



July 8, 2019

*Submitted via [www.regulations.gov](http://www.regulations.gov)*

Office of General Counsel, Rules Docket Clerk  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW, Room 10276  
Washington, DC 20410-0500

**Re: HUD Docket No. FR-6124-P-01, RIN 2501-AD89 Comments in Response to Proposed Rulemaking: Housing and Community Development Act of 1980: Verification of Eligible Status**

To Whom It May Concern:

On behalf of our client, whose family is of mixed immigration status, and other similarly situated clients who seek the services of Community Legal Aid SoCal (“CLA-SoCal”), we submit this public comment letter in response to the Department of Housing and Urban Development’s (“HUD”) Notice of Proposed Rulemaking regarding Verification of Eligible Status, published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01) (the “Proposed Rule”). If implemented, the Proposed Rule will negatively impact more than 25,000 families in federally subsidized housing that contain a member with ineligible immigration status, including CLA-SoCal’s clients.<sup>1</sup>

CLA-SoCal’s mission is to help our neighbors fight injustice by providing compassionate, high-quality legal aid to low-income people throughout Orange and Southeast Los Angeles Counties. For 60 years, CLA-SoCal has served this region, a region rich in immigrants who have played an integral role in every aspect of our community and economy.<sup>2</sup> Due to the region’s high rents, which in some areas require an income of over three times California’s minimum wage, many immigrants are reliant on housing assistance to meet their families’ basic needs.<sup>3</sup>

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<sup>1</sup> Housing and Urban Development, Regulatory Impact Analysis, Housing and Community Development Act of 1980: Verification of Eligible Status, Docket No. FR-6124-P-01, at 8 (Apr. 15, 2019), <https://www.regulations.gov/document?D=HUD-2019-0044-0002> (hereinafter “Regulatory Impact Analysis”).

<sup>2</sup> See Tom K. Wong, Ph.D., OC OPPORTUNITY INITIATIVE, ORANGE COUNTY IMMIGRATION PROFILE (Sep. 2017), [https://donor.oc-cf.org/file/OC\\_Opportunity\\_Initiative\\_Report.pdf](https://donor.oc-cf.org/file/OC_Opportunity_Initiative_Report.pdf).

<sup>3</sup> See CALIFORNIA HOUSING PARTNERSHIP, ORANGE COUNTY’S HOUSING EMERGENCY UPDATE 1 (May 2019), <https://1p08d91kd0c03rlxhmhtydpr-wpengine.netdna-ssl.com/wp-content/uploads/2019/05/Orange-HNR-2019.pdf>; Matt Levin, *Fleeing War-Torn Homes for Crippling Rents—California Housing Costs Creating Harsh Reality for Refugees*, CALMATTERS (Jul. 19, 2018), <https://calmatters.org/articles/refugees-housing-costs-california/>.



Currently, eligibility for federal housing assistance, which includes Section 8 Project-Based Rental Assistance (“PBRA”) and Housing Choice Vouchers (“HCV”), is limited to U.S. citizens and certain categories of eligible non-citizens, such as legal permanent residents.<sup>4</sup> If a family includes individuals with ineligible immigration statuses—a “mixed status” family—the family will receive prorated subsidies based on the number of eligible individuals in the household.<sup>5</sup> This ensures that eligible family members are able to receive housing, while also preserving family integrity by allowing mixed status families to cohabitate.

Even though individuals with ineligible immigration status are not presently receiving federal subsidies, HUD nonetheless seeks to revise its long-standing regulations, such that *every* member of a family receiving housing aid must possess an eligible immigration status.<sup>6</sup> HUD contends that the Proposed Rule is a means of addressing the waitlist crisis faced by Public Housing Authorities nationwide.<sup>7</sup> However, HUD’s own analysis indicates that higher subsidies would be paid out under the Proposed Rule, resulting in fewer families being housed or in the quality of public housing decreasing.<sup>8</sup> Moreover, families facing termination of benefits would be forced to choose between forgoing housing assistance, placing them at risk of eviction and homelessness, or excluding family members with an ineligible immigration status so as to continue receiving assistance.

We write to express our strong opposition to the Proposed Rule. Housing assistance is a fundamental component of the safety net that our country has long offered to individuals who demonstrate eligible need. Human needs do not change based on immigration status. The Proposed Rule is unnecessary, dangerous, and punitive, targeting families who seek out the very assistance that was designed to meet their needs. For these reasons and the reasons set forth below, we request that HUD promptly withdraw the Proposed Rule.

