



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

May 28, 2013

RE: A Comment on Proposed Rule 24 CFR Part 579 [Docket No. 5573-P-01] RIN 2506-AC33
Homeless Emergency Assistance and Rapid Transition to Housing: Rural Housing Stability Assistance Program and Revisions to the Definition of “Chronically Homeless”

On behalf of the signatories below, the National Center for Lesbian Rights (NCLR) and The Trevor Project submit the following comments on the proposed rule reference above. These comments specifically respond to the request for public comment on the proposed definition of “chronically homeless.”

We would like to begin by thanking the Department of Housing and Urban Development (HUD) for its commitment to addressing homelessness and housing insecurity and instability, especially among vulnerable populations. HUD has been an incredible leader in increasing access to safe and affordable housing in the lesbian, gay, bisexual, and transgender (LGBT) community. HUD has taken several significant steps to ensure that more LGBT people and families are able to obtain housing free from discrimination. These efforts have made a life-saving difference in the LGBT community, and we are grateful for HUD’s ongoing dedication to this issue. While the organizations below believe that the only way to fully protect the LGBT community from housing discrimination and most meaningfully target homelessness and housing insecurity and instability in the LGBT community is through legislation that would add sexual orientation and gender identity to the Fair Housing Act as protected classes, we appreciate HUD’s willingness to use its existing authority to address these critically important issues.

As advocates for the LGBT community, we are especially committed to targeting and combatting chronic homelessness because it disproportionately impacts this community. There is an epidemic of homelessness and housing insecurity and instability in the LGBT community, especially among LGBT young people. While a lack of nationwide data collection efforts prevent an accurate assessment of the full extent of this problem, a patchwork of studies provide some statistics on homelessness among the LGBT community.

According to a ground-breaking study on transgender discrimination prepared by the National Center for Transgender Equality and the National Gay and Lesbian Task Force, an alarming one in five respondents (19%) reported having experienced homelessness as a direct

result of discrimination or mistreatment because of their gender identity or expression.¹ These numbers are even higher for transgender people of color.² LGBT young people make up a significant portion of the youth homeless population. A study performed by the National Gay and Lesbian Task Force Policy Institute in 2007 estimated that between 20% and 40% of all homeless youth identify as LGBT.³ A more recent examination of the issue estimated 40% of homeless youth identified as LGBT.⁴

Increased likelihood of homelessness makes LGBT youth at a higher risk for a number of health and safety concerns. It contributes to a higher potential of risky behaviors and health issues such as substance abuse, sexual transmitted infections, especially HIV, suicide attempts, and violence.⁵ In fact, one study indicates that even among homeless youth, LGBT young people are at a higher risk for suicide ideation than their non-LGBT peers, finding that 62% of LGBT homeless youth attempt suicide compared to 29% of non-LGBT homeless youth.⁶ All of these issues impact the emotional and mental health of LGBT youth and their economic insecurity, thus increasing their likelihood of becoming homeless and experiencing many homeless occasions throughout life.

We are grateful that HUD has identified the need to provide a definition for “chronically homeless” and is specifically seeking comment on this definition. The definition provided will be incredibly useful to obtain a more useful and realistic picture of what homelessness and housing insecurity and instability look like in the LGBT community. To bring this picture into even sharper focus, we urge HUD to use its regulatory authority here and in other places addressing chronic homelessness to urge and require data collection on the sexual orientation and gender identity of people meeting the definition of chronically homeless. As indicated above, there are no comprehensive national studies that examine the issue of homelessness in the LGBT community. In order to better serve LGBT homeless people, youth, and families, this data must be collected.

Additionally, we urge HUD to consider two other issues in formulating this final definition.

A. Temporary Placements in Child Welfare Systems and Foster Care Should Not Constitute a Break in Homelessness

¹ GRANT, JAIME M., LISA A. MOTTET, JUSTIN TANIS, JACK HARRISON, JODY L. HERMAN, AND MARA KEISLING. *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011.

² *Id.*

³ Nicholas Ray, *Lesbian, Gay, Bisexual, and Transgender Youth: An Epidemic of Homelessness*, NATIONAL GAY AND LESBIAN TASK FORCE POLICY INSTITUTE (2006), at 1, available at <http://www.thetaskforce.org/downloads/HomelessYouth.pdf> (last visited May 23, 2013).

⁴ Durso, L.E., & Gates, G.J. (2012). *Serving Our Youth: Findings from a National Survey of Service Providers Working with Lesbian, Gay, Bisexual, and Transgender Youth who are Homeless or At Risk of Becoming Homeless*. Los Angeles: The Williams Institute with True Colors Fund and The Palette Fund. <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Durso-Gates-LGBT-Homeless-Youth-Survey-July-2012.pdf>.

