

July 9, 2019

Submitted via [Regulations.gov](https://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 Office of General Counsel,

Thank you for the opportunity to comment on the Department of Housing and Urban Development's (HUD) "Housing and Community Development Act of 1980: Verification of Eligible Status Proposed Rule" published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01). The Disability Rights Education and Defense Fund (DREDF) strongly opposes the proposed rule. DREDF urges the Department to withdraw the rule in its entirety.

DREDF is a unique alliance of adults with disabilities and parents of children with disabilities. We seek to advance the civil and human rights of people with disabilities through legal advocacy, training, education, and public policy and legislative development in the areas of: employment, housing, access to government services and benefits, transportation, architectural access, public accommodations, and education. Based in Berkeley, California, our vision is a just world where all people, with and without disabilities, live full and independent lives free of discrimination.

The proposed rule would require the verification of the eligible immigration status of all recipients of assistance under covered programs under the age of 62. The rule would also specify that immigrants not in eligible status may not serve as leaseholders, even if they are part of mixed-status families who have been receiving prorated assistance. Should the rule be implemented, 25,000 immigrant families could be evicted from their homes, including over 55,000 children who are U.S. citizens or green card holders. The 9.5 million people receiving assistance - including people with disabilities, their attendants and caregivers - risk losing their subsidies and face homelessness if they are unable to provide proof of citizenship or immigration status.

The rule would disproportionately harm the most marginalized, including people with disabilities and children

The proposed rule would disproportionately affect people who are already marginalized and discriminated against, including people of color with and without disabilities. Among those

receiving HUD rental assistance affected by the rule: 72 percent are people of color, 62 percent are female, 39 percent are children, and 22 percent have a disability. As many as 937,000 Californians could lose their housing assistance if they are unable to produce documents verifying their citizenship.

The proposed rule could lead to additional homelessness and costly institutionalization

DREDF focuses on civil rