

June 10, 2019

Submitted via www.regulations.gov

Office of General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 7th 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

Dear Sir/Madam:

I am writing on behalf of Thai Community Development Center (Thai CDC) in response to the Department of Housing and Urban Development's (HUD) proposed rule to express our strong opposition to the changes regarding "verification of eligible status," published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01). We oppose the verification of eligible status rule because we believe families deserve to live together under one roof. We urge the rule to be withdrawn in its entirety, and that HUD's long-standing regulations remain in effect.

Thai CDC is a community development organization that serves low- to moderate- income Thai and other minority communities in the greater Los Angeles region. We are an affordable housing developer and are HUD certified to provide rental and housing counseling services. The proposed rule directly impacts our communities' ability to secure and remain in stabilized housing. We see mixed status families who struggle to secure rental housing due to rising rents and limited tenant protections. We have also seen community members who avoid homelessness due to the ability to locate Section 8 housing. Federal housing assistance is essential to maintaining the safety and security of families, as well as the economic stability of our families. Homelessness is rising throughout the country,¹ with Los Angeles particularly impacted, increasing by 16% in 2018.²

Although HUD contends that the proposed rule is a means of addressing the waitlist crisis faced by a majority of Public Housing Authorities nationwide,³ Thai CDC recognizes that the proposed rule is a part of the current administration's coordinated attack on immigrant families.⁴ We all share the concern that millions of

¹ The U.S. Department of Housing and Urban Development Office of Community Planning and Development. "The 2018 Annual Homeless Assessment Report to Congress. (December 2018) <https://files.hudexchange.info/resources/documents/2018-AHAR-Part-1.pdf>

² Benjamin Oreskes and Doug Smith, "Homelessness jumps 12% in L.A. County and 16% in the city; officials 'stunned,'" Los Angeles Times (June 4, 2019), <https://www.latimes.com/local/lanow/la-me-ln-homeless-count-encampment-affordable-housing-2019-results-20190604-story.html>

³ 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.

⁴ See, e.g., NAT'L IMMIGRATION L. CTR., *Understanding Trump's Muslim Bans* (updated Mar. 8, 2019), <https://www.nilc.org/issues/immigration-enforcement/understanding-the-muslim-bans/>; Michael D. Shear & Emily Baumgaertner, *Trump Administration Aims to Sharply Restrict New Green Cards for Those on Public Aid*, N.Y. TIMES (Sept. 22, 2018), <https://www.nytimes.com/2018/09/22/us/politics/immigrants-green-card-public-aid.html>; Dan Lamothe, *Pentagon Will Shift an Additional \$1.5 Billion to Help Fund Trump's Border Wall*, WASH. POST (May 10, 2019), https://www.washingtonpost.com/national-security/2019/05/10/pentagon-will-shift-an-additional-billion-help-fund-trumps-border-wall/?utm_term=.37360e7cda10; REUTERS, *Exclusive: Trump Administration Proposal Would Make It Easier to Deport Immigrants Who Use Public Benefits*, N.Y. TIMES (May 3, 2019), <https://www.nytimes.com/reuters/2019/05/03/us/politics/03reuters-usa-immigration-benefits-exclusive.html>.

U.S. households struggle to find affordable housing in the ongoing nationwide housing crisis, but blaming struggling immigrant families will not fix this problem. Indeed, HUD’s own analysis of the proposed rule concludes that fewer, not more, families are likely to receive assistance as a result of the rule.⁵ The real issue is the lack of sufficient funding to ensure that every family, regardless of immigration status, has access to one of the most basic of human rights—a safe place to call home.

I. The Proposed Rule Will Hurt Tens of Thousands of Immigrant Families Including Many Citizen Children.

The proposed rule places tens of thousands of immigrant families at risk of homelessness, jeopardizing their family and housing stability, both of which are critical to getting families on a pathway to self-sufficiency and better life outcomes.

