

# Trump administration moves to repeal transgender protections in homeless shelters

If the proposal is implemented, transgender women could be placed in sex-segregated shelters for men.

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By Nico Lang

The Department of Housing and Urban Development plans to move forward with a measure that would permit federally funded homeless shelters to house transgender clients according to their sex assigned at birth.

The HUD proposal would reverse a 2016 measure implemented under the Obama administration that built on provisions enacted four years earlier. The 2012 Equal Access Rule mandated that shelters are "open to all eligible individuals and families regardless of sexual orientation, gender identity, or marital status," and the administration issued further guidance clarifying that the rule barred shelters from denying access to trans people in accordance with their gender identity.

HUD announced Wednesday that it intends to effectively strike the 2016 trans-inclusive guidelines. When it comes to housing transgender people in single-sex or sex-segregated shelters, HUD Secretary Ben Carson said in a statement that the Obama administration's guidelines "mandate a single approach that overrides local law and concerns."

"This important update will empower shelter providers to set policies that align with their missions, like safeguarding victims of domestic violence or human trafficking," Carson said. "Mission-focused shelter operators play a vital and compassionate role in communities across America. The Federal Government should empower them."

A 28-page document released to members of Congress in May spells out some of the changes, as the Washington Blade [previously reported](#). Should the guidelines be implemented, women's shelters would be permitted to "decline to accommodate a person who identifies as female but who is a biological male."

The document seeks to sidestep accusations of anti-trans discrimination by saying single-sex shelters that accommodate women based on their "biological sex" cannot refuse to "accommodate a person who identifies as male but who is a biological female."

Civil rights groups and LGBTQ advocates swiftly condemned the rule change, which had long been expected, as HUD signaled its intention to overturn the transgender nondiscrimination guidelines in May 2019. Lala Zannell, trans justice campaign manager for the American Civil Liberties Union, said the decision would be "particularly dangerous for the Black and brown transgender women who face extraordinarily high rates of unemployment and homelessness at any time, and particularly in this economic crisis."

Zannell said in a statement: "Housing Secretary Ben Carson: Where should the Black and Brown trans women who have faced discrimination at work and violence in their homes and the streets go after we have been turned away from shelters? Shelters funded by taxpayers should be open to all — period."

Multiple studies have found that trans people face high rates of homelessness yet also experience

widespread discrimination when seeking supportive services. A report in April from the Williams Institute, a pro-LGBTQ think tank at UCLA, [found that 1 in 5 homeless young people](#) identify as LGBTQ. The study also revealed that about a third of trans and nonbinary people have lacked stable housing at some point.

A separate survey of trans people who have experienced homelessness, [published in 2015 by the National Center for Transgender Equality](#), found that 70 percent had experienced some form of discrimination, harassment or violence when trying to find safe shelter. Twenty-six percent said they had avoided seeking out services for fear of discrimination.

The group's executive director, Mara Keisling, said the findings show that "discrimination and criminalization have left countless transgender people, particularly transgender people of color, exposed to violence and abuse, all while family rejection can leave transgender youth with nowhere to turn." She said the proposed rule, if allowed to go into effect, would only make those problems worse.

"Secretary Carson is contradicting the very mission of his department by trying to make shelters less safe for those who need them and further endangering the lives of marginalized people," Keisling said in a statement. "We will fight this rule like trans lives depend on it because trans lives do depend on it."

LGBTQ groups have said they intend to sue when the final proposal is issued, which is expected in the coming weeks. After the document is released, the public will have the chance to comment on it for 60 days.

In a landmark case that could have major implications for transgender people seeking housing according to their gender identity, [the Supreme Court ruled last month](#) that workplace discrimination based on "sex" includes discrimination based on sexual orientation and gender identity.

Writing for the majority, conservative Justice Neil Gorsuch wrote that "it is impossible to discriminate against a person for being homosexual or transgender without discriminating against that individual based on sex."

