



July 9, 2019

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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,

I am writing on behalf of the Connecticut Fair Housing Center to express our strong opposition to the Department of Housing and Urban Development's (HUD) proposal to bar families with mixed immigration status from federally assisted housing programs, which would force the immediate eviction of 100,000 families, including 55,000 children who are American citizens. The rule on "verification of eligible status," published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01), is not only harmful to our communities and counter to our country's values, it would be expensive to administer and would fail to achieve HUD's stated objective of reducing poverty and alleviating the crisis of assisted housing waiting lists. Many of our clients include children who have legal status with parents or caretakers who do not have legal status. These children will become homeless if their parents or caretakers are evicted from public or subsidized housing. We urge HUD to withdraw this rule and maintain its longstanding regulations on eligibility for assistance.

The Connecticut Fair Housing Center is a statewide civil rights organization whose mission is to ensure that all Connecticut residents have access to the housing of their choice. Connecticut has a rich history of welcoming people from all parts of the world to work in the State's tobacco fields and manufacturing industry. Many of the people who were recruited to come to Connecticut from Jamaica, Mexico, and other Central American communities stayed making significant contributions to the communities in which they live. Unfortunately, many of them have not had the money or legal know how to obtain U.S. citizenship and now live with their children who do have legal status. Removing these families from public and subsidized housing would not only harm the families but also the communities to which they have contributed.

HUD claims that this proposed rule is a way to reduce poverty and address the waitlist crisis faced by Public Housing Authorities nationwide; we are not convinced. Rather, it is the next step in this administration's coordinated attack on immigrant families and people of color. Not only do HUD's justifications for this rule not add up, but the proposal will have the exact opposite of what it purports to accomplish: less housing assistance will be available to families in need..

Further, this new policy will disproportionately harm children, the elderly, and people of color who are already one or two steps away from homelessness. The message it sends to housing providers will embolden them to question the legal status of immigrants and people of color, spurring harassment and other forms of housing discrimination. Such policy-making contradicts HUD's obligation to Affirmatively Further Fair Housing

### **HUD's Proposed Rule will reduce the Supply of Federally-Assisted Units**

By HUD's own assessment, the proposed rule is likely to *decrease* in the number of families receiving housing assistance. Because federal housing assistance is only available for members of mixed status families who can demonstrate their eligibility, these families actually receive fewer subsidy dollars than families of the same size, all of whose members can demonstrate eligibility. According to HUD, replacing the 25,000 mixed status families currently receiving HUD assistance with households comprising members who are all eligible, would cost between \$372 million to \$437 million annually.<sup>1</sup> To pay for the higher costs of the proposed rule,<sup>2</sup> HUD has surmised that:

the likeliest scenario, would be that HUD would have to reduce the quantity and quality of assisted housing in response to higher costs. In this case, the transfer would be from assisted households who experience a decline in assistance (in whole or in part) to the replacement households. With part of the budget being redirected to cover the increase in subsidy, there could be fewer households served under the housing choice vouchers program...<sup>3</sup>

### **The Proposed Rule Will Harm Families Most in Need of Assistance**

As HUD acknowledges, families that lose housing assistance are at risk of homelessness, with serious consequences for family well-being and child development. When families have access to housing assistance, they have more resources to cover the cost of nutritious foods, health care, and other necessities.<sup>4</sup> Where families live is also directly tied to where they work. If parents lose access to affordable housing, they may also be at risk of losing their jobs and other important resources they need to maintain a stable household.

Children: The proposed rule threatens the health of children and will effectively evict over 55,000 children who are eligible for the covered housing programs. The changes proposed are specifically designed to force families to make choices that will harm their child's health. Mixed status families will have to make the impossible decision to either face eviction or separate as a

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<sup>1</sup> HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 11 (Apr. 15, 2019).

<sup>2</sup> Braktkon Booker, *White House Budget Calls for Deep Cuts to HUD*, NPR (Feb. 13, 2018), <https://www.npr.org/2018/02/13/585255697/white-house-budget-calls-for-deep-cuts-to-hud>.

<sup>3</sup> HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 3 (Apr. 15, 2019) (emphasis added).

<sup>4</sup> Nabihah Maqbool, Janet Viveiros, and Mindy Ault, *The Impacts of Affordable Housing on Health: A Research Summary*, Center for Housing Policy, 2015, [http://www.housingpartners.com/assets/creating\\_change/http\\_app.brnto.pdf](http://www.housingpartners.com/assets/creating_change/http_app.brnto.pdf).

family in order to retain housing stability. Both options will have lasting impacts on child and family health. Research shows that families who are evicted are more likely to experience homelessness, move into substandard or overcrowded housing, and have a sequence of adverse physical and mental health outcomes.<sup>5</sup> The alternative, family separation, is a stressful and traumatizing experience for children, which can alter the architecture of a child's developing brain and have lifelong consequences.<sup>6</sup>

People with disabilities: People with disabilities comprise a large percentage of the individuals served by HUD programs, including programs covered under the proposed rule. For example, about 1 in 3 households using vouchers are headed by a non-elderly person with a disability and about 1 in 5 households living in public housing are headed by a non-elderly person with a disability. People with disabilities often have few financial resources and remain among the country's poorest.<sup>7</sup> At the same time, people with disabilities all too often face discrimination when seeking housing.<sup>8</sup> Termination of assistance under the proposed rule could put people with few options at risk, with tremendous cost to their health, earning potential, well-being and cause other significant harm.