The proposed rule threatens to undermine the well-being of low-income U.S. citizens, immigrants, and their families. The rule would force mixed status families to make an impossible decision—either break up to allow eligible family members to continue receiving assistance or forgo the subsidies so that the families can stay together. Family separations undermine family stability, and leads to toxic stress, trauma, and attachment issues in children. Even a temporary separation has an enormous negative impact on the health and educational attainment of these children later in life, and many parents struggle to restore the parent-child bond once it has been disrupted by a separation.⁶

However, because 70% of mixed status families currently receiving HUD assistance comprise eligible children and at least one ineligible parent, it is likely that these families will forgo the subsidies to avoid separation. In fact, HUD is banking on this, noting in their regulatory impact analysis that “HUD expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified.”⁷ Therefore, this rule would effectively evict as many as 108,000 individuals in mixed status families (in which nearly 3 out of 4 are eligible for assistance) from public housing, Section 8, and other programs covered by the proposed rule.⁸ These mass evictions and departures from housing assistance will cause increased rates of homelessness and unstable housing among an already vulnerable population.⁹

These outcomes will not only hurt families while they struggle to find housing in the short term, but will also lead to reduced opportunities and increased health problems for these families in the long term.¹⁰ Studies have shown that unstable housing situations can cause individuals to experience increased hospital visits, loss of employment, and are associated with increased likelihood of mental health problems in children,¹¹ and can

⁵ HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01 (Apr. 15, 2019).

⁶ 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/>.

⁷ 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 7 (Apr. 15, 2019).

⁸ *Id.* at 8.

⁹ PRATT CTR. FOR CMTY. DEV., *CONFRONTING THE HOUSING SQUEEZE: CHALLENGES FACING IMMIGRANT TENANTS, AND WHAT NEW YORK CAN DO* (2018), <https://prattcenter.net/research/confronting-housing-squeeze-challenges-facing-immigrant-tenants-and-what-new-york-can-do>.

¹⁰ 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>.

¹¹ See Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, CENTER ON BUDGET AND POLICY PRIORITIES (October 7, 2015), <https://www.cbpp.org/research/research-shows-housing-vouchers-reduce-hardship-and-provide-platform-for-longterm-gains>; see also Linda Giannarelli et al., *Reducing Child Poverty in the US: Costs and Impacts of Policies*

dramatically increase the risk of an acute episode of a behavioral health condition, including relapse of addiction in adults. Having safe and stable housing is crucial to a person's good health, sustaining employment, and overall self-sufficiency. These effects will be particularly prominent in the children, nearly all of whom are U.S. citizens, in these mixed status families. Research has shown that economic and housing instability impedes children's cognitive development, leading to poorer life outcomes as adults.¹² Housing instability is directly correlated to decreases in student retention rates and contributes to homeless students' high suspension rates, school turnover, truancy, and expulsions, limiting students' opportunity to obtain the education they need to succeed later in life.¹³

The proposed regulations are in direct conflict with their underlying statute and ignore amendments that Congress made to Section 214.

In the proposed rule, HUD claims to be revising its regulations "into greater alignment with the wording and purpose of Section 214," namely by barring mixed-status families from receiving assistance. To support its claim, HUD insists that Section 214 prohibits the indefinite receipt of prorated assistance by mixed-status families, but it cannot point to any statutory language containing such an edict. In fact, Section 214 clearly conveys that Congress intended to ensure that individuals with eligible immigration status would receive assistance while keeping mixed status families together in the same home. The plain language of the statute conveys this intent. For example, 42 U.S.C. § 1436a(b)(2) states, "If the eligibility for financial assistance *of at least one member* of a family has been affirmatively established under this section, and *the ineligibility of one or more family members has not been affirmatively* established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated..." The law explicitly permits housing authorities to choose not to affirmatively establish ineligibility.¹⁴ Congress did not mince words. "Shall be prorated" does not mean "may be prorated for some period of time." In mixed status families, HUD must provide prorated assistance.

The legislative history bolsters the straightforward reading of the statute. Section 214 was passed in 1980. In 1988, Congress included a provision by which mixed-status families who had been receiving full subsidy prior to the statute's passage could avoid family breakup.¹⁵ In its proposed rule, HUD twists that provision, which provides for temporarily grandfathered assistance, to claim that Congress only intended for prorated assistance to be provided for a limited time. However, Congress added the proration provisions in 1996.¹⁶ Congress has been consistent in attempting to guarantee that scarce federal subsidy would be provided for eligible immigrants and citizens while preserving the integrity of mixed-immigration status families. HUD's interpretation requires ignoring the plain language and the history of the statute. HUD should withdraw its rule because it is in direct conflict with the congressional mandate of Section 214 to provide prorated assistance to mixed status families.

Proposed by the Children's Defense Fund (Jan. 2015),

<http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPoliciesProposedbytheChildrensDefenseFund.pdf>.

¹² HEATHER SANDSTROM & SANDRA HUERTA, 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>.

