Disability Rights Education & Defense Fund DREDF

October 1, 2026

Submitted via regulations.gov

Regulations Division, Office of General Counsel
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410

Re: Docket No. FR-6628-N-01, Notice of Research Justifying Additional Incentives for Certain Activities To Reduce Homelessness (91 FR 57901, Sept. 11, 2026)

To Whom It May Concern:

The Disability Rights Education and Defense Fund (DREDF) submits these comments on the Department of Housing and Urban Development's (HUD's) proposed determination that five activities are "proven effective" under section 428(d)(2)(C) of the McKinney-Vento Homeless Assistance Act (codified at 42 U.S.C. § 11386b(d)(2)(C)).

DREDF is a national disability civil rights law and policy center founded in 1979 and led by people with disabilities and parents of children with disabilities. We are based at the Ed Roberts Campus in Berkeley, California. For more than four decades, we have litigated and advised under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), the Fair Housing Act, and the *Olmstead* integration mandate.

DREDF's housing work focuses on keeping disabled people housed in the community and out of institutions, jails, and the street, from co-counseling *Chambers v. City and County of San Francisco*, which moved Laguna Honda Hospital residents into accessible community housing, to fair housing and source-of-income litigation on behalf of disabled Section 8 voucher holders. We also train and support California legal services advocates to challenge the criminalization of homelessness under Title II of the ADA, including through our 2025 toolkit, *Legal Advocacy for Unhoused People with Disabilities*. We have also filed amicus briefs opposing the enforcement of anti-camping ordinances against disabled unhoused residents and advocating for expanded affordable, accessible housing and voluntary community-based services that help people remain housed.

The Continuum of Care (CoC) Program is, at its core, a disability program. HUD defines permanent supportive housing as housing with services "to assist homeless persons with a disability to live independently" (24 C.F.R. § 578.3). The first activity Congress listed as proven effective in section 428(d)(2) is permanent supportive housing for chronically homeless individuals and families, and chronic homelessness requires a qualifying disability. Any change in what the CoC Program rewards is a change in how the federal government houses disabled people.

Executive Summary

HUD's record does not show that any of the five activities meets the statutory standard. That standard requires proof that an activity is effective at reducing homelessness generally, reducing homelessness for a specific subpopulation, or achieving the prevention and independent living goals in section 427(b)(1)(F).

The notice relies heavily on polling, press releases, news reports, and before-and-after trends offered as proof of causation. Where HUD cites rigorous research, that research mostly measures something other than reductions in homelessness. Often it supports voluntary services paired with stable housing, which is the model HUD is trying to move away from.

The notice also never addresses HUD's obligations under Section 504, the ADA, and the Fair Housing Act. It never addresses the risk that its incentives will push disabled people out of housing, into segregated settings, or into the criminal legal system. DREDF's positions are:

- **Transitional housing:** the record does not meet the threshold. If HUD proceeds, it should support transitional housing only with conditions.
- **Supportive services:** DREDF supports voluntary services with conditions.
- **Participation agreements:** DREDF opposes them.
- **Drug-free and sober housing:** DREDF opposes the category as framed. We support voluntary recovery housing as one option, with conditions.
- **Law enforcement coordination:** DREDF opposes it and asks HUD to limit any first-responder incentive to voluntary, non-police crisis response.

DREDF asks HUD to withdraw the determination. If HUD proceeds, it should adopt the safeguards described in each section below.

I. HUD's Record Does Not Meet the Statutory Standard

The independent living goals do not reach most CoCs. HUD leans on section 427(b)(1)(F) to justify a program-wide shift toward "self-sufficiency" (91 FR 57904–05). But section 427(b)(1)(F) applies only to CoCs approved to serve households that meet Category 3 of the homeless definition (people homeless under other federal statutes). It cannot carry a determination applied to every CoC in the country.

Even where the goals apply, they expressly include addressing chronic disabilities and chronic physical and mental health conditions. Independent living, as Congress and the disability rights movement use the term, means disabled people living in their own homes in the community with the supports they need. It does not mean living without assistance.

The notice instead calls people who need long-term support a "select subpopulation" unlikely to regain self-sufficiency (91 FR 57905). It treats rising benefit income among CoC participants as evidence of failure (91 FR 57908). For disabled people, getting SSI or SSDI is often the most important step toward stable housing, and the CoC Program should reward it.