### **I. The Proposed Rule Threatens the Housing Stability of Over 108,000 Individuals, Putting Them at Risk of Homelessness.**

The Proposed Rule will impede access to housing for tens of thousands of families and will put over 108,000 individuals at risk of homelessness.

The Proposed Rule threatens to undermine the well-being of mixed status families, forcing them to make a decision that no family should ever have to make: forgo housing subsidies so that the family can stay together or break up the family to allow eligible members to continue receiving

<sup>4</sup> See 42 U.S.C. § 1436a(a); 24 C.F.R. § 5.506.

<sup>5</sup> See Regulatory Impact Analysis, *supra* note 1, at 2 n.4.

<sup>6</sup> *Id.* at 1.

<sup>7</sup> See Tracy Jan, *Trump Proposal Would Evict Undocumented Immigrants from Public Housing*, WASH. POST (Apr. 18, 2019), [https://www.washingtonpost.com/business/2019/04/18/trump-proposal-would-evict-undocumented-immigrants-public-housing/?utm\\_term=.c6fd40565b83](https://www.washingtonpost.com/business/2019/04/18/trump-proposal-would-evict-undocumented-immigrants-public-housing/?utm_term=.c6fd40565b83).

<sup>8</sup> See Regulatory Impact Analysis, *supra* note 1, at 3.



assistance. A full 70% of mixed status families currently receiving aid are composed of eligible children and at least one ineligible parent.<sup>9</sup> Another 6% are composed of eligible parents and at least one ineligible child.<sup>10</sup> These vulnerable families with children will likely forgo the subsidies in order to avoid separation.<sup>11</sup> So, too, will households with other ineligible relatives—just as parents will be unwilling to leave their children, parents will likely be unwilling to force their own parents, vulnerable in old age, or their brothers or sisters to leave their home. As HUD acknowledges, “[the] fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified.”<sup>12</sup>

Based on these statistics, the Proposed Rule could cause as many as 108,104 individuals from mixed status families to lose their homes.<sup>13</sup> This mass expulsion from housing assistance will cause increased rates of homelessness and housing instability among an already vulnerable population.<sup>14</sup>

The increased risk of homelessness posed by the Proposed Rule is particularly poignant in California, where the highest percentage of mixed status families are concentrated<sup>15</sup>—and where nine of the ten highest-rental metropolitan counties in the country are located.<sup>16</sup> In reality, mixed status families may have nowhere else to go but the streets due to impacted housing markets, skyrocketing rents, a dearth of affordable housing, and overflowing emergency shelters.

For example, Orange County, California ranks among the top ten least affordable metropolitan counties in the country for renters.<sup>17</sup> Housing costs in Orange County continue to climb, with rents rising 5.4% on average this year, an 11-year high.<sup>18</sup> The housing market is among the tightest in the nation; only 4% of the rental supply was vacant in 2018.<sup>19</sup> Exacerbating matters, Federal and State funding for housing production and preservation in Orange County decreased by a staggering 75% between 2008 and 2018—nearly \$115 million annually.<sup>20</sup> The need for

<sup>9</sup> See *id.* at 8.

<sup>10</sup> *Id.*

<sup>11</sup> See *id.* at 7-8.

<sup>12</sup> *Id.* at 7.

<sup>13</sup> *Id.* at 8.

<sup>14</sup> See PRATT CTR. FOR CMTY. DEV., *CONFRONTING THE HOUSING SQUEEZE: CHALLENGES FACING IMMIGRANT TENANTS, AND WHAT NEW YORK CAN DO* (2008), <https://prattcenter.net/research/confronting-housing-squeeze-challenges-facing-immigrant-tenants-and-what-new-york-can-do>.

<sup>15</sup> Regulatory Impact Analysis, *supra* note 1, at 6. California accounts for 37% of mixed status families. *Id.*

<sup>16</sup> ANDREW AURAND ET AL., NATIONAL LOW INCOME HOUSING COALITION, *OUT OF REACH 2019 15* (2019), [https://reports.nlihc.org/sites/default/files/oor/OOR\\_2019.pdf](https://reports.nlihc.org/sites/default/files/oor/OOR_2019.pdf).

<sup>17</sup> *Id.*

<sup>18</sup> Jonathan Lansner, *Biggest Hike Since 2007: Los Angeles, Orange County Rents Jump 5.4%*, O.C. REGISTER (Jun. 14, 2019), <https://www.oregister.com/2019/06/14/los-angeles-orange-county-rents-jump-5-4-biggest-hike-in-12-years-says-consumer-price-index>.