¹³ 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), available at <http://gradworks.umi.com/3639463.pdf> (citations omitted).

¹⁴ 42 U.S.C. § 1436a(i)(2)(A).

¹⁵ Housing and Community Development Act of 1987, Pub. L. No. 100-242, § 164, 101 Stat. 1815.

¹⁶ Use of Assisted Housing by Aliens Act of 1996, Pub. L. No. 104-208, § 572, 110 Stat. 3009.

The rule fails to consider that immigrants live disproportionately in high cost housing areas and pay more for housing than U.S. citizens.

Immigrants and their families currently face additional barriers in finding affordable housing.¹⁷ Compared to U.S. citizens, immigrant families are more likely to have higher housing costs, are more likely to face housing cost burdens, and are more likely to report difficulty paying for housing.¹⁸ Many of these additional burdens are attributable to the fact that immigrants disproportionately live in states with high housing costs.¹⁹ For example, California—the state with the largest immigrant population²⁰—has eight of the ten highest rental cost metropolitan counties in the country.²¹ The proposed rule will introduce additional burdens to immigrant families that already face significant hurdles in securing affordable housing, placing thousands of families at risk of homelessness. The proposed rule does not take into account these unique hardships and costs faced by immigrants in the U.S. housing market, and the rule should be withdrawn until HUD completes an in-depth study of these issues.

II. The Proposed Rule Will Hurt U.S. Citizens and the Aging Population

While it is clear that the proposed rule is a direct attack on immigrants and citizens in mixed status households, these families are not the only group that will be harmed if the rule is finalized. In addition to attacking mixed status families, the proposed rule creates red tape that threatens housing security for 9.5 million U.S. citizens currently receiving HUD assistance and all future U.S. citizens seeking these benefits. The rule would require that all who declare they are U.S. citizens under penalty of perjury provide evidence of their citizenship, a practice that has proven to be burdensome, costly and unnecessary to protect program integrity.²² Currently, to establish eligibility for access Section 214 housing assistance, U.S. citizens need to provide a declaration signed under penalty of perjury of their citizenship or nationality status. The proposed rule would require that these individuals also provide documentary proof of citizenship or nationality, such as a birth certificate, which can be extremely difficult for certain segments of the population.

The proposed rule places additional documentation burdens on 120,000 noncitizen seniors as well, by requiring noncitizens 62 years old or older to provide documentation of their immigration status.²³ Presently, these noncitizen seniors are required to submit a signed declaration of their eligible immigration status and proof of age. Many immigrant seniors will struggle in the same way as citizen seniors to produce this

¹⁷ See ROBERT WOOD JOHNSON FOUND., *LIVING IN AMERICA* (Katherine E. Garrett ed., 2006), <https://www.rwjf.org/en/library/research/2006/08/living-in-america.html>.

¹⁸ Eileen Diza McConnell, *Who Has Housing Affordability Problems? Disparities in Housing Cost Burden by Race, Nativity and Legal Status in Los Angeles*, 5 RACE & SOCIAL PROBLEMS 173, 178 (2013), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3784340/pdf/nihms440365.pdf>.

¹⁹ See Matt Levin, *Fleeing War-Torn Homes for Crippling Rents—California Housing Costs Creating Harsh Reality for Refugees*, CALMATTERS (July 19, 2018), <https://calmatters.org/articles/refugees-housing-costs-california/>.

²⁰ Jens Manuel Krogstad & Michael Keegan, *15 States with the Highest Share of Immigrants in Their Population*, PEW RESEARCH CTR.: FACTTANK (May 14, 2014), <http://www.pewresearch.org/fact-tank/2014/05/14/15-states-with-the-highest-share-of-immigrants-in-their-population/>.

²¹ ANDREW AURAND ET AL., NAT'L LOW INCOME HOUSING COALITION, *OUT OF REACH: THE HIGH COST OF HOUSING* 14 (2018), https://nlihc.org/sites/default/files/oor/OOR_2018.pdf.

²² Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589, 20,592 (proposed May 10, 2019) (to be codified at 24 C.F.R. part 5); Donna Cohen Ross, *New Medicaid Citizenship Documentation Requirement is Taking a Toll: States Report Enrollment Is Down and Administrative Costs Are Up*, CPBB (Mar. 13, 2007), <https://www.cbpp.org/research/new-medicaid-citizenship-documentation-requirement-is-taking-a-toll-states-report>.