Correlation is offered as causation. HUD's central evidence against permanent housing is that homelessness rose after 2013 while permanent housing expanded (91 FR 57904, 57906). That comparison ignores rising rents, the loss of affordable units, and other forces HUD's own Annual Homelessness Assessment Reports have documented.

The comparison also ignores how permanent supportive housing (PSH) works. When PSH succeeds, its residents stay housed and stop appearing in homelessness counts. A growing PSH population with long tenancies is evidence of housing stability, not failure.

Similarly, HUD cites deaths as a share of PSH exits (91 FR 57908, 57911) without comparing them to mortality among the same population left unsheltered. PSH serves people with the most serious disabilities and chronic illnesses, many of them aging. Deaths among residents are a reason to strengthen health care in PSH. They are not evidence that housing causes harm.

Polling and press releases are not research. The notice relies on public opinion surveys, mayoral statements, and news reports about camping bans and local policy shifts (91 FR 57905–06, 57915). None of this shows that any activity reduces homelessness.

California examples do not show what HUD claims. HUD relies on San Francisco and California (91 FR 57905, 57912). As California's disability rights legal support center, DREDF notes that San Francisco's drug-free permanent supportive housing legislation was signed in July 2026. There are no outcome data showing that it has reduced homelessness or overdose deaths. The state's encampment task force is likewise an enforcement initiative, not an evaluated intervention. A policy's recent adoption is not evidence of its effectiveness. HUD's California examples measure visibility, not housing outcomes.

After *City of Grants Pass v. Johnson*, 603 U.S. 520 (2024), San Francisco's arrests and citations for illegal lodging rose roughly sixfold, from 71 in the six months before the decision to 427 in the six months after.[1] The City now reports steep drops in tents and encampments.[2] Neither figure tells HUD how many people were housed, how many simply moved, or how many cycled through jail. Reporting that followed displaced people in San Francisco, Fresno, and San Diego found that sweeps separated them from service providers, destroyed the documents they needed to get into housing, and left many still on the street.[3] For disabled people, the shelter offered in place of an encampment is often unusable. In Berkeley, where DREDF is based, disabled unhoused residents have sued the City over how its encampment sweeps treat people with disabilities, and the City has responded by suing its own shelter operators, arguing that they, not the City, are responsible for ADA and Fair Housing Act compliance.[4]

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[1] Marisa Kendall, *Homeless-Related Arrests, Citations Soared in These California Cities After Supreme Court Case*, CalMatters (June 27, 2025), https://calmatters.org/housing/homelessness/2025/06/homelessness-enforcement-data/.

[2] Tim Fang, *San Francisco Homeless Encampments, RVs on Streets Drop for 4th Quarter, Mayor Says*, CBS S.F. (June 9, 2026), https://www.cbsnews.com/sanfrancisco/news/san-francisco-may-2026-homeless-encampment-rv-count-record-low/ (reporting the City's quarterly count of 115 tents and structures).

[3] Marisa Kendall & Katie Anastas, *'Look, There's Nowhere Else to Go': Inside California's Crackdown on Homeless Camps*, CalMatters (Feb. 27, 2025), https://calmatters.org/housing/homelessness/2025/02/california-homeless-encampment-sweeps/.

[4] *See Prado v. City of Berkeley*, No. 3:23-cv-04537-EMC (N.D. Cal.); Margaret Attridge, *Faced with a Disability Lawsuit, Berkeley and Its Homeless Shelters Blame Each Other*, Courthouse News Serv. (July 2, 2026), https://www.courthousenews.com/faced-with-a-disability-lawsuit-berkeley-and-its-homeless-shelters-blame-each-other/.

The record omits disabled people's perspectives. HUD reports that it hosted 58 homelessness forums in 32 states (91 FR 57905), but it has placed no record of those forums in the docket: no list of locations or invitees, no agendas, and no summaries of what was said. Neither DREDF nor, to our knowledge, any center for independent living, protection and advocacy agency, or disability-led organization was invited to or participated in these forums. The stakeholder categories HUD lists do not include disability organizations, and none of the themes HUD reports address disability access, reasonable accommodation, or the integration mandate. Indeed, the notice contains no analysis of how the proposed incentives would affect disabled people at all. That is a striking omission for a program whose core population is disabled. HUD should place the records of these forums in the docket and reopen comment so the public can evaluate the stakeholder input HUD relies on.

