



June 8, 2026

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

**Re: FR-6518-P-01 Equal Access to Housing in HUD Programs Revisions
Comment in Support of HUD Proposed Rule
Docket No. HUD-2026-0529**

Dear Secretary Turner,

Independent Women's Law Center submits this comment in strong support of the Department of Housing and Urban Development's proposed rule rescinding and revising portions of HUD's 2012 and 2016 Equal Access Rules to restore sex-based protections in federally funded housing and shelter programs.

Independent Women's Law Center is a project of Independent Women, dedicated to advancing policies that protect women's legal rights, equal opportunities, safety, and dignity. Independent Women's Law Center regularly engages in public policy advocacy, litigation, and legal analysis concerning sex-based rights and the lawful administration of federal civil rights protections.

The proposed rule properly recognizes a foundational legal and biological reality: Sex is immutable, binary, and materially relevant in contexts involving privacy, safety, bodily vulnerability, and intimate living spaces. HUD's prior policies improperly subordinated those interests to subjective gender identity classifications without clear congressional authorization, while simultaneously exposing women and girls to heightened risks in sex-specific facilities. HUD's proposal is both legally justified and necessary.

I. HUD's 2016 Rule Exceeded the Agency's Statutory Authority

The 2016 Rule imposed sweeping nationwide mandates requiring admission to sex-specific shelters and facilities based on self-declared gender identity despite the absence of clear congressional authorization.

Federal agencies may not create new protected classes or fundamentally redefine statutory terms through administrative action absent clear authorization from Congress. See [*West Virginia v. EPA*](#), 597 U.S. 697

(2022) (requiring clear congressional authorization for agency assertions of “vast economic and political significance”).

The Supreme Court has repeatedly reaffirmed that agencies possess only the authority granted to them by Congress and may not resolve major social and political questions through expansive interpretations of vague statutory provisions. HUD’s reconsideration of the 2016 Rule is therefore consistent with fundamental separation of powers principles and Supreme Court precedent emphasizing limits on administrative authority. See [*Loper Bright Enterprises v. Raimondo*](#), 603 U.S. 369 (2024) (reaffirming that agencies possess only the authority granted by Congress and rejecting judicial deference to agency interpretations of law).

The proposed rule appropriately restores the ordinary and longstanding understanding of “sex” as referring to biological classification as male or female. This interpretation is consistent with the Executive Order titled “[Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#),” as well as with the legitimate governmental interest in preserving sex-based distinctions where privacy and safety are implicated.

II. Sex-Based Shelter Protections Serve Critical Privacy and Safety Interests

Women seeking shelter services are among the most [vulnerable](#) populations in the country. Women entering emergency shelters, domestic violence shelters, and other sex-specific facilities disproportionately have histories of domestic abuse, sexual assault, trafficking, homelessness, or severe trauma. Policies requiring women to share sleeping quarters, bathrooms, showers, and other intimate spaces with biological males undermine the safety, privacy, and dignity of female shelter residents. No woman should be forced to choose between personal safety and access to shelter.

The prior rule dismissed legitimate concerns regarding bodily privacy and safety as mere discomfort or stigma. But sex-based distinctions in intimate settings are not arbitrary. Courts have long recognized that privacy interests based on biological sex are real and constitutionally cognizable, particularly in contexts involving undressing, sleeping, showering, and confinement. See [*United States v. Virginia*](#), 518 U.S. 515, 550 n.19 (1996) (recognizing the necessity of sex-based privacy protections in “living arrangements”).

III. Clear Sex-Based Standards Are Necessary for Consistent Administration of Federal Programs

The proposed rule also restores regulatory clarity by replacing subjective and self-defined gender identity standards with objective sex-based classifications. Federal agencies and shelter providers require administrable standards that can be applied consistently, fairly, and lawfully.

The 2016 Rule imposed an unworkable framework under which biological sex could not be considered even in settings involving shared sleeping quarters, bathrooms, and other intimate facilities, while simultaneously prohibiting providers from requesting objective evidence necessary to implement sex-specific policies. In practice, the rule rendered sex-based distinctions unenforceable.

By contrast, biological sex is objective, verifiable, and directly relevant in contexts where privacy, safety, and physical vulnerability matter. The proposed rule appropriately restores the ability of shelter providers to request reasonable assurances or evidence regarding sex where necessary to preserve lawful sex-specific accommodations and ensure the safety of facility residents. Without such safeguards, sex-specific policies become effectively unenforceable.

Clear sex-based standards also reduce legal uncertainty for providers operating federally funded programs. Over the past decade, agencies have increasingly attempted to substitute gender identity for sex through regulatory action rather than legislation, resulting in conflicting legal obligations, inconsistent enforcement, and significant confusion among regulated entities. HUD's proposal restores clarity by aligning its regulations with biological reality and longstanding understandings of sex-based protections.

IV. Sex-Based Distinctions Are Not Unlawful Discrimination

The proposed rule does not deny access to shelter or services. Rather, it preserves the ability of sex-specific facilities to operate consistently with biological reality and their legitimate safety objectives. Individuals remain free to seek services in facilities consistent with their sex or in facilities that are not sex-specific.

Importantly, sex-based distinctions in intimate facilities have long been recognized as lawful and necessary in numerous contexts, including shelters, prisons, athletics, dormitories, locker rooms, and healthcare settings. Recognizing biological sex as relevant in these contexts is not discrimination; it is a lawful acknowledgment of [physiological differences](#) that directly affect safety, privacy, and fairness.

Conclusion

Independent Women's Law Center strongly supports HUD's proposed rule rescinding and revising the 2012 and 2016 Equal Access Rules. The proposal restores legal clarity, respects congressional limits on agency authority, protects vulnerable women and girls, and reaffirms that biological sex matters in contexts where privacy and safety are of paramount importance. HUD should finalize the rule without delay.

Sincerely,



Beth Parlato
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