²³ Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589, 20,592 (proposed May 10, 2019) (to be codified at 24 C.F.R. part 5).

documentation. HUD has not accounted for these concerns in the proposed rule, and should address these issues before finalizing the rule.

The proposed documentation requirements will be particularly burdensome for recipients of rental assistance who were formerly homeless, as well as for people experiencing homelessness who could be assisted by Section 214 programs in the future. People experiencing homelessness often lose important documents such as photo identification, birth certificates, and social security cards because they have no safe places to store them.²⁴

III. The Proposed Rule Will Reduce the Quality and Quantity of Federally Assisted Units

The proposed rule will reduce the number of families that receive federally subsidized assistance.

Secretary Carson stated that HUD has promulgated the proposed rule in an effort to address the waitlist crisis for subsidized housing faced by most Public Housing Authorities nationwide.²⁵ While it is true that there is a public housing and Section 8 waitlist crisis—there are currently 3 million individuals on voucher waitlists around the country, with an additional 6 million that would like to be on these waitlists²⁶—the proposed rule would not alleviate and would, instead, worsen this crisis. By HUD’s own assessment, the proposed rule will likely lead to a *decrease* in the number of assisted families. According to HUD, if the agency were to replace the 25,000 mixed status families currently receiving HUD assistance with households comprising members who are all eligible, this transition would cost HUD from \$372 million to \$437 million annually.²⁷

To pay for these new costs of the proposed rule,²⁸ 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...²⁹

HUD’s own economic analysis shows that the proposed rule will not only fail to achieve its stated goals of addressing the subsidized housing waitlist crisis, but will in fact exacerbate this very issue. The Regulatory Impact Analysis released by HUD makes it clear that the proposed rule will not further HUD’s mission to “create strong, sustainable, inclusive communities and quality affordable homes for all.”³⁰ In fact, the proposed rule will do the exact opposite, reducing the quantity of affordable homes on the market.

²⁴ NAT’L L. CTR. ON HOMELESSNESS & POVERTY, PHOTO IDENTIFICATION BARRIERS FACED BY HOMELESS PERSONS: THE IMPACT OF SEPTEMBER 11 (Apr. 2004), https://nlchp.org/wp-content/uploads/2018/10/ID_Barriers.pdf.

²⁵ 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=.f68fec836d53.

²⁶ See Alicia Mazzara, CBPP, *Housing Vouchers Work: Huge Demand, Insufficient Funding for Housing Vouchers Means Long Waits* (Apr. 19, 2017), <https://www.cbpp.org/blog/housing-vouchers-work-huge-demand-insufficient-funding-for-housing-vouchers-means-long-waits>.

²⁷ 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).

²⁸ Braktkton 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>.

²⁹ 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).

³⁰ HUD, ABOUT HUD, MISSION (last visited May 20, 2019), <https://www.hud.gov/about/mission>.

IV. The Rule Would Violate HUD’s Obligation to Affirmatively Further Fair Housing.

Adoption of HUD’s proposed rule directly violates the agency’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.³¹ 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.”³² 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 eligible 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*.³³ Since minor children comprise the vast majority of eligible occupants of mixed status households,³⁴ 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.

V. The Proposed Rule Will Disproportionately Hurt Already Vulnerable Disadvantaged Populations.

Aging Population

Federal housing assistance programs provide vital support to 1.9 million older adults who would otherwise be unable to afford the cost of shelter.³⁵ Seniors with fixed incomes are especially at risk of serious harm if they live in mixed status families and lose rental assistance due to the rule because they have such limited resources to spend on other basic needs, including food, medicine, transportation, and clothing.³⁶ The proposed rule would also make it impossible for many intergenerational families to live together and share resources that enable them to succeed.

Furthermore, the proposed rule adds new documentation requirements that will be particularly burdensome on older adults.³⁷ The proposed rule will require all U.S. citizens to provide proof of citizenship, and will also require noncitizens 62 years old or over to provide additional documentation of their immigration status. Older individuals face many challenges in getting this kind of documentation, including difficulties getting

³¹ 42 U.S.C.A. § 3608(e)(5) (West 2019).

³² 24 C.F.R. § 5.152 (definition of “Affirmatively furthering fair housing”).

³³ RIA at 8.

³⁴ *Id.* At 6 (noting that in mixed status households, 73 percent of eligible occupants are children between 0 and 17 years old).