Recommendation. HUD should withdraw the determination. Before issuing any revised determination, HUD should conduct and publish a disability impact analysis and consult directly with disabled people who have experienced homelessness and disability-led organizations.

II. Transitional Housing with Supportive Services

HUD's claim. Transitional housing is proven effective, particularly for youth, families with children, and survivors of domestic violence (91 FR 57906–08).

The evidence. HUD's own Family Options Study, which HUD cites (91 FR 57907), is a randomized trial. It found that long-term rental subsidies produced the strongest outcomes for families, reducing returns to homelessness and improving stability and child well-being. Project-based transitional housing showed no comparable advantage.

The 2025 *Social Science & Medicine* trial of young mothers (91 FR 57907) compared housing plus services with housing alone. Participants in both arms received housing. That supports adding services, not replacing permanent housing with time-limited housing.

The *Pediatrics* study of youth with mental illness (91 FR 57907) is cited for employment outcomes. Its principal finding was that Housing First improved housing stability.

The Covenant House figures (91 FR 57907) are descriptive exit data from a provider's own programs, not a comparative evaluation. The evidence HUD cites for survivors documents unmet need for shelter and housing (91 FR 57907). It does not show that transitional housing reduces homelessness.

Impact on disabled people. Many transitional programs are congregate settings with shared bathrooms, inaccessible entrances, curfews, and rigid rules. People with mobility, sensory, psychiatric, and cognitive disabilities often cannot use or comply with these settings. The 24-month limit is poorly matched to lifelong disabilities. When it expires without a permanent placement, disabled people return to the street or to institutions.

Shifting CoC resources from scattered-site permanent housing toward congregate, time-limited settings also raises integration mandate concerns under Section 504 and the ADA (24 C.F.R. § 8.4(d); 28 C.F.R. § 35.130(d)).

DREDF's position. The record does not show that transitional housing is proven effective at reducing homelessness generally. At most, it is suggestive for some youth and survivor programs.
Recommendations. HUD should not adopt this determination. If it does, HUD should:

- Limit the determination to the specific subpopulations the evidence addresses.
- Prohibit reallocation of existing permanent housing to fund transitional projects.
- Make compliance with Section 504 accessibility requirements a threshold for any incentive. These include mobility and sensory unit requirements (24 C.F.R. §§ 8.22, 8.23), effective communication, and reasonable accommodation policies.
- Require a documented pathway to permanent housing for each participant.
- Allow time limits to be extended as a reasonable accommodation.

III. Supportive Services

HUD's claim. Supportive services addressing employment, health care, substance use disorder, and mental illness are proven effective (91 FR 57908–10).

The evidence. DREDF agrees that services matter and have been underfunded. HUD's evidence supports services delivered alongside stable housing. That includes the SAMHSA case management literature, PATH program feedback, and the finding that housing plus services outperforms housing alone (91 FR 57909–10).

That is consistent with Housing First, which has always included voluntary services. It is not evidence that services should compete with housing for scarce CoC dollars.

Impact on disabled people. Services work only if disabled people can use them. That requires physical accessibility, sign language interpreters and other effective communication, accessible transportation, and staff trained on reasonable accommodations.

Evidence-based employment services for people with psychiatric disabilities, such as Individual Placement and Support, rest on zero exclusion and voluntary participation, not readiness requirements. Benefits advocacy, such as SSI/SSDI application assistance, is among the most effective income services for disabled people. The notice treats it as a sign of failure.

DREDF's position. DREDF supports incentives for voluntary supportive services, with conditions.

Recommendations. HUD should:

- Fund services in addition to, not in place of, permanent housing.
- Expressly include disability-specific services, such as independent living skills, personal care, assistive technology, benefits advocacy, and supported employment, as eligible for any incentive.
- Require services to be accessible and voluntary.
- Measure service success by housing stability, health, and community participation, not by exits from assistance.

IV. Supportive Service Participation Agreements

HUD's claim. Participation agreements that require engagement in services pair choice with "accountability" and are proven effective (91 FR 57910–11).

The evidence. HUD cites no study showing that mandatory participation reduces homelessness. The Pathways to Housing example HUD cites involved two staff visits per month (91 FR 57910), not compulsory treatment.

HUD-VASH (91 FR 57911) operates under the VA's Housing First policy. Its success tracks a large, sustained investment in vouchers. The HUD-VASH study HUD cites observed that some veterans who declined services had worse outcomes. That shows services matter. It does not show that compelling them works.

Legal limits HUD ignores. HUD's own regulation, 24 C.F.R. § 578.75(h), bars recipients from conditioning continued assistance on disability-related services, such as mental health treatment, outpatient health services, and medication. The only exception is projects whose purpose is substance use treatment.

Section 504 and the ADA likewise prohibit conditions that screen out disabled people or impose requirements on them that others do not face (24 C.F.R. § 8.4(b); 28 C.F.R. § 35.130(b)(8)). The notice does not mention any of this.

Impact on disabled people. The notice never asks the questions that matter most. Who decides what services are "appropriate"? What happens when a participant cannot engage because of a disability, trauma, relapse, caregiving duties, lack of transportation, a language barrier, or because the service does not exist or is inaccessible?

For disabled people, the answer under a compulsory model is too often the loss of housing. Consider a wheelchair user with a co-occurring substance use disorder whose housing is conditioned on attending a treatment program. The only program with an opening is on the second floor of a building without an elevator, and paratransit cannot reliably get him there on time. He asks to attend a different program or participate by video, but his requests are denied. His absences are recorded as refusals, and his housing is terminated. The barrier was never his willingness to engage. It was the program's failure to accommodate his disability.

DREDF's position. DREDF opposes this determination. The record does not show that participation requirements are proven effective, and the incentive invites violations of HUD's own regulation and federal civil rights law.

Recommendations. If HUD proceeds, it should:

- State that any incentive is bounded by 24 C.F.R. § 578.75(h).
- Prohibit bonus points for conditioning housing on disability-related services.

- Require written reasonable accommodation procedures for any participation requirement.

- Bar termination for non-participation without an individualized assessment and the protections of 24 C.F.R. § 578.91.

V. Drug-Free and Sober Housing

HUD's claim. Drug-free and sober housing are proven effective at supporting recovery and self-sufficiency (91 FR 57911–13).

The evidence. The sober living research HUD cites (91 FR 57913) studies people who chose recovery housing. The Oxford House participants were recruited while completing treatment. The California sober living studies tracked residents who entered voluntarily, mostly without a comparison group.

These studies measure substance use, employment, and arrests. They do not measure placement from homelessness or reductions in homelessness. They show that recovery housing helps people who want it. They do not show that expanding abstinence-based housing reduces homelessness for the broader CoC population, most of whom are not seeking that model.

HUD's own evidence also cuts the other way. The New York study HUD cites found that tenants using drugs alone behind closed doors was a common factor in overdose deaths (91 FR 57912). Rules that make any disclosed use grounds for eviction give tenants every reason to hide use and use alone.

Legal limits HUD ignores. People in recovery and people with substance use disorders who are not currently using illegal drugs are protected by the ADA, Section 504, and the Fair Housing Act (42 U.S.C. § 12210(b); 29 U.S.C. § 705(20)(C)). Alcohol use disorder is a disability under all three statutes.

People taking medication for opioid use disorder (MOUD), such as methadone and buprenorphine, are lawfully using prescribed medication. The Department of Justice has made clear that excluding them violates the ADA. Many "sober" and "drug-free" programs still treat MOUD as drug use. The same risk applies to prescribed psychiatric medication.

Impact on disabled people. Relapse is part of recovery for many people. A program that evicts after one relapse will cycle disabled people back to the street, where overdose risk is highest.

DREDF's position. DREDF opposes the determination as framed. The record shows that voluntary recovery housing benefits people who choose it, not that drug-free or sober housing reduces homelessness. DREDF supports recovery housing as one option among many, with conditions.

