

Attorney General Raoul Opposes Federal Effort to Weaken Protections for Transgender and Gender Nonconforming Individuals in Shelters

September 23 2020 10:28 AM



Chicago – Attorney General Kwame Raoul today led a coalition of 23 attorneys general in opposing the U.S. Department of Housing and Development’s (HUD) new proposed rule that would weaken protections for transgender and gender nonconforming individuals in HUD-funded shelters.

The proposed rule seeks to rescind and replace HUD’s 2016 Equal Access Rule, which created a uniform national nondiscrimination standard for admissions and placement of transgender and gender nonconforming persons in federally-funded, single-sex temporary and emergency shelters, and other facilities not covered by the Fair Housing Act (FHA). In [the comments](#) submitted today, Raoul and the coalition argue that HUD should withdraw the proposed rule because it will inflict substantial and needless harm upon transgender and gender nonconforming individuals.

“Access to shelters is critical for transgender and gender nonconforming persons, particularly transgender youth,” Raoul said. “HUD’s proposed rule goes against its mission of ensuring decent housing for all, and puts people at risk of experiencing discrimination, harassment and violence. I urge HUD to withdraw this harmful and discriminatory rule, and maintain the protections enacted by 2016 Equal Access Rule.”

Raoul and the coalition assert that temporary and emergency shelters often provide the best access point for individuals seeking safe housing and access to social service support, a need made even more critical during the COVID-19 pandemic and resulting economic crisis. Research has shown that admissions and placement of individuals in single-sex facilities is most safely done in accordance with an individual’s gender identity. The proposed rule would permit shelters to establish policies and procedures regarding admissions and placement of transgender and gender nonconforming persons in single-sex temporary, emergency shelters and other buildings and facilities not covered by the FHA based on a shelter provider’s perception of an individual’s “biological sex.” The proposed rule will result in the exclusion of transgender and gender nonconforming individuals from shelters, and will expose countless individuals to unnecessary risk.

The 2016 Equal Access Rule defined gender identity as “the gender with which a person identifies, regardless of sex assigned to that person at birth and regardless of the person’s perceived gender identity,” and therefore requires placement and accommodation decisions to be made based on an individual’s gender identity. This uniform standard successfully protects and provides accommodations for transgender and gender nonconforming persons without imposing burdens upon the religious liberties, privacy or safety of other shelter residents. The 2016 Equal Access Rule also requires that shelter providers arrange for privacy accommodations, where necessary, to enhance safety and privacy for all residents.

In the comment, Raoul and the coalition argue that the reasons HUD cites to justify the proposed rule do not support rescinding the important protections of the 2016 Equal Access Rule, which were grounded in substantial research, evidence and demonstrated community need. Additionally, the attorneys general state that the proposed rule:

- Offers no justification for ignoring evidence that supported HUD's 2016 change to the definition of gender identity.
- Offers no justification for replacing a standard for admissions and placement that respected individuals' self-identity and maximized the safety of all residents.
- Fails to address the impact of its proposed changes on the safety of transgender and gender nonconforming individuals.
- Ignores the overwhelming evidence showing that housing transgender women in women's shelters has proven to be an effective and safe option for individuals facing homelessness.
- Is impractical and cannot be implemented in a nondiscriminatory manner.

Joining Raoul in the comments are the attorneys general of California, Colorado, Connecticut, Delaware, the District of Columbia, Iowa, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, Virginia, Washington, and Wisconsin.