



United States
Conference of
Catholic Bishops

Office of the
General Counsel

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U.S. Department of Health and Human Services
Office for Civil Rights
Attention: Disability NPRM, RIN 0945-AA27
Hubert H. Humphrey Building
Room 509F
200 Independence Avenue, SW
Washington, D.C. 20201

Subj: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving
Federal Financial Assistance, RIN 0945-AA27

Dear Sir or Madam:

On behalf of the United States Conference of Catholic Bishops (USCCB), we respectfully submit the following comments on the proposed rule, published in 90 Fed. Reg. 59478 (Dec. 19, 2025), on disability nondiscrimination requirements under Section 504 of the Rehabilitation Act of 1973 applicable to recipients of financial assistance from the U.S. Department of Health and Human Services (HHS).

Our position on the proposed rule can be summarized as follows:

- We support protection against discrimination for persons with disabilities because we believe such discrimination is an affront to their God-given and innate human dignity.
- We believe both that sexual difference is good and willed by God, and also that persons who experience gender dysphoria bear the full measure of human dignity.
- The proposed rule's interpretation of Section 504's application to gender dysphoria is legally correct and would have particular benefits for religious liberty.

I. What the Church believes about persons with disabilities

The ministries of the Church serve all in need, without regard to race, religion, sex, disability, or any other characteristic, because we believe that health care is a basic human right. As the USCCB's predecessor organization, the National Conference of Catholic Bishops, stated in 1993, "This right flows from the sanctity of human life and the dignity that belongs to all human persons, who are made in the image of God."¹ The same core beliefs about human dignity and the wisdom of God's design that motivate Catholics to care for the

¹ <https://www.usccb.org/issues-and-action/human-life-and-dignity/health-care/upload/health-care-comprehensive-care.pdf>



sick also shape our convictions about care for preborn children, marriage, sex, and the immutable nature of the human person. These commitments are inseparable.

At the root of all principles of Catholic social teaching is the belief that human life is sacred and that the dignity of the human person is the foundation of a moral vision for society. As Pope Francis wrote, “The world exists for everyone, because all of us were born with the same dignity. Differences of color, religion, talent, place of birth or residence, and so many others, cannot be used to justify the privileges of some over the rights of all. As a community, we have an obligation to ensure that every person lives with dignity and has sufficient opportunities for his or her integral development.”²

This belief applies in full to persons with disabilities. The Church holds that “[p]ersons with disabilities are fully human subjects, with rights and duties: in spite of the limitations and sufferings affecting their bodies and faculties, they point up more clearly the dignity and greatness of man. Since persons with disabilities are subjects with all their rights, they are to be helped to participate in every dimension of family and social life at every level accessible to them and according to their possibilities.”³

The Church’s concern for persons with disabilities springs from the same life ethic woven throughout Catholic social teaching. “When we fail to acknowledge as part of reality the worth of a poor person, a human embryo, a person with disabilities – to offer just a few examples – it becomes difficult to hear the cry of nature itself; everything is connected.”⁴

In 1978, the United States Catholic Conference – a predecessor organization of the U.S. Conference of Catholic Bishops – published a pastoral statement on persons with disabilities.⁵ The statement notes that “[I]t is not enough to merely affirm the rights of persons with disabilities. We must actively work to realize these rights in the fabric of modern society.”⁶ Among the ways identified to pursue that goal in public policy, the statement points out that “Enforcement of the regulations implementing Section 504 of the Rehabilitation Act...is a matter of particular interest.”⁷

² Pope Francis, Encyclical Letter *Fratelli Tutti*, no. 118.

³ Compendium of the Social Doctrine of the Church, no. 148 (internal citation and quotation omitted).

⁴ Pope Francis, Encyclical Letter *Laudato Si'*, no. 117.

⁵ In June of 2023, the USCCB approved the drafting of a new pastoral statement on persons with disabilities.

⁶ U.S. Catholic Conference, *Pastoral Statement of U.S. Catholic Bishops on Persons with Disabilities*, 1978.

⁷ *Id.*



II. What the Church believes about human sexuality

The Catholic Church teaches each person is created by God in his image, and therefore that each person has immeasurable dignity, and that we should all treat each other accordingly. St. John Paul II observed that “Human persons are willed by God; they are imprinted with God's image. Their dignity does not come from the work they do, but from the persons they are.”

Accordingly, the Church stands firmly against all unjust discrimination, including against those among us who experience same-sex attraction or gender discordance, who are equally loved by God. They bear the full measure of human dignity we each have received through our Creator and must therefore be treated with kindness and respect.