The LGBTQ rights group Lambda Legal also [suggested that trans people seeking shelter](#) in alignment with their gender identities are protected under the Fair Housing Act, a 1968 law that bans discrimination in housing on the basis of characteristics like race, sex and national origin. A future court ruling could definitively decide whether the definition of "sex" under that law also extends to gender identity and sexual orientation.

In the document outlining the proposed guidelines, HUD conceded that there is no evidence "suggesting that transgender individuals pose an inherent risk to biological women" while housed in homeless shelters.

Last year, Carson was met with widespread backlash after he was reported to have claimed during a HUD meeting that "big, hairy men" would exploit nondiscrimination rules to gain entry to women's homeless shelters under the guise of being transgender. At least one staff member walked out of the meeting in protest, The Washington Post [reported at the time](#).

# Proposed HUD rule rolls back Obama-era protections for homeless transgender individuals

By Li Cohen

July 1, 2020 / 11:34 PM / CBS News

The Trump administration announced a proposal on Wednesday to allow federally-funded housing services to turn away individuals whose gender identity does not match the sex they were assigned at birth. The [proposed rule](#), according to Department of Housing and Urban Development Secretary Ben Carson, would "better accommodate religious beliefs of shelter providers."

The proposal rolls back provisions added during the previous administration. In 2016, former President Barack Obama added a section to the Equal Access Rule that "requires all HUD funded housing services to be provided without discrimination based on sexual orientation or gender identity," according to Carson's statement.

Under the proposed modification to the rule, shelter providers that "lawfully operate as single-sex or sex-segregated facilities" will be allowed to develop "admissions determinations" for people who have a different gender identity than what they were assigned at birth.

"Each shelter's policy is required to be consistent with state and local law, must not discriminate based on sexual orientation or transgender status, and may incorporate practical considerations of shelter providers that often operate in difficult conditions," HUD said in a statement.

"For example," the statement reads, "such policies could be based on biological sex, sex as identified on official government identification, or the current rule's mandate of self-identified gender identity."

Carson said the "important update will empower shelter providers to set policies that align with their missions, like safeguarding victims of domestic violence or human trafficking."

"Mission-focused shelter operators play a vital and compassionate role in communities across America," he said. "The Federal Government should empower them, not mandate a single approach that overrides local law and concerns. HUD also wants to encourage their participation in HUD programs. That's exactly what we are doing with this rule change."

Under the rule, shelters "must provide" people they turn away with information about other shelters in the area "that can meet their needs."

However, HUD said that shelters will still have to adhere to the 2012 portion of the Equal Access Rule, which prohibits discrimination based on sexual orientation or gender identity.

Just a few weeks prior to the announcement, on the anniversary of the Pulse nightclub shooting, the Trump administration [erased health care discrimination protections](#) for those who are transgender.

The American Civil Liberties Union (ACLU) tweeted about the proposed changes Wednesday night, saying, "Ben Carson, where exactly should Black and Brown trans women — who face extraordinarily high rates of unemployment and homelessness at any time, let alone during an economic crisis — go after being turned away from shelters?"

BREAKING: Trump is proposing a rule allowing federally funded homeless shelters to turn away trans and gender non-conforming people — in the midst of the highest unemployment rates our country has seen in decades.

— ACLU (@ACLU) [July 1, 2020](#)

"In a week where 3 Black trans women have been murdered, the federal government is pushing more people into the street," the organization continued. "This is a dangerous proposal that will embolden violence against transgender people."

Transgender and gender non-binary adults are more likely than cisgender adults to experience unsheltered homelessness, according to the [National Alliance to End Homelessness](#), and transgender youth "make up a significant portion" of homeless youth in the U.S.

The National Center for Transgender Equality also took to Twitter to comment on the announcement, saying that "getting transgender persons off the street and out of harm's way is a matter of life and death."

One in three transgender Americans has been homeless at some point in their lives, and the [@HUDgov](#) proposal would have them sleep on the streets.

Getting transgender persons off the street and out of harm's way is a matter of life and death. [#HousingSavesLives](#)

— National Center for Transgender Equality (@TransEquality) [July 1, 2020](#)