Recommendations. If HUD proceeds, it should:

- Require every incentivized project to admit and retain people taking MOUD and other prescribed medications.
- Require individualized assessment, added support, and transfer to other housing before any termination for relapse.
- Prohibit bonus points for converting existing low-barrier permanent supportive housing to sober housing or displacing current tenants.
- Confine sober housing incentives to new capacity for people who choose it.

VI. Law Enforcement and First Responders

HUD's claim. Coordination with law enforcement and first responders is proven effective at reducing homelessness (91 FR 57913–15).

The evidence. HUD's evidence conflates two very different approaches. One is voluntary crisis response: clinicians, peers, EMS, and mobile crisis teams connecting people to services. The other is enforcement: camping bans, encampment removals, and drug penalties. HUD cites evidence about the latter as though it establishes the effectiveness of the former.

The enforcement results HUD cites measure reductions in visible or counted unsheltered homelessness—not whether people obtained housing. The Austin and Colorado Springs point-in-time counts and the HOST encampment "resolutions" (91 FR 57915) do not track where people went: into housing, into shelter, to another neighborhood, to jail, or to the hospital. Displacement is not a reduction in homelessness.

The Anchorage example likewise does not establish that law enforcement reduced homelessness. Officials attributed the result to a broader package that included shelter access, housing placement, and behavioral health investment (91 FR 57915). And the polling HUD cites (91 FR 57915) measures public opinion, not program effectiveness.

The notice also relies on unsupported and stigmatizing claims, including the assertion that as many as half of unsheltered people in some states are registered sex offenders (91 FR 57914). Such claims do not establish the effectiveness of enforcement and have no place in a federal research determination without reliable evidence.

Impact on disabled people. Enforcement-based approaches can impose particular harms on disabled people, especially people with psychiatric, intellectual, and developmental disabilities. A widely cited analysis estimated that disabled people account for roughly one-third to one-half of people killed by police.[5] Camping bans can also punish disabled people for sleeping outside when no accessible shelter bed is available, including wheelchair users, Deaf people, and people with service animals. Police departments are public entities subject to Title II of the ADA.

Encampment sweeps can destroy the equipment and documents disabled people need to survive and obtain housing: wheelchairs, walkers, CPAP machines, hearing aids, medications, identification, and medical records. In one sweep, police discarded a woman's insulin, Social Security card, identification, phones, food, clothing, and medical paperwork. In another, officers disposed of a man's tent, sleeping bag, blanket, carpet, and clothes. Losing insulin can be a medical emergency; losing identification and medical records can delay access to housing and benefits for months.

These harms are not merely incidental to homelessness enforcement. They can make the underlying problem harder to solve. Modeling published in JAMA in 2023 projected that involuntary displacement of people who inject drugs would substantially increase overdose deaths and hospitalizations.[6] And criminal citations and arrests can create records that make access to rental housing more difficult. Policies that displace people without providing accessible alternatives can therefore move disabled people farther from the housing and stability that the notice says it seeks to promote.

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[5] David M. Perry & Lawrence Carter-Long, *The Ruderman White Paper on Media Coverage of Law Enforcement Use of Force and Disability* (Ruderman Family Found. Mar. 2016), https://rudermanfoundation.org/wp-content/uploads/2017/08/MediaStudy-PoliceDisability_final-final.pdf.

[6] Joshua A. Barocas et al., *Population-Level Health Effects of Involuntary Displacement of People Experiencing Unsheltered Homelessness Who Inject Drugs in US Cities*, 329 JAMA 1478 (2023), https://doi.org/10.1001/jama.2023.4800.

DREDF's position. DREDF opposes this determination. The record does not show that law enforcement coordination reduces homelessness.

Recommendations. If HUD retains any first-responder incentive, it should:

- Limit it to voluntary, non-police crisis response and service connection, such as 988, mobile crisis teams, and clinician-led and peer-led models.
- Expressly exclude credit for camping bans, sweeps, citations, arrests, and drug enforcement.
- Require compliance with confidentiality protections for health and substance use treatment records (42 C.F.R. Part 2; HIPAA) and for survivors under the Violence Against Women Act.
- Prohibit sharing participant information with law enforcement.