<sup>19</sup> Jonathan Lansner, *Feel Bad for Southern California’s Tenants as Vacancy Tightens and Rents Climb*, O.C. REGISTER (Apr. 15, 2019), <https://www.oregister.com/2019/04/15/feel-bad-for-southern-californias-renters-as-vacancy-tightens-and-rates-climb/>.

<sup>20</sup> CALIFORNIA HOUSING PARTNERSHIP, *supra* note 3, at 1.



affordable housing has far surpassed the supply, with Orange County requiring 111,996 more affordable rental homes just to meet the *current* demand.<sup>21</sup> If mixed status families are forced out their homes by the Proposed Rule, the likelihood that they will find adequate, affordable alternative housing is remote at best.

Housing is even more limited for people experiencing a disability because they often require affordable, disability-accessible housing and/or housing with wrap-around services, such as permanent supportive housing.<sup>22</sup> Thus, families caring for a person with a disability would be even more vulnerable to becoming homeless. Indeed, simply being required to move—considered to be among the most stressful events in a person’s life—may exacerbate a person’s disabilities.

Finally, research shows that losing assisted housing could lead to reduced opportunities and increased health problems in the long term.<sup>23</sup> Having safe and stable housing is crucial to maintaining good health and self-sufficiency, and unstable housing conditions can cause individuals to experience increased hospital visits, loss of employment, and mental health problems.<sup>24</sup> These effects will be particularly prominent among the children displaced from their homes because displacement negatively impacts children’s cognitive development, leading to poorer life outcomes as adults.<sup>25</sup> For example, housing instability is directly correlated to decreased student retention and increased truancies, suspensions, and expulsions, limiting students’ opportunity to obtain the education they need to succeed later in life.<sup>26</sup>

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<sup>21</sup> *Id.*

<sup>22</sup> According to a recent County-commissioned study, the individuals who lived at the Riverbed are some of the most vulnerable people in all of Orange County. Over 51% of homeless residents surveyed reported having a disability, and over 42% stated that they have mental health concerns. Additionally, 37.5% of those surveyed were victims of domestic violence. CITY NET, CENSUS OF HOMELESS INDIVIDUALS IN THE FLOOD CONTROL CHANNEL (2017), [http://citynet.org/wp-content/uploads/2017/06/FCC-Data-Summary-FINAL\\_8.23.17.pdf](http://citynet.org/wp-content/uploads/2017/06/FCC-Data-Summary-FINAL_8.23.17.pdf).

<sup>23</sup> Megan Sandel et al., *Unstable Housing and Caregiver and Child Health in Renter Families*, 141 PEDIATRICS 1 (2018), <http://pediatrics.aappublications.org/content/141/2/e20172199>.

<sup>24</sup> See Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, CTR ON BUDGET & POLICY PRIORITIES (Oct. 7, 2015), <https://www.cbpp.org/research/housing/research-shows-housing-vouchers-reduce-hardship-and-provide-platform-for-long-term>; see also LINDA GIANNARELLI ET AL., URBAN INSTITUTE, REDUCING CHILD POVERTY IN THE US: COSTS AND IMPACTS OF POLICIES PROPOSED BY THE CHILDREN’S DEFENSE FUND (Jan. 2015), <https://www.urban.org/sites/default/files/publication/39141/2000086-Reducing-Child-Poverty-in-the-US.pdf>.

<sup>25</sup> HEATHER SANDSTROM & SANDRA HUERTA, URBAN INSTITUTE, THE NEGATIVE EFFECTS OF INSTABILITY ON CHILD DEVELOPMENT: A RESEARCH SYNTHESIS (2013), <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>.

<sup>26</sup> See Mai Abdul Rahman, *The Demographic Profile of Black Homeless High School Students Residing in the District of Columbia Shelters and the Factors that Influence their Education 55* (Mar. 2014) (Ph.D. dissertation, Howard University).



The Proposed Rule conflicts with U.S. policy priorities on preventing and responding to homelessness and poverty.

Currently, there are at least 58,936 people experiencing homelessness in Los Angeles County, with at least 44,214 people going unsheltered on any given night.<sup>27</sup> At least 6,860 people are homeless in Orange County, with 3,961 people going unsheltered on any given night.<sup>28</sup> These staggering figures are due largely to the lack of emergency shelters and permanent affordable housing available in southern California’s housing market.