³⁵ <https://apps.cbpp.org/4-3-19hous/PDF/4-3-19hous-factsheet-us.pdf>

³⁶ See Justice in Aging, Supporting Older Americans’ Basic Needs: Health Care, Income, Housing and Food (Apr. 2018), available at www.justiceinaging.org/wp-content/uploads/2018/04/Supporting-Older-Americans%E2%80%99-Basic-Needs_Health-Care-Income-Housing-and-Food.pdf

³⁷ Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589, 20,592 (proposed May 10, 2019) (to be codified at 24 C.F.R. part 5).

to government offices to replace lost records, coming up with the funds to replace these records, and some may have never been issued these documents in the first place.³⁸

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 excruciating decision to either face eviction or separate as a 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.³⁹ 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.⁴⁰

Approximately 18 million children in the U.S. live in a family with at least one immigrant parent,⁴¹ and an estimated 5 million children (of whom more than 80 percent are U.S. citizens) live in homes with at least one undocumented parent.⁴² While the majority of children in these households are citizens, the fact that they have at least one member of their household who has limited or no eligibility for public assistance based on their immigration status means that children in immigrant families have higher rates of poverty than children in U.S.-born families.⁴³

Communities of Color

Asian American Pacific Islanders

The Asian American Pacific Islander (AAPI) community is the fastest growing racial group in the United States. Further, AAPIs are one of the fastest growing poverty populations with more than half of all poor AAPIs living in only 10 Metropolitan Statistical Areas (MSAs)⁴⁴, 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. This is true for both for rental housing (64% of AAPIs in poverty live in zip codes where the median rent for rental housing in the zip code is higher than the US national median rent), and for homeownership (65% of AAPIs in poverty live in zip codes where the median home value is more expensive than the US national median home value).⁴⁵ In short, poor AAPIs are already at significant risk of displacement, especially recently emigrated AAPIs who have limited proficiency with English. In fact, poor AAPIs are at twice the risk of displacement relative to the general US poverty population.⁴⁶ Further

³⁸ Ina Jafe, *For Older Voters, Getting the Right ID Can Be Especially Tough*, NPR: ALL THINGS CONSIDERED (Sept. 7, 2018), <https://www.npr.org/2018/09/07/644648955/for-older-voters-getting-the-right-id-can-be-especially-tough>.

³⁹ 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).

⁴⁰ Simha S., *The Impact of Family Separation on Immigrant and Refugee Families*, 80 N C MED J. 95, 96 (2019).

⁴¹ *Databank Indicator: Immigrant Children*, CHILD TRENDS (Oct. 2014), www.childtrends.org/?indicators=immigrant-children.

⁴² Randy Capps, Michael Fix, and Jie Zong, *A profile of U.S. Children with Unauthorized Immigrant Parents* (Washington, DC: Migration Policy Institute, 2016), www.migrationpolicy.org/research/profile-us-children-unauthorized-immigrant-parents.

⁴³ *Ibid* 1. Page 140.

⁴⁴ US Census, 1-Year American Community Survey, 2011-2017

⁴⁵ US Census, 5-Year American Community Survey, 2016

⁴⁶ National CAPACD analysis of US Census data (5-Year ACS, 2016)

compounding this issue is the fact that many AAPI families live in multigenerational households that include a mix of immigrants and US citizens.

The impact of HUD’s proposed rule, if implemented, would be devastating: the presence of a single ineligible member of a household could lead to disqualification of the entire household, including citizens, children, and the elderly who are eligible for public housing and Section 8 programs. In 2018, over a quarter of a million AAPIs received HUD subsidized housing assistance.⁴⁷ Further, nearly 10% of AAPI households live in multi-generational homes,⁴⁸ a figure that is likely much lower than the actual proportion reported anecdotally from the field, which is closer to 20%.