People of Color: Among those most impacted by this proposed rule are people of color, especially Latinx and Asian American Pacific Islander (AAPI) people in need of housing assistance. The AAPI population is the fastest growing racial group in the United States. Further, AAPIs are one of the fastest growing groups of people who may need housing assistance with more than half of all poor AAPIs living in only 10 Metropolitan Statistical Areas (MSAs),<sup>9</sup> and the majority of which are concentrated in the most expensive markets. Analysis of US Census 2016 ACS data shows that the majority of all AAPIs in poverty live in zip codes with housing costs above the national median. Poor AAPIs are already at significant risk of displacement, especially those who are recent immigrants and have limited proficiency with English. In fact, poor AAPIs are at twice the risk of displacement relative to the general US poverty population.<sup>10</sup> Further compounding this issue is the fact that many AAPI families live in multigenerational households that include a mix of immigrants and US citizens. The proposal to take away critical public or other subsidized housing support from families of mixed immigration status would harm our nation's Latinx communities today and in the future. According to an analysis conducted by UnidosUS, federal housing assistance – including public and other subsidized housing – lifted approximately 800,000 Latinx people out of poverty in

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<sup>5</sup> Bovell-Ammon A & Sandel M., *The Hidden Health Crisis of Eviction*, BOS. U. SCH. OF PUB. HEALTH (2018), <http://www.bu.edu/sph/2018/10/05/the-hidden-health-crisis-of-eviction/>; Desmond M. & Tolbert Kimbro R., *Evictions Fallout: Housing, Hardship, and Health*, 94 SOCIAL FORCES 295 (2015).

<sup>6</sup> Simha S., *The Impact of Family Separation on Immigrant and Refugee Families*, 80 N C MED J. 95, 96 (2019).

<sup>7</sup> See, e.g., L. Kraus et al., "2018 Disability Statistics Annual Report," 9 (2019) at [https://disabilitycompendium.org/sites/default/files/user-uploads/Annual\\_Report\\_2018\\_Accessible\\_AdobeReaderFriendly.pdf](https://disabilitycompendium.org/sites/default/files/user-uploads/Annual_Report_2018_Accessible_AdobeReaderFriendly.pdf) ("In 2017, the poverty rate of individuals with disabilities (ages 18-64) was 29.6 percent. In contrast, in 2017 the poverty rate of individuals without disabilities was estimated at 13.2 percent.")

<sup>8</sup> See, e.g., National Fair Housing Alliance, "Making Every Neighborhood A Place of Opportunity: 2018 Fair Housing Trends Report," 52 (2018) at [https://nationalfairhousing.org/wp-content/uploads/2018/04/NFHA-2018-Fair-Housing-Trends-Report\\_4-30-18.pdf](https://nationalfairhousing.org/wp-content/uploads/2018/04/NFHA-2018-Fair-Housing-Trends-Report_4-30-18.pdf) ("As has been the case in past years, the majority of complaints from 2017 involved housing discrimination against people with disabilities.")

<sup>9</sup> US Census, 1-Year American Community Survey, 2011-2017

<sup>10</sup> National CAPACD analysis of US Census data (5-Year ACS, 2016)

2017, including more than 280,000 Latinx children.<sup>11</sup> While research suggests that Latinx people remain underrepresented in these programs,<sup>12</sup> the proposed rule would deter many eligible Latinx people from participating in public or subsidized housing programs, and increase housing insecurity for Latinx families.

### **The Rule Would Violate HUD’s Obligation to Affirmatively Further Fair Housing**

If adopted, this proposed rule would directly violate HUD’s statutory obligation to affirmatively further fair housing. The federal Fair Housing Act (FHA) mandates that the HUD Secretary shall “administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of” the FHA.<sup>13</sup> In its 2015 regulation, HUD defined “Affirmatively further fair housing” to mean “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.”<sup>14</sup> The affirmatively furthering fair housing obligation also includes “fostering and maintaining compliance with civil rights and fair housing laws.”

The proposed rule does nothing to advance fair housing aims or compliance with other civil rights laws. Instead, it seeks to do the exact opposite by denying housing opportunities to thousands of immigrant families, using immigration status as a pretext for discriminating against individuals based on their race and national origin. Furthermore, according to HUD’s own analysis, 70 percent of the households negatively impacted by this proposed rule *are families with eligible children*.<sup>15</sup> Since minor children comprise the vast majority of eligible occupants of mixed status households,<sup>16</sup> the proposed rule would also have a disproportionate and devastating impact on families with children. This clearly discriminatory policy is wholly inconsistent with HUD’s obligation to combat housing discrimination and segregation.

We urge HUD to immediately withdraw this proposal and dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to obtain safe, secure, stable and affordable housing, creating a foundation that increases their ability to support themselves and their families in the future.

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<sup>11</sup> UnidosUS, “Federal Programs Lift Millions of Latinos Out of Poverty” (Washington, DC: UnidosUS, October 2018) <http://publications.unidosus.org/handle/123456789/1894>.

<sup>12</sup> UnidosUS “Latinos and the Great Recession: 10 Years of Economic Loss and Recovery” (Washington, DC: UnidosUS, March 2019) <http://publications.unidosus.org/handle/123456789/1932>.

<sup>13</sup> 42 U.S.C.A. § 3608(e)(5) (West 2019).

<sup>14</sup> 24 C.F.R. § 5.152 (definition of “Affirmatively furthering fair housing”).

<sup>15</sup> RIA at 8.

<sup>16</sup> *Id.* At 6 (noting that in mixed status households, 73 percent of eligible occupants are children between 0 and 17 years old).

Thank you for the opportunity to submit comments on this proposed rule. Please do not hesitate to contact Erin Kemple, 860-247-4400, ext. 723 for further information.

Very truly yours,

A handwritten signature in blue ink that reads "Erin Kemple". The signature is written in a cursive, flowing style.

Erin Kemple  
Executive Director