The Proposed Rule could directly increase these numbers, undermining federal policy priorities aimed at ending homelessness and federal mandates providing for homeless services and housing assistance. For example, the U.S. Interagency Council on Homelessness (“USICH”) has prioritized ending and preventing homelessness among families with children, regardless of immigration status.<sup>29</sup> USICH’s mission is to affirmatively remove barriers to housing access, all while acknowledging that “communities that are diverse—in their demographics, in their needs, in their geographic characteristics, in their progress to date, in their resources, in their infrastructure, in their housing markets, and in many other ways.”<sup>30</sup> The Proposed Rule directly contradicts this policy goal by erecting additional barriers to housing access. Furthermore, the rule conflicts with the National Affordable Housing Act’s edict to ensure that “every American family be able to afford a decent home in a suitable environment.”<sup>31</sup>

HUD failed to adequately assess homelessness in its Regulatory Impact Analysis.

In its Regulatory Impact Analysis, HUD recognizes that families may face homelessness if the rule is adopted, and notes that researchers estimate that the costs of homelessness borne by society can exceed \$20,000 per homeless person annually.<sup>32</sup> However, HUD has failed to quantify the impact that the rule change will have with regard to the homeless crisis in our country, including in Los Angeles and Orange Counties. To fully understand the fiscal consequences of this rule, HUD should complete an in-depth study on these issues before moving forward with the Proposed Rule.

<sup>27</sup> LOS ANGELES HOMELESS SERVICES AUTHORITY, 2019 GREATER LOS ANGELES HOMELESS COUNT DATA SUMMARY 1 (Jun. 2019), <https://www.lahsa.org/documents?id=3467-2019-greater-los-angeles-homeless-count-total-point-in-time-homeless-population-by-geographic-areas.pdf>.

<sup>28</sup> COUNTY OF ORANGE, EVERYONE COUNTS 2019 POINT IN TIME SUMMARY 3, 5 (Apr. 2019), <http://training.ochmis.org/wp-content/uploads/2019/04/2019-PIT-Data-Infographic-FINAL-042419.pdf>.

<sup>29</sup> U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, SUMMARY OF ESSENTIAL ELEMENTS OF THE PLAN 2 (Jul. 2018), [https://www.usich.gov/resources/uploads/asset\\_library/Summary\\_of\\_Essential\\_Elements\\_of\\_the\\_Plan.pdf](https://www.usich.gov/resources/uploads/asset_library/Summary_of_Essential_Elements_of_the_Plan.pdf); U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, HOME TOGETHER: THE FEDERAL STRATEGIC PLAN TO PREVENT AND END HOMELESSNESS 6 (2018), [https://www.usich.gov/resources/uploads/asset\\_library/Home-Together-Federal-Strategic-Plan-to-Prevent-and-End-Homelessness.pdf](https://www.usich.gov/resources/uploads/asset_library/Home-Together-Federal-Strategic-Plan-to-Prevent-and-End-Homelessness.pdf).

<sup>30</sup> U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, SUMMARY OF ESSENTIAL ELEMENTS OF THE PLAN 2 (Jul. 2018).

<sup>31</sup> 42 U.S.C. § 12701.

<sup>32</sup> Regulatory Impact Analysis, *supra* note 1, at 15-16.



## II. The Proposed Rule Will Likely Reduce the Quantity and Quality of Federally Assisted Units.

According to Secretary Carson, HUD has promulgated the Proposed Rule in an effort to address the waitlist crisis for subsidized housing.<sup>33</sup> However, the Proposed Rule would do little to alleviate the waitlist. There are currently 3 million individuals on voucher waitlists around the country, with an additional 6 million that would like to be on these waitlists.<sup>34</sup> HUD estimates that 18,983 mixed status families are likely to terminate housing assistance as a result of the Proposed Rule.<sup>35</sup> Putting aside the serious humanitarian implications of pushing families out of stable housing simply because of where a person was born, replacing 18,983 mixed status families with others who are waiting for housing does little to impact waitlists that are millions of people long. It certainly does not justify the potentially disastrous consequences for mixed status families.