VII. Impact on CoCs and Program Participants

National incentives will pressure CoCs to reallocate funds away from permanent supportive housing that is keeping disabled people housed. Disabled tenants of defunded or converted projects face displacement, and many will not find accessible replacement housing.

Conditioning housing on treatment compliance also heightens the risk of institutionalization in psychiatric facilities, nursing facilities, and jails, contrary to *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581 (1999).

The notice does not account for the cost of making transitional and sober housing accessible, or for the workforce needed to deliver accessible services. It does not consider the effect on existing participants. California's Continuums of Care reported 78,758 permanent supportive housing beds in 2024, up 5 percent from the prior year.[7] Because CoC-funded PSH requires a disability for entry, nearly every one of those tenancies belongs to a household with a disabled member.[8] Each of those households could be destabilized if continued assistance depends on compliance with treatment

[7] U.S. Dep't of Hous. & Urb. Dev., *Continuum of Care Performance Profile: California* (2024), https://files.hudexchange.info/reports/published/CoC_Perf_State_CA_2024.pdf.

[8] *See* 24 C.F.R. § 578.3 (defining "permanent supportive housing" as housing in which supportive services are provided to help homeless persons with a disability live independently).

requirements. The people waiting for housing have significant disability-related needs too. More than a third of Californians experiencing homelessness have difficulty with at least one activity of daily living, such as bathing, dressing, or eating, and among those 50 and older the figure is 43%.[9] Twenty-two percent report a mobility limitation.[10] Researchers studying this population have called for accessible supportive housing designed for people with disabilities.[11] Yet accessible housing is scarce. HUD-sponsored research found that fewer than 1 percent of U.S. housing units have the features a wheelchair user needs to live independently.[12] In California, advocates have documented shortages of affordable accessible units and failures to direct the accessible units that do exist to the disabled people who need them.[13] Shelter is scarce as well: 41% of people experiencing homelessness in California reported a time when they wanted shelter but could not get it.[14] Without enforceable civil rights safeguards, incentives that favor transitional and treatment-conditioned programs will draw resources away from the permanent housing disabled Californians already rely on. They will also steer new participants into programs that cannot accommodate them.

HUD should make compliance with Section 504, the ADA, and the Fair Housing Act a threshold for every incentive. It should protect existing permanent housing from reallocation, and measure success by housing stability, health, safety, and community participation.

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[9] Margot Kushel et al., UCSF Benioff Homelessness & Hous. Initiative, *Toward Thriving: Understanding Health and Homelessness* (Nov. 2025), https://homelessness.ucsf.edu/sites/default/files/2025-11/11.25_FINAL_BHHI_Report_Physical_Health.pdf (analyzing California Statewide Study of People Experiencing Homelessness data).

[10] Margot Kushel et al., UCSF Benioff Homelessness & Hous. Initiative, *Toward a New Understanding: The California Statewide Study of People Experiencing Homelessness* (June 2023, rev. Apr. 2026), https://homelessness.ucsf.edu/sites/default/files/2026-04/CASPEH_Report_62023_v4.pdf.

[11] Kushel et al., Toward Thriving, supra note 10.

[12] U.S. Dep't of Hous. & Urb. Dev., Off. of Pol'y Dev. & Rsch., *Accessibility of America's Housing Stock: Analysis of the 2011 American Housing Survey* (2015), https://www.huduser.gov/portal/sites/default/files/pdf/accessibility-america-housingStock.pdf.

[13] Disability Rights California, Comment Letter on Docket No. HUD-2023-0029 (2023), https://downloads.regulations.gov/HUD-2023-0029-0372/attachment_1.pdf.

[14] Kushel et al., Toward a New Understanding, supra note 11.

Conclusion

Disabled people are overrepresented among people experiencing homelessness because housing is unaffordable and because discrimination and segregation push us out of the housing market. The answer is accessible, affordable, integrated housing with voluntary support. Coercion, conditions, and policing are not the answer.

HUD has not shown that the activities it proposes to reward meet the statutory standard. DREDF urges HUD to withdraw the determination. If HUD proceeds, it should adopt the civil rights safeguards described above.

Thank you for the opportunity to comment. Please contact me with any questions.

Sincerely,



Michelle Uzeta, Esq.
Executive Director
Disability Rights Education and Defense Fund
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