Latinos

The proposal to take away critical public or other subsidized housing support from families of mixed immigration status would harm our nation’s Latino community and future. Today, the U.S. Latino population stands at more than 55 million, comprising 18 percent of the total U.S. population, and approximately one in five Latinos are non-citizens.⁴⁹ By 2050, it is projected that nearly one-third of the U.S. workforce will be Latino.⁵⁰ Among Latino children, who account for a quarter of all U.S. children, the majority (52 percent) have at least one immigrant parent,⁵¹ and more than half of children of immigrants are Latino.⁵² Despite hard work and many contributions by Latinos to the economy, Latinos continue to face prejudice and discrimination throughout the United States, and many continue to struggle to meet basic needs, including finding a home they can afford. This is not surprising, as there is not a single part of the country where a minimum wage worker working full-time year-round can afford a two-bedroom rental home.⁵³ In 2017, 4.4 million (55 percent) Latinos who rented their home were cost-burdened – meaning they devoted 30 percent or more of their income towards rent.⁵⁴

However, access to federal housing assistance has allowed hundreds of thousands of Latinos to lift themselves out of poverty. According to an analysis conducted by UnidosUS, federal housing assistance – including public and other subsidized housing – lifted approximately 800,000 Latinos out of poverty in 2017, including more than 280,000 Latino children.⁵⁵ While research suggests that Latinos remain underrepresented in these programs,⁵⁶ the proposed rule would deter many eligible Latinos participating in public or subsidized housing programs, and increase housing insecurity for Latino families.

Individuals with Disabilities

⁴⁷ US Department of Housing and Urban Development, *Picture of Subsidized Households*, 2018

⁴⁸ US Census, 2010 Decennial Census, SF2

⁴⁹ U.S. Census Bureau, American FactFinder: Selected Population Profile in the United States: 2017 American Community Survey 1-Year Estimates.

⁵⁰ J. S. Passel & D. Cohn, “U.S. Population Projections: 2005-2050,” Pew Research Center (February 2008)

<https://www.pewhispanic.org/2008/02/11/us-population-projections-2005-2050/>.

⁵¹ Richard Fry and Jeffrey S. Passel “Latino Children: A Majority Are U.S.-Born Offspring of Immigrants” (Washington, DC: Pew Research Center, 2009) <https://www.pewhispanic.org/2009/05/28/latino-children-a-majority-are-us-born-offspring-of-immigrants/>.

⁵² Urban Institute “Part of Us: A Data-Driven Look at Children of Immigrants” (Washington, DC: The Urban Institute, March 2019)

<https://www.urban.org/features/part-us-data-driven-look-children-immigrants>.

⁵³ National Low Income Housing Coalition “Out of Reach the High Cost of Housing” (Washington, DC: NLIHC, 2018)

https://reports.nlihc.org/sites/default/files/oor/OOR_2018.pdf.

⁵⁴ 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>.

⁵⁵ UnidosUS, “Federal Programs Lift Millions of Latinos Out of Poverty” (Washington, DC: UnidosUS, October 2018)

<http://publications.unidosus.org/handle/123456789/1894>.

⁵⁶ 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>.

The lack of accessible, affordable housing is a continuing and significant barrier to integrated community living, making it difficult for people with disabilities to move from segregated facilities into the community, and putting many people with disabilities at risk of unnecessary institutionalization or homelessness. 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 Section 8 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.⁵⁷ At the same time, people with disabilities all too often face discrimination when seeking housing.⁵⁸ 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 other significant harm.

In addition to people with disabilities living in mixed status families that will lose rental assistance, many people with disabilities will be at risk of losing assistance because of the proposed rules new documentation requirements for seniors and citizens. People with disabilities often have additional barriers to accessing proof of citizenship and identity. For example, some people with disabilities do not drive and are less likely to have state-issued identification; in 2012, 7.5 percent of people with disabilities lacked a valid ID compared to less than 5 percent of people without disabilities.⁵⁹

Survivors of Gender Based Violence

Certain immigrant survivors of gender-based violence such as human trafficking, sexual assault, and domestic violence will be severely and disproportionately harmed by HUD's proposed rule. Traumatized and vulnerable, survivors are also often indigent and face numerous challenges to their basic well-being. As a result, ready access to safe, affordable housing is critical to their ability to flee abusive homes. For some, their basic survival hangs in the balance.

If the proposed rule goes into effect, ineligible survivors and their eligible children who are trying to escape violent homes will be trapped in a false "choice"—homelessness or remaining with an abuser. Those already living in subsidized housing who are evicted and forced to return to a violent home will face an even greater risk to their safety. It is commonly known that the danger to a victim actually increases once she escapes, with one estimate noting a 75% increase in violence for at least two years following an escape.⁶⁰

⁵⁷ 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 ("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.")

⁵⁸ 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 ("As has been the case in past years, the majority of complaints from 2017 involved housing discrimination against people with disabilities.")