Further, the Proposed Rule would actually *increase* the costs of federal housing programs. HUD regulations currently do not allow any portion of a housing subsidy to go to an ineligible immigrant. Families consisting of both an ineligible immigrant and eligible immigrants and/or U.S. citizens receive a prorated subsidy that is based on the number of eligible members of the household. By HUD's own assessment, the replacement of mixed families receiving reduced, prorated subsidies with families receiving full subsidies drawn from waiting lists for assistance would cost HUD an estimated additional \$193 to \$227 million annually in order to serve the same number of individuals.<sup>36</sup> HUD would bear additional costs associated with turnover in housing programs, such as application processing costs and the repair and cleaning of units to prepare them for occupancy by new tenants. Costs may be even more significant if evictions are required.<sup>37</sup>

Given these increased costs, HUD would need Congress to significantly increase funding to the public housing and HCV programs, re-direct resources from other HUD activities, serve significantly fewer households, and/or decrease the quality of housing provided.<sup>38</sup> HUD's economic analysis concluded that "perhaps the likeliest scenario, would be that HUD would have to reduce the quantity and quality of assisted housing in response to higher costs."<sup>39</sup>

<sup>33</sup> Jan, *supra* note 7.

<sup>34</sup> See Alicia Mazzara, *Housing Vouchers Work: Huge Demand, Insufficient Funding for Housing Vouchers Means Long Waits*, CTR ON BUDGET & POLICY PRIORITIES (Apr. 19, 2017), <https://www.cbpp.org/blog/housing-vouchers-work-huge-demand-insufficient-funding-for-housing-vouchers-means-long-waits>.

<sup>35</sup> Regulatory Impact Analysis, *supra* note 1, at 8.

<sup>36</sup> *Id.* at 12.

<sup>37</sup> *Id.* at 15.

<sup>38</sup> *Id.* at 3.

<sup>39</sup> *Id.*



In addition, HUD acknowledges that the Proposed Rule threatens to reduce the “maintenance of the units and possibly [lead to] deterioration of the units that could lead to vacancy.”<sup>40</sup> Yet, public housing *already* suffers from poor conditions in many parts of this country.<sup>41</sup> Some tenants are living in units that are riddled with mold, rodents, and are in general states of disrepair as a result of decades of underfunding. Experts estimate that there is currently a \$50 billion backlog of desperately needed repairs, and this may get even worse as the Trump administration has proposed to eliminate the federal fund used to make repairs.<sup>42</sup>

In light of these far-reaching negative impacts, we urge HUD to withdraw the Proposed Rule and reassess how it can best serve the population it is entrusted with helping.

### **III. The Proposed Rule Will Result in the Displacement and Separation of Mixed Status Families, in Violation of HUD’s Statutory Obligations and the U.S. Constitution.**

The Proposed Rule violates HUD’s statutory obligation to further fair housing and abide by civil rights laws.

In addition to being subject to civil rights laws prohibiting discrimination, HUD is statutorily obligated to affirmatively further fair housing.<sup>43</sup> Yet the Proposed Rule would discriminate against families on the basis of race and national origin, denying housing assistance to thousands of immigrants, and on the basis of familial status, disproportionately impacting families with children (the vast majority of whom are U.S. citizens).<sup>44</sup> The rule imposes a “discriminatory burden on the basis of a legal characteristic over which children can have little control”—namely, their parents’ immigration status.<sup>45</sup> Hence, the Proposed Rule is wholly inconsistent with HUD’s obligation to combat housing discrimination.

The Proposed Rule undermines the integrity of the family, in violation of the U.S. Constitution.

While HUD notes that it is “unlikely” that families consisting of parents and children will separate in order to retain housing aid, it does admit that it is “possible” that “ineligible adults

<sup>40</sup> *Id.*

<sup>41</sup> Luis Ferre-Sadurni, *New York City’s Public Housing Is in Crisis. Will Washington Take Control?*, N.Y. TIMES (Dec. 25, 2018), <https://www.nytimes.com/2018/12/25/nyregion/nycha-hud-deblasio-carson.html>; Holbrook Mohr & Jeff Donn, *Health and Safety Conditions Worsen in U.S. Subsidized Housing*, SEATTLE TIMES (Apr. 9, 2019), <https://www.seattletimes.com/business/inspections-show-deterioration-of-us-funded-housing-for-poor/>.

<sup>42</sup> Pam Fessler, *Trump Administration Wants to Cut Funding for Public Housing Repairs*, NPR (May 16, 2019), <https://www.npr.org/2019/05/16/723231160/trump-administration-wants-to-cut-funding-for-public-housing-repairs>.