Another fundamental tenet of our faith is that there is an order in the natural world that was designed by its Creator and that this created order is good (Gen 1:31; Ps 19:1ff.). The Church has always affirmed the essential goodness of the natural order and called on us to respect it. Pope Benedict XVI explained that the natural world has an “inbuilt order,” a “grammar” that “sets forth ends and criteria for its wise use, not its reckless exploitation.”

What is true of creation as a whole is true of human nature in particular: there is an order in human nature that we are called to respect. In fact, human nature deserves utmost respect since humanity occupies a singular place in the created order, being created in the image of God (Gen. 1:27). To find fulfillment as human persons, to find true happiness, we must respect that order. We did not create human nature; it is a gift from a loving Creator. Nor do we “own” our human nature, as if it were something that we are free to make use of in any way we please.

A crucial aspect of the order of nature created by God is the body-soul unity of each human person. Throughout her history, the Church has opposed dualistic conceptions of the human person that do not regard the body as an intrinsic part of the human person, as if the soul were essentially complete in itself and the body were merely an instrument used by the soul. In opposition to dualisms both ancient and modern, the Church has always maintained that, while there is a distinction between the soul and the body, both are constitutive of what it means to be human, since spirit and matter, in human beings, “are not two natures united, but rather their union forms a single nature.”⁸ The soul does not come into existence on its own and somehow happen to be in this body, as if it could just as well be in a different body. A soul can never be in another body, much less be in the wrong body. This soul only comes

⁸ Catechism of the Catholic Church, no. 365.



into existence together with this body. What it means to be a human person necessarily includes bodiliness. “Human beings are physical beings sharing a world with other physical beings.”⁹

Human bodiliness is, in turn, intrinsically connected with human sexual differentiation. Just as every human person necessarily has a body, so also human bodies, like those of other mammals, are sexually differentiated as male or female: “Male and female he created them” (Gen 1:27). St. John Paul II reminded us that, in the Book of Genesis, we learn that “Man is created ‘from the very beginning’ as male and female: the life of all humanity – whether of small communities or of society as a whole – is marked by this primordial duality.”¹⁰ The Catechism of the Catholic Church affirms: “Man and woman have been created, which is to say, willed by God: on the one hand, in perfect equality as human persons; on the other, in their respective beings as man and woman. ‘Being man’ or ‘being woman’ is a reality which is good and willed by God.”¹¹

Just as bodiliness is a fundamental aspect of human existence, so is either “being a man” or “being a woman” a fundamental aspect of existence as a human being, expressing a person’s unitive and procreative finality. The Congregation for the Doctrine of the Faith, the Vatican’s office that holds the primary responsibility to uphold and preserve Church doctrine, insists:

[T]he importance and the meaning of sexual difference, as a reality deeply inscribed in man and woman, needs to be noted. “Sexuality characterizes man and woman not only on the physical level, but also on the psychological and spiritual, making its mark on each of their expressions.” It cannot be reduced to a pure and insignificant biological fact, but rather “is a fundamental component of personality, one of its modes of being, of manifestation, of communicating with others, of feeling, of expressing and of living human love.” This capacity to love – reflection and image of God who is Love – is disclosed in the spousal character of the body, in which the masculinity or femininity of the person is expressed.¹²

⁹ International Theological Commission, *Communion and Stewardship: Human Persons Created in the Image of God* (July 23, 2004), no. 26

https://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20040723_communion-stewardship_en.html.

¹⁰ St. John Paul II, Letter to Families (Feb. 2, 1994), no. 6, https://www.vatican.va/content/john-paul-ii/en/letters/1994/documents/hf_jp-ii_let_02021994_families.html

¹¹ Catechism of the Catholic Church, no. 369.

¹² Congregation for the Doctrine of the Faith, Letter on the Collaboration of Men and Woman in the Church



As Pope Francis affirmed, “The acceptance of our bodies as God’s gift is vital for welcoming and accepting the entire world as a gift from the Father and our common home, whereas thinking that we enjoy absolute power over our own bodies turns, often subtly, into thinking that we enjoy absolute power over creation.” He has also taught that young people in particular:

need to be helped to accept their own body as it was created... An appreciation of our body as male or female is also necessary for our own self-awareness in an encounter with others different from ourselves. In this way we can joyfully accept the specific gifts of another man or woman, the work of God the Creator, and find mutual enrichment.¹³

Most recently, the bishops of the United States voted in 2025 to revise the Ethical and Religious Directives for Catholic Health Care Services, which set out the moral principles of Catholic teaching that guide Catholic health care ministry.¹⁴ Those revisions specify that, under longstanding principles of Catholic teaching, surgical or chemical techniques that aim to exchange the sex characteristics of a patient’s body for those of the opposite sex or for simulations thereof are morally illicit.

