

NAHMA HUD Update: HUD issues a Proposed Rule on Gender Identity in Community Planning and Development (CPD) Programs

November 20, 2015

Dear NAHMA Member,

In a [press release](#) issued today, HUD announced a proposed rule entitled “Equal Access in Accordance with an Individual’s Gender Identity in Community Planning and Development Programs(CPD) Rule (Gender Identity Rule)”.

NAHMA plans to review this proposed rule in consultation with our Fair Housing Committee and will be submitting comments. The 60-day comment period for this proposed rule closes on January 19, 2016. We invite you to submit your own comments and recommendations for this proposed rule. In order to have adequate time to review and compile all comments, **we ask that you submit your comments by January 12, 2016**. Please forward your comments to NAHMA’s Director of Government Affairs, Larry Keys, at lkeys@nahma.org.

Below is the summary of the proposed [Gender Identity Rule](#):

As the Nation's housing agency, HUD administers programs designed to meet the goal of ensuring decent housing and a suitable living environment for all. In furtherance of this goal, in February 2012, HUD promulgated a final rule entitled “Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity” (Equal Access Rule), which requires that HUD-assisted and HUD-insured housing be made available without regard to actual or perceived sexual orientation, gender identity, or marital status, and which generally prohibits inquiries into sexual orientation or gender identity for the purpose of determining eligibility for such housing or otherwise making such housing available. HUD's Equal Access Rule provides a limited exception for inquiries about the sex of an individual to determine eligibility for housing provided or to be provided to the individual when the housing is a temporary, emergency shelter that involves the sharing of sleeping areas or bathrooms, or for inquiries made for the purpose of determining the number of bedrooms to which a household may be entitled. At that time, HUD decided not to set national policy regarding how transgender persons would be accommodated in temporary, emergency shelters that involve shared sleeping quarters or shared bathing facilities, but instead decided to monitor and review its programs to determine if transgender individuals had greater access to temporary, emergency shelters as a result of the rule or if additional guidance or a national policy was warranted. HUD also committed to review the prohibition on inquiries contained in the Equal Access Rule.

HUD has now monitored and reviewed its programs and, based on that review, is proposing this rule to require recipients and sub-recipients of assistance from HUD's Office of Community Planning and Development (CPD), as well as owners, operators, and managers of shelters, buildings, and other facilities and providers of services covered by CPD's programs, to provide transgender persons and other persons who do not identify with the sex they were assigned at

birth with access to programs, benefits, services, and accommodations in accordance with their gender identity. This proposed rule would also amend the definition of “gender identity” included in HUD's Equal Access Rule so the definition more clearly reflects the difference between actual and perceived gender identity. Finally, HUD has completed its review of the inquiries provision, and the proposed rule would eliminate the Equal Access Rule's current prohibition on inquiries related to sexual orientation or gender identity, while maintaining the prohibition against discrimination on those bases.

For additional information about the proposed Gender Identity Rule, please visit www.hud.gov/lgbt or you can access the entire rule [here](#). (*Due to technical difficulties, the entire proposed rule will be available on NAHMA website next week.)

Larry Keys, Director of Government Affairs

National Affordable Housing Management Association

400 N. Columbus St., Suite 203, Alexandria, VA 22314

Phone 703-683-8630, ext.111 Email lkeys@nahma.org, Website www.nahma.org

NAHMA is the leading voice for affordable housing management, advocating on behalf of multifamily property managers and owners whose mission is to provide quality affordable housing.