<sup>43</sup> See 42 U.S.C.A. § 3608(e)(5); see also 24 CFR § 5.150. In its 2015 regulation, HUD defined “affirmatively further fair housing” as “taking meaningful actions...that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.” 24 C.F.R. § 5.152. See *N.A.A.C.P. v. Secretary of Housing and Urban Development*, 817 F.2d 149, 155 (1st Cir. 1987) (stating that the obligation “reflects the desire to have HUD use its grant programs to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases”).

<sup>44</sup> Regulatory Impact Analysis, *supra* note 1, at 8.

<sup>45</sup> *Plyler v. Doe*, 457 U.S. 202, 220 (1982).



would leave.”<sup>46</sup> For example, parents in some regions, forced to reckon with the cruel reality of the lack of affordable, safe housing, may have to make a heartbreaking decision to leave the assisted housing so that their children can have stability and a roof over their heads. This separation would erode family stability, and lead to toxic stress, trauma, and attachment issues in the children. Even a temporary separation has a considerable detrimental effect on the health and educational attainment of children later in life, and many parents struggle to restore the parent-child bond once it has been disrupted by a separation.<sup>47</sup>

The Supreme Court has recognized a substantive due process interest in family integrity, particularly as pertains to the parent-child relationship.<sup>48</sup> The Proposed Rule severely impinges upon this fundamental interest by coercing ineligible parents to separate from their children, thus “slicing deeply into the family itself.”<sup>49</sup> While the children, as U.S. citizens, are undoubtedly entitled to seek redress for substantive due process violations,<sup>50</sup> the parents are also entitled to assert their own rights, regardless of immigration status.<sup>51</sup>

The Regulatory Impact Analysis does not adequately address the impact the Proposed Rule could have if ineligible parents were forced to leave their eligible children so that the children may retain housing assistance. Given the “serious reliance interests” created by the current rule, we request that HUD meaningfully assess the far-reaching effects that arise from separating families.<sup>52</sup>

#### IV. Conclusion

For all of these reasons, we urge HUD to promptly withdraw its Proposed Rule, which would undermine the ability of both U.S. citizens and immigrants to support themselves and their

<sup>46</sup> Regulatory Impact Analysis, *supra* note 1, at 8.

<sup>47</sup> Laura C. N. Wood, *Impact of Punitive Immigration Policies, Parent-Child Separation and Child Detention on the Mental Health and Development of Children*, 2 *BMJ PAEDIATRICS OPEN* (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6173255/>.

<sup>48</sup> See *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (asserting that “[t]he integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment...”); Caitlin Mitchell, *Family Integrity and Incarcerated Parents: Bridging the Divide*, 24 *YALE J.L. & FEMINISM* 175, 178 (2012) (discussing “Supreme Court doctrine that emphasizes the fundamental nature of the parent-child relationship and the interest that parents and children share in preserving family integrity”).

<sup>49</sup> *Moore v. City of East Cleveland*, 431 U.S. 494, 498 (1977).

<sup>50</sup> See *Aguilar v. U.S. Immigration and Customs Enf’t Div. of Dep’t of Homeland Sec.*, 510 F.3d 1, 22 (1st Cir. 2007) (“Were a substantial number of young children knowingly placed in harm’s way, it is easy to imagine how viable [substantive due process] claims might lie.”).

<sup>51</sup> See *Chi Thon Ngo v. INS*, 192 F.3d 390, 396 (3d Cir. 1999) (asserting that “[e]ven an excludable alien” is “entitled to substantive due process”); *Ms. L. v. U.S. Immigration and Customs Enf’t*, 302 F. Supp. 3d 1149, 1161 (S.D. Cal. 2018) (maintaining that “[a]lliens,” have “substantive due process rights under the Constitution”); *Jacinto-Castanon de Nolasco v. U.S. Immigration and Customs Enf’t*, 319 F. Supp. 3d 491, 500 (D.D.C. 2018) (“The fact that [Plaintiff, a mother with two sons] is lawfully detained in immigration custody does not eliminate her due process right to family integrity.”).

<sup>52</sup> *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).



# Community Legal Aid SoCal

Advocates for Justice in Orange and Los Angeles Counties

families in the future. If we want our communities to thrive, families must be able to stay together and receive the care, services, and support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on this Proposed Rule. Please do not hesitate to contact me at [kmarr@clsocal.org](mailto:kmarr@clsocal.org) to provide further information.

Sincerely,

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Complex Litigation Unit  
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