⁵ *Id.* See also Nicholas Ray, *Lesbian, Gay, Bisexual, and Transgender Youth: An Epidemic of Homelessness*, NATIONAL GAY AND LESBIAN TASK FORCE POLICY INSTITUTE (2006), at 2, available at <http://www.thetaskforce.org/downloads/HomelessYouth.pdf> (last visited May 23, 2013).

⁶ James M. Van Leeuwen and others, “Lesbian, Gay, and Bisexual Homeless Youth: An Eight City Public Health Perspective,” *Child Welfare* 85 (2) (2005): 151-170. available at <http://www.americanprogress.org/issues/2010/06/pdf/lgbtyouthhomelessness.pdf>.

For LGBT youth, the catalyst for the youth to leave their home often related to family rejection of the youth's sexual orientation or gender identity.⁷ According to one study, 50% of gay teens experienced a negative reaction from their parents when they disclosed their sexuality, and 26% were kicked out of their homes.⁸

In many cases, the child welfare system is unable to provide an effective safety net for these young people. According to another study, more than one third of LGBT homeless youth or LGBT youth under the care of the child welfare system experienced a violent physical assault when they disclosed their sexual orientation.⁹ This can and does lead LGBT youth to leave homeless shelters and foster care placements "because they actually feel safer on the streets."¹⁰

LGBT youth are disproportionately represented in the foster care system within the United States.¹¹ For many LGBT youth, their sexual orientation and/or their gender identity is the reason they were removed from their homes because they were abused, neglected, and/or rejected by their families.¹² Moreover, LGBT youth in foster care often face increased difficulty finding a permanent setting or reunifying with their families because they frequently suffer discrimination, prejudice, abuse, and harassment within the foster care system.¹³ This harassment can stem from many places in the system including peers, child welfare staff, or foster parents, making it more difficult for LGBT young people to find a good match for placement.¹⁴ Accordingly, many LGBT youth are shipped in and out of foster care and other child welfare settings and are also more likely to "age out" of these programs without finding permanent placements. In fear of these hostile environments, some LGBT youth attempt to conceal their sexual identity and/or gender expression. Others who are unable to suppress their true selves abandon their foster care placements and turn to the streets to escape abuse and mistreatment, rendering them homeless.¹⁵

The definition of "chronically homeless" should reflect the reality that placement in child welfare and foster care settings do not necessarily indicate a meaningful break in homelessness. In order to accurately define the problem, HUD should add "juvenile detention or correctional facility" and "child welfare or foster care setting" to the list of institutions in paragraph (2) of the definition of "chronically homeless." The definition should specify that a stay of fewer than 90 days in a juvenile detention or correctional facility or a child welfare or foster care setting will not be considered an interruption to a homeless occasion.

B. Clarify the Definition of Family

LGBT families face considerable difficulties creating and proving legally recognized relationships between partners, parents and children, siblings, and other familial relationships. It is important that in a definition for "chronically homeless," LGBT families be explicitly

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Child Welfare League of America, Recommended Practices: To Promote the Safety and Well-Being of Lesbian, Gay, Bisexual, Transgender and Questioning (LGBTQ) Youth and Youth at Risk of or Living with HIV in Child Welfare Settings* (2012), at 1, available at http://b3cdn.net/naeh/bbf8bc455367493360_hgm6bg4e2.pdf (last visited May 23, 2013)

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

included in the definition of family. An inclusive definition will specify that a family can be considered as such regardless of actual or perceived marital status, sexual orientation, gender identity, or biologically or legally recognized relationship.

Thus, we urge HUD to clarify that “family” for the purposes of this definition will be defined consistent with HUD’s 2012 LGBT Equal Access Rule, when HUD amended its definition of family found at 4 CFR 5.403 as restated below:

Family includes, but is not limited to, regardless of marital status, actual or perceived sexual orientation, or gender identity, the following:

- (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or
- (2) A group of persons residing together, and such group includes, but is not limited to:
 - (a) A family with or without children (a child who is temporarily away from the home because of placement in foster care is considered a member of the family);
 - (b) An elderly family;
 - (c) A near-elderly family;
 - (d) A disabled family;
 - (e) A displaced family; and
 - (f) The remaining member of a tenant family.

In conclusion, we would like to thank HUD again for its ongoing and genuine commitment to ensuring access to safe and affordable housing for LGBT people and families, and for its efforts to target and address homelessness and housing insecurity and instability among vulnerable populations. We are grateful for this opportunity to comment on the new definition of “chronically homeless” and look forward to working with HUD on this issue as it continues to examine it further.

Thank you,

American Civil Liberties Union
CenterLink: The Community of LGBT Centers
Family Equality Council
Human Rights Campaign
Lambda Legal
National Black Justice Coalition
National Center for Lesbian Rights
National Coalition of Anti-Violence Programs (NCAVP)
PFLAG National
The Trevor Project