed rule.

II. HUD should protect LGBTQ people from discrimination, not encourage and require such discrimination

NFHA agrees with other commenters that this rule's impact will be to permit, encourage, and even require discriminatory treatment, particularly of transgender people seeking shelter. This continues the unfortunate policy taken in this administration of subjecting LGBTQ people to discrimination, refusing to protect them from discrimination, and seeking at every turn to prevent others from helping LGBTQ people. This may be what an Executive Order tells HUD to do, but an Executive Order is not law. None of this is consistent with HUD's actual statutory mandate of protecting vulnerable people from such discrimination in access to housing and HUD programs.

The proposed rule mandates that HUD-funded shelters assign individuals to sex-segregated accommodations based on HUD's definition of sex rather than an individual's gender identity. This effectively denies equal access to shelter to many people who desperately need it, greatly endangering their health and potentially subjecting them to exclusion, harassment, and violence. While the country continues to face a fair and affordable housing crisis, now is the time to make shelters easier to access for those facing homelessness, not harder.

The rule does not further the interest in safety that HUD cites to justify this action. HUD points to no evidence that treating people in accordance with their gender identity puts anyone at risk. To the contrary, shelters have acted in accordance with the existing Equal Access Rule, as well as state and local laws barring discrimination, for years now without incident. If anything, HUD's mandate that shelters suddenly act in ways other than what has worked to safely shelter people is what will endanger health and lead to harassment based on sex. As the Supreme Court has recognized, harassment based on sex violates civil rights law, regardless of the sex of the people involved. See *Oncale v. Sundowner Offshore Servs.*, 523 U.S. 75 (1998). HUD's obligation is to minimize all such harassment in HUD-subsidized shelters, yet instead this rule will foreseeably increase such harassment against LGBTQ people, purportedly to combat a non-existent problem.

HUD also tries to justify this rule by reference to vague religious liberty concerns, but these are also unsupported. HUD points to *no* instances in which the current Equal Access Rule has been enforced in a way that violates religious liberty. Tellingly, it can point only to a controversy regarding a local law in Alaska, not application of the Equal Access

Rule. See 91 Fed. Reg. at 22781-82. If this problem were real and urgent, one would think HUD could point to evidence of it manifesting after more than ten years.

And even if the theoretical possibility existed that the current Equal Access Rule could infringe on religious liberty, HUD could address it in a more targeted manner than requiring all shelters—regardless of religious affiliation—to deny people access to shelter in accordance with their gender identity. Far from being drafted in a manner that permits shelters and those seeking shelter to act in accordance with their religious mandates, this rule requires many to violate their religious and other ethical precepts. It is not a religious freedom rule at all, but a rule establishing one religious view supreme over others, which is not a legitimate end and could violate the Constitution.

It is even harder to understand the legitimate purpose for HUD eliminating regulatory protections for LGBTQ people across a litany of HUD programs—even though the FHA and Section 109 still protect against such discrimination. The only possible outcome of this action is to confuse HUD and its program participants into discriminating in violation of the law. Unfortunately, it appears that HUD’s objective is to increase such discrimination, notwithstanding that it remains illegal. If HUD has any other purpose, it does not say so.

This action does not occur in a vacuum. HUD is already refusing to investigate and resolve valid FHA complaints alleging discrimination based on sexual orientation and gender identity. It is threatening to withdraw substantial equivalency status from FHAP agencies in states and localities with legal protections for LGBTQ people. It is imposing conditions on HUD grants that grantees not further “gender ideology”—a term that has no real practical meaning but appears to be designed to induce grantees not to serve LGBTQ people. It all adds up to a war on LGBTQ people seeking equal access to shelter and housing, when HUD should instead be helping them.

America has grown increasingly welcoming towards its many LGBTQ people. This trend is not universal, however, and serious housing discrimination against the LGBTQ community persists. In one recent survey, more than three-quarters of LGBTQ individuals reported experiencing housing discrimination based on their identity.¹² These reports of discrimination are corroborated by robust empirical evidence. In a 2013 study, researchers sent thousands of emails to landlords inquiring about units the landlords had advertised online.¹³ Approximately one of every six landlords sent less favorable responses to emails

¹² See *Zillow Grp., Survey: Most LGBTQ+ 22 Individuals Experience Discrimination in Housing*, Zillow (June 11, 2024), <https://www.zillowgroup.com/news/most-lgbtq-experience-discrimination-in-housing/> [<https://perma.cc/EJU3-CJJ5>].

¹³ Samantha Friedman et al., *An Estimate of Housing Discrimination Against Same Sex Couples*, Dep’t Hous. & Urb. Dev’t v (2013), [<http://perma.cc/5KXM-T6YZ>].

that purported to be from a same-sex couple than to emails that purported to be from a heterosexual couple. *Id.* at vi–vii.

Another pair testing study found that landlords told gay men and transgender people about fewer available rental units.¹⁴ LGBTQ Americans also face prejudice when they wish to buy a home. When same-sex couples apply for a mortgage, their applications are less likely than those of heterosexual couples to be approved.¹⁵ And when their applications are approved, same-sex couples pay higher financing costs, resulting in millions in additional interest and fees each year.¹⁶ Both studies accounted for financial risk factors and loan characteristics.¹⁷

When landlords and lenders discriminate against LGBTQ consumers, they target a community already at high risk of housing instability. LGBTQ Americans are more likely to live in poverty than their heterosexual and cisgender peers.¹⁸ They are, accordingly, less likely to own homes than others in their age cohort, and more likely to experience homelessness.¹⁹

LGBTQ youth are particularly vulnerable because they often face rejection from their families after coming out: studies have shown that a large share of homeless youth (ranging from 20% to 45%) identify as LGBTQ.²⁰ When in shelters, moreover, many LGBTQ youth report being harassed because of their sexual orientation or gender identity. *Id.* at 18–19.

