



Ending *Chevron* Deference

Impacts on Civil Rights

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Overturing the *Chevron* doctrine would have disastrous consequences for agencies tasked with enforcing Americans' civil rights, with historically marginalized communities particularly vulnerable to losing vital protections. The following are examples of civil rights issues affected by regulations that could be in jeopardy should the U.S. Supreme Court take a sledgehammer to administrative jurisprudence:

- **Protecting historically marginalized groups from housing discrimination:**

The U.S. Department of Housing and Urban Development (HUD) is tasked with implementing the Fair Housing Act, which protects people from housing discrimination on the basis of race, color, national origin, religion, sex, familial status, and disability.¹ Historically, this statute has been used to combat housing discrimination on the basis of race and gender, preventing landlords and realtors from intentionally denying housing to racial minorities and single women.² *Chevron* deference has allowed HUD to curtail widespread segregation and discrimination in housing, ameliorating the devastating effects of redlining policies that included refusing to insure mortgages in Black neighborhoods.³

- **Ensuring equal access to building credit:** The Consumer Financial Protection Bureau (CFPB) implements the Equal Credit Opportunity Act (ECOA), which bans discrimination in all types of credit transactions, including home mortgages and credit cards.⁴ First enacted in the mid-1970s, the ECOA allowed women access to credit cards in their own names for the first time.⁵ *Chevron* deference has allowed the CFPB to continue protecting historically marginalized communities from pernicious discrimination in credit lending practices.⁶

- **Reducing violence against survivors of domestic abuse:** HUD also enforces portions of the Violence Against Women Act to ensure that survivors of domestic violence within the HUD system have access to safe housing.⁷ HUD sets the standards to implement the specific protections for survivors covered under the law. Should *Chevron* be overturned, it could be more difficult for the agency to enforce these rights.

- **Ensuring protections for LGBTQI+ foster care children:** The Administration for Children and Families within the U.S. Department of Health and Human Services recently proposed a rule that outlines the necessary steps in the case plan and review process to provide “safe and proper” care for LGBTQI+ youth in foster care.⁸ These protections are especially vital given the disproportionately high rates of LGBTQI+ children in the foster care system.⁹
- **Providing equal access in accordance with an individual's gender identity in community planning and development programs:** HUD has a rule in place that requires program providers that receive funds through HUD’s Office of Community Planning and Development to ensure services to LGBTQI+ individuals, such as allowing individuals to stay in temporary emergency shelters in accordance with their gender identity.¹⁰

Endnotes

- 1 U.S. Code, “42 USC Ch. 45: Fair Housing,” available at <https://uscode.house.gov/view.xhtml?path=/prelim@title42/chapter45&edition=prelim> (last accessed January 2024).
- 2 Sandra Park, “Why Fair Housing is Key to Systemic Equality,” ACLU, May 5, 2023, available at <https://www.aclu.org/news/racial-justice/why-fair-housing-is-key-to-systemic-equality>.
- 3 Terry Gross, “A ‘Forgotten’ History Of How The U.S. Government Segregated America,” NPR, May 3, 2017, available at <https://www.npr.org/2017/05/03/526655831/a-forgotten-history-of-how-the-u-s-government-segregated-america>.
- 4 U.S. Code, “15 USC Chapter 41, Subchapter IV: Equal Credit Opportunity,” available at <https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title15-chapter41-subchapter4&edition=prelim> (last accessed January 2024).
- 5 Robin Saks Frankel, “The History Of Women And Credit Cards: 1970s To Present,” Forbes, December 5, 2023, available at <https://www.forbes.com/advisor/credit-cards/when-could-women-get-credit-cards/>.
- 6 Loper Bright v. Raimondo, amicus of Committee for Civil Rights Under Law, Supreme Court of the United States, No. 22-451, available at https://www.supremecourt.gov/DocketPDF/22/22-451/280294/20230922175636288_22-451_Amicus%20Brief.pdf (last accessed January 2023).
- 7 U.S. Code, “34 USC Subtitle I, Chapter 121, Subchapter III, Part L: Addressing the Housing Needs of Victims of Domestic Violence, Dating Violence, Sexual Assault, and Stalking,” available at <https://uscode.house.gov/view.xhtml?path=/prelim@title34/subtitle1/chapter121/subchapter3/partL&edition=prelim> (last accessed January 2024).
- 8 Children and Families Administration, “Safe and Appropriate Foster Care Placement Requirements for Titles IV-E and IV-B,” Federal Register 88 (187) (2023): 66752–66769, available at <https://www.federalregister.gov/documents/2023/09/28/2023-21274/safe-and-appropriate-foster-care-placement-requirements-for-titles-iv-e-and-iv-b>.
- 9 Human Rights Campaign, “LGBTQ+ Youth in the Foster Care System,” available at <https://www.thehrfoundation.org/professional-resources/lgbtq-youth-in-the-foster-care-system> (last accessed January 2024).
- 10 U.S. Department of Housing and Urban Development, “Equal Access in Accordance With an Individual's Gender Identity in Community Planning and Development Programs,” Federal Register 81 (183) (2016): 64763–64782, available at <https://www.federalregister.gov/documents/2016/09/21/2016-22589/equal-access-in-accordance-with-an-individuals-gender-identity-in-community-planning-and-development>.