The Colorado Health Foundation™

January 20, 2026

U.S. Department of Health and Human Services
Office of Civil Rights
Hubert H. Humphrey Building, Room 509F
200 Independence Avenue, SW
Washington, DC 2021

Submitted electronically via Regulations.gov

RE: Comments on Proposed Rule HHS-OCR-2026-0034 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance

Dear Office of Civil Rights,

The Colorado Health Foundation (CHF or the Foundation) strongly opposes the proposed rule's effort to limit civil rights protections for individuals with gender dysphoria. This rule would have far-reaching and harmful consequences for transgender and gender diverse people by weakening access to medically necessary care, exacerbating existing health inequities, and undermining the purpose of Section 504 of the Rehabilitation Act of 1973. Every person with a disability, including individuals with gender dysphoria, is entitled to robust protections ensuring equal opportunity in health care, education, housing, and employment.

As a nonprofit and nonpartisan private foundation, the Colorado Health Foundation works statewide to advance our mission to improve the health of Coloradans. Through community engagement, grantmaking, research, and private sector investments, our work aims to ensure that everyone in Colorado has what they need to be healthy.

Eroding the Purpose of Section 504

Section 504 was enacted to ensure that people with disabilities are not excluded from participation in, denied the benefits of, or subjected to discrimination under federally funded programs or activities. Narrowing its scope in a way that disproportionately harms a marginalized population is fundamentally inconsistent with both the text and the spirit of the statute.

The current implementation of Section 504, including those with gender dysphoria, was reaffirmed through a 2024 final rule that followed a rigorous notice-and-comment process and garnered broad bipartisan support.[1] In the preamble to that rule, the Office for Civil Rights explicitly recognized that

[1] https://www.federalregister.gov/documents/2024/05/09/2024-09237/nondiscrimination-on-the-basis-of-disability-in-programs-or-activities-receiving-federal-financial

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restrictions that prevent, limit, or interfere with otherwise qualified individuals' access to care based on gender dysphoria, a diagnosis of gender dysphoria, or the perception thereof may constitute unlawful discrimination under Section 504. This interpretation is consistent with judicial precedent. [2] [3]

Impact on Social Determinants of Health

Access to affordable, nondiscriminatory health care is a foundational social determinant of health. By permitting federally funded entities to deny care without accountability under disability nondiscrimination law, the proposed rule would effectively legitimize discrimination in clinical settings. This will predictably increase delayed and foregone care and deepen mistrust of health systems among transgender and gender diverse people, outcomes that are already widely documented.[4] [5] [6] This will lead to higher rates of avoidable morbidity, increased emergency department utilization, and poorer long-term health outcomes. These effects undermine both individual and population health and are inconsistent with HHS's core mission.

Health discrimination directly affects economic stability, another key social determinant of health. When individuals are denied medically necessary care, they may be forced to seek services out-of-network, pay out-of-pocket, travel long distances, or forego care altogether. These burdens disproportionately impact low-income individuals, people of color, and those reliant on public insurance, groups that are already overrepresented among transgender and gender diverse populations. The proposed rule would therefore deepen economic insecurity and widen existing inequities.

Finally, removing recognition of gender dysphoria as a protected disability sends a powerful policy signal that discrimination against transgender and gender diverse people is permissible. This legitimization of exclusion fuels stigma, social isolation, and exposure to harassment and violence. Extensive public health research demonstrates that stigma and minority stress are strongly associated with elevated rates of depression, anxiety, substance use, and suicidality. [7]

Conclusion

For these reasons, we urge the HHS Office for Civil Rights to withdraw the proposed rule. Maintaining recognition of gender dysphoria under Section 504 is essential to protecting access to care, promoting

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[2] https://19thnews.org/2023/07/gender-dysphoria-protected-americans-with-disabilities-act/
[3] https://www.supremecourt.gov/opinions/22pdf/22-633_1cok.pdf
[4] https://www.hrw.org/sites/default/files/report_pdf/us_lgbt0718_web.pdf
[5] https://pmc.ncbi.nlm.nih.gov/articles/PMC11902059/
[6] https://www.americanprogress.org/article/state-lgbtq-community-2020/
[7] https://pmc.ncbi.nlm.nih.gov/articles/PMC10923191/#:~:text=Results%20demonstrate%20that%20individuals%20with,specific%20to%20stigma%2Drelated%20stressors.

economic and social stability, and advancing health equity for all. Federal nondiscrimination policy should dismantle barriers to health and well-being, not institutionalize them.

In conclusion, we appreciate your consideration of our comments.

If you have any questions, please contact Kyle Rojas Legleiter, The Colorado Health Foundation Senior Director of Policy, at klegleiter@coloradohealth.org or (303) 953-3618.

Sincerely,

Kyle Rojas Legleiter

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