¹⁴ See Diane K. Levy et al., *A Paired-Testing Pilot Study of Housing Discrimination Against Same-Sex Couples and Transgender Individuals*, Urb. Inst. (2017), https://www.urban.org/sites/default/files/publication/91486/2017.06.27_hds_lgt_final_report_report_finalized_0.pdf [<https://perma.cc/Y6B3-D8HF>].

¹⁵ See J. Shahar Dillbary & Griffin Edwards, *An Empirical Analysis of Sexual Orientation Discrimination*, 86 U. Chi. L. Rev. 1, 4–5 (2019), https://lawreview.uchicago.edu/sites/default/files/01_Dillbary_ART_Post-SA%28KT%29.pdf [<https://23perma.cc/9A86-2XN8>].

¹⁶ See Lei Gao & Hua Sun, *Lending Practices to Same-Sex Borrowers*, 116 Procs. Nat'l Acad. Scis. 9293, 9293 (2019), <https://doi.org/10.1073/pnas.1903592116>.

¹⁷ See Dillbary & Edwards, *supra* note 15, at 35–39, 43–44, 47 n.200; Gao & Sun, *supra* note 16, at 9294.

¹⁸ See M.V. Lee Badgett, Soon Kyu Choi & Bianca D.M. Wilson, *LGBT Poverty in the United States: A Study of Differences Between Sexual Orientation and Gender Identity Groups*, UCLA L. Sch. Williams Inst., 24–26 (2019), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/National-LGBT-Poverty-Oct-2019.pdf> [<https://perma.cc/3U65-2ZLB>].

¹⁹ See Visalli et al., *Why Are There Gaps in LGBTQ+ Homeownership*, Urb. Inst. Rsch. Report, 7 (2023), https://www.urban.org/sites/default/files/2024-02/Why_Are_There_Gaps_in_LGBTQ%2B_Homeownership.pdf [<https://perma.cc/B73M-SRXU>]; Alex Montero et al., *LGBT Adults' Experiences with Discrimination and Health Care Disparities: Findings from the KFF Survey of Racism, Discrimination, and Health*, Kaiser Fam. Found. (2024), <https://www.kff.org/racial-equity-and-healthpolicy/lgbt-adults-experiences-with-discrimination-and-health-care-disparities-findings-from-the-kff-survey-of-racism-discrimination-and-health/> [<https://perma.cc/Y9RR-6KE4>].

²⁰ Adam P. Romero, Shoshana K. Goldberg & Luis A. Vasquez, *LGBT People and Housing Affordability, Discrimination, and Homelessness*, UCLA L. Sch. Williams Inst., 14–17 (2020),

The effects of housing discrimination are far-reaching, because where we live matters and shapes many facets of our lives. Our homes affect our job opportunities, our health and health care, the quality of schools our children attend, and our risk of being victims of violent crimes. Our homes are integrally connected to our financial well-being, too. Homeownership is a primary method by which Americans accumulate wealth. Meanwhile, the median renter spends 31% of their income on housing costs—an amount that has increased over the past two decades.²¹ Countering housing discrimination, including discrimination against LGBTQ individuals, is therefore an urgent priority. Unfortunately, HUD has chosen to encourage such discrimination rather than combat it.

We urge HUD to immediately withdraw its current rule change proposal and dedicate its resources to keeping our community's most vulnerable members housed and sheltered, instead of excluding them and subjecting them to potential discrimination and violence.

Sincerely,

National Fair Housing Alliance

Access Living of Metropolitan Chicago

Center for Fair Housing

CSA San Diego County

Fair Housing Advocates Association

Fair Housing Advocates of Northern California

Fair Housing Center

Fair Housing Center for Rights & Research

Fair Housing Center of the Greater Palm Beaches

Fair Housing Center of Southwest Michigan

Fair Housing Center of West Michigan

<https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Apr-2020.pdf>
[<https://perma.cc/K4QL-HY44>].

²¹ See Press Release, U.S. Census Bureau, Nearly Half of Renter Households Are Cost-Burdened, Proportions Differ by Race (Sept. 12, 2024), <https://www.census.gov/newsroom/press-releases/2024/renter-households-cost-burdened-race.html> [<https://perma.cc/MA54RVYA>].

Fair Housing Council of Orange County

Fair Housing Council of Riverside County, Inc.

Fair Housing Justice Center

Fair Housing Resource Center

Fair Housing Rights Center in Southeastern Pennsylvania

Housing Equality Center of Pennsylvania

Housing Opportunities Made Equal of Greater Cincinnati

Housing Opportunities Made Equal, Inc. Buffalo

Housing Opportunities Project for Excellence, Inc.

Intermountain Fair Housing Council, Inc.

Metropolitan Milwaukee Fair Housing Council

Miami Valley Fair Housing Center, Inc.

Mid-Minnesota Legal Aid

Northwest Fair Housing Alliance

Open Communities

Open Communities Alliance

Project Sentinel

Savannah-Chatham County Fair Housing Council

South Suburban Housing Center

Southwest Fair Housing Council

Tennessee Fair Housing Council

Westchester Residential Opportunities