⁵⁹ s.e. smith & Rebecca Cokley, *Reforming Elections Without Excluding Disabled Voters*, CTR. FOR AM. PROGRESS (Mar. 29, 2019), <https://www.americanprogress.org/issues/disability/news/2019/03/28/468019/reforming-elections-without-excluding-disabled-voters/>.
⁶⁰ <http://stoprelationshipabuse.org/educated/barriers-to-leaving-an-abusive-relationship/>; See also <https://www.theguardian.com/society-professionals/2014/dec/10/domestic-abuse-risk-trying-leave-housing-community>; <https://www.clarionledger.com/story/news/2017/01/28/most-dangerous-time-for-battered-women-is-when-they-leave-jerry-mitchell/96955552/>, citing multiple sources.

Financial security, and affordable housing in particular, are critical to increasing survivors' chances of escape, recovery, and prevention of future abuse.⁶¹ Strikingly, domestic violence, including sexual abuse, is reported as the acute cause of homelessness among 22% to 57% of all homeless women.⁶² According to the Centers for Disease Control and Prevention, over half of all female lifetime victims of intimate partner abuse—including rape, other physical violence, and stalking—did not receive housing services after requesting them.⁶³ Housing can be determinative as to whether a survivor can escape an abusive intimate partner or employer in many cases.⁶⁴

LGBTQ

This proposed rule is likely to have a profound impact on the LGBTQ community, including thousands of bi-national same-sex couples. The most recent available data from the American Community Survey indicates that there are nearly one million same-sex couples in the United States;⁶⁵ as nearly one in ten LGBTQ adults are immigrants,⁶⁶ it is likely that same-sex couples are bi-national at rates similar to the general population. Nearly one-third of LGBTQ immigrants are undocumented, indicating that a significant number of LGBTQ bi-national couples could be impacted by this proposed rule.⁶⁷ While we lack specific data on the use of public housing assistance by LGBTQ immigrants, we know that the need for housing support is high in this community as a general matter. As a result of systemic discrimination, LGBTQ people are 2.5 times more likely to receive public housing assistance than their non-LGBTQ peers. The need for these programs is especially acute for transgender people, LGBTQ people with disabilities, and LGBTQ people of color.⁶⁸

We urge HUD to immediately withdraw its current proposal, and dedicate its efforts to advancing policies that strengthen—rather than undermine—the ability of immigrants to support themselves and their families in the future. If we want our communities to thrive, everyone in those communities must be able to stay together and get the care, services and support they need to remain healthy and productive.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact Gina Charusombat, Policy and Program Coordinator, at gina@thaicdc.org to provide further information.

Sincerely,

⁶¹ <https://www.cdc.gov/violenceprevention/pdf/ipv-technicalpackages.pdf>; See also Breiding, M.J., Chen J., & Black, M.C. (2014). Intimate Partner Violence in the United States — 2010. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

⁶² Wilder Research Center, Homelessness in Minnesota, 2003 (2004); Center for Impact Research, Pathways to and from Homelessness: Women and Children in Chicago Shelters (2004); Nat'l Center on Family Homelessness & Health Care for the Homeless Clinicians' Network, Social Supports for Homeless Mothers (2003); Institute for Children & Poverty, The Hidden Migration: Why New York City Shelters Are Overflowing with Families (2004); Homes for the Homeless & Institute for Children & Poverty, Ten Cities 1997-1998: A Snapshot of Family Homelessness Across America (1998); See also http://www.nsvrc.org/sites/default/files/NSVRC_Publications_Reports_Housing-and-sexual-violence-overviewof-national-survey.pdf

⁶³ See FN 4 above.

⁶⁴ See FN 4 above.

⁶⁵ Census Bureau, "Household Characteristics of Opposite-Sex and Same-Sex Couple Households: 2017 American Community Survey," 2017, available at: <https://www.census.gov/data/tables/time-series/demo/same-sex-couples/ssc-house-characteristics.html>.

⁶⁶ Gary J. Gates, "LGBT Adult Immigrants in the United States," The Williams Institute, March 2013, available at <http://williamsinstitute.law.ucla.edu/research/census-lgbt-demographics-studies/us-lgbt-immigrants-mar-2013/>

⁶⁷ *Ibid.*

⁶⁸ Rooney, Whittington, and Durso, *Protecting Basic Living Standards for LGBTQ People*, AM. PROGRESS (2018), <https://www.americanprogress.org/issues/lgbt/reports/2018/08/13/454592/protecting-basic-living-standards-lgbtq-people/>.

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