July 8, 2019

Submitted Electronically

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

RE: FR-6124-P-01 Housing and Community Development Act of 1980: Verification of Eligible Status
Docket RIN 2501-AD89

To Whom it May Concern:

We, the Board of Commissioners and Executive Director of the Brookline Housing Authority, in Brookline, Massachusetts, submit these comments on HUD's proposed rule that seeks to revise current regulations related to Mixed Families (households that include persons with and without eligible immigration status) due to deep concern over the unnecessary, illegal, divisive and cruel impact that this rule will have in our communities, an impact that even the proposal itself has in some measure already had.

The Brookline Housing Authority operates both family and elderly public housing, as well as a Section 8 Housing Choice Voucher Program. All families, regardless of immigration status, are valued members of the Brookline community.

Current law on mixed families, Section 214 of the Housing and Community Development Act of 1980, explicitly authorizes both those with eligible and ineligible immigration status to occupy units in "covered" housing programs so long as there is proration of assistance. Current regulations of HUD at 24 C.F.R. 5.500 et. seq. implement this statutory provision by delineating a process that authorizes all family members to occupy a public housing or voucher unit so long as the subsidy to that family is prorated so that the ineligible family members do not receive "financial assistance." The current regulation also mirrors the explicit statutory objective of preserving family unity.

Contrary to statutory command and current regulations, the proposed rule requires all members of a household to have eligible immigration status and requires the leaseholder to have eligible status. It eliminates the ability to prorate the subsidy received by a family with at least one person with eligible immigration status and others who do not have eligible status. It

requires all families at recertification to be processed through the SAVE system, even if the family is not a "mixed family".

HUD rationalizes its proposed changes by reinterpreting the statute to equate living in the household with receipt of "financial assistance". This interpretation is not justified either by any change in the statute, which has not changed in 25 years, or by the language of the statute itself. Had Congress intended that there be no persons with ineligible immigration status occupying the unit, there would have been no need to create a system for prorating of assistance, which clearly is designed to permit families to live together regardless of immigration status.

The impact of proposed rule will be devastating. Families are faced with moving out of housing, likely becoming homeless, or splitting households, thereby creating family instability.
The proposed rule denies eligible minor children the right to occupy if their parent (leaseholder) does not have eligible immigration status.

In HUD's Regulatory Impact Analysis dated April 15, 2019, HUD itself acknowledges that the rule will cause families to be broken apart or rendered homeless. Although families have been living in accordance with their leases and program regulations, the terms of their occupancy will be suddenly changed through no action of their own, and they will suffer serious life consequences unnecessarily. By proposing an immediate effective date without any "grandfathering", HUD creates the most disruptive and expensive outcome possible for affected families and for the community at large.

HUD, in its own analysis, lists a litany of negative impacts: that thousands of families will be evicted or terminated from assistance, many families will be separated, that families will be placed in fear and will therefore vacate "voluntarily", that fewer families will be able to be served by the covered programs as program costs will rise, and costs imposed on agencies will rise because of increased turnover cost.

The substantial new imposition of screening requirements on all residents of public and voucher housing at recertification creates a burden on every family, as well as an increased administrative burden on agencies that will need to process new screening, track families, and follow through on evictions/terminations. These administrative burdens detract from the mission of the agencies to serve families and create stable and healthy environments for all residents.

We cross-reference here and incorporate the Comments of the Cambridge Housing Authority dated July 3, 2019, submitted by Michael J. Johnston, Reference Number 1k3-9atv-vy36.

We urge HUD to abandon the proposed changes to the regulation. They are illegal, unjust, and punitive.

Thank you for this opportunity to comment on the proposed regulations.

Sincerely,

Board of Commissioners and Executive Director of the Brookline Housing Authority:
Michael Jacobs, Chair
JoAnne M. Sullivan, Vice-chair
Barbara Dugan, Treasurer
Judith Katz, Commissioner
Susan C. Cohen, Commissioner
Patrick Dober, Executive Director