The understanding that each person whom our health and social service ministries encounter is, him or herself, “the work of God the Creator,” is what makes Catholic charitable service Catholic – and what makes it especially effective.

III. The proposed rule

The USCCB submitted comments on the 2023 proposed rule, in which HHS asserted that gender dysphoria is a disability on the basis of which discrimination can be prohibited under Section 504. While the USCCB supported numerous aspects of the proposed rule, we opposed its position on the issue of gender dysphoria, arguing that it was vague, arbitrary and capricious, and threatened religious liberty.¹⁵

and in the World (2004), no. 8.

(https://www.vatican.va/roman_curia/congregations/cfaith/documents/rc_con_cfaith_doc_20040731_collaboration_en.html).

¹³ Pope Francis, Encyclical Letter *Amoris Laetitia*, no. 285.

¹⁴ <https://www.osvnews.com/us-bishops-overwhelmingly-back-ban-on-gender-interventions-by-catholic-health-care/>.

¹⁵ https://downloads.regulations.gov/HHS-OCR-2023-0013-0783/attachment_1.pdf.



We agree with HHS that *Williams v. Kincaid*, the case on which the 2023 rule relied for its inclusion of gender dysphoria as a covered disability, was wrongly decided.¹⁶ The flaws in the *Kincaid* majority's reasoning are ably summarized by Judge Quattlebaum's dissent, and by Justice Alito in his dissent from the Supreme Court's denial of certiorari in the case.¹⁷ The *Kincaid* majority's argument that Section 504 must be construed to cover gender dysphoria in order to avoid constitutional issues – specifically, the concern that failing to do so may violate the Equal Protection Clause – is especially weak considering that Section 504 has no religious exemption. It is unreasonable to avoid the question of whether Section 504 violates the Equal Protection Clause as applied to people with gender dysphoria at the expense of raising the question of whether it violates the Free Exercise Clause as applied to religious recipients of federal funding.

Our comments on the 2023 proposed rule observed that the preamble's discussion of "gender identity" under Section 504 created confusion about how broadly the obligation to make accommodations for gender dysphoria would apply – it referred to restrictions on "access to care" due to gender dysphoria. This appeared to contemplate application only to the provision of health care. But the Department funds countless entities that are engaged in activities other than health care. For instance, would a foster care and adoption agency funded by HHS through Title IV-E be required to make accommodations for a prospective parent suffering from gender dysphoria? Or an employee suffering from gender dysphoria? The more broadly the *Kincaid* construction applies, the more extensive the religious liberty problems it raises.

The 2024 final rule's response to our comments offered little comfort:

As to concerns about religious freedom and conscience, the section 504 rule does not contain provisions on those issues. However, the Department does have other statutes and regulations that apply protections in these areas. For example, in January 2024, the Department finalized a rule clarifying the Department's enforcement of the Federal health care conscience statutes, including that OCR receives and handles complaints regarding these statutes. The Department will comply with all applicable law. We decline to make changes to this rule.¹⁸

¹⁶ *Williams v. Kincaid*, 45 F.4th 759 (4th Cir. 2022, cert. denied, 600 U.S. --- (June 30, 2023) (No. 22-633).

¹⁷ *Kincaid v. Williams*, 143 S. Ct. 2414 (2023) (Alito, J., dissenting).

¹⁸ 89 Fed. Reg. 40066, 40069 (May 9, 2024) (citations omitted).



HHS's reference to the 2024 Conscience Rule failed to acknowledge that most of the statutes enforced through that rule do not apply to religious objections about "gender transition" procedures or "gender identity" issues, and those that do protect individuals rather than organizations.

The *Kincaid* ruling and the 2024 final rule's adoption of it generated concern among Catholic entities considering whether to participate in federal programs – again, particularly because, unlike Title IX, Section 504 has no statutory religious exemption. The current proposed rule, by rejecting the *Kincaid* court's interpretation of Section 504, resolves these problems. While the proposed rule does not identify the removal of this threat to religious liberty as a reason for or anticipated benefit of the rulemaking, the USCCB regards it as significant.

I. Conclusion

In numerous ways, the 2024 final rule affirmed and advanced the dignity of people with disabilities. Its inclusion of gender dysphoria as a covered disability, however, undermined human dignity by denying the goodness of our nature, and threatened the religious liberty of Catholic and other religious organizations participating in HHS programs. We applaud HHS's proposal to correct this mistake.

Sincerely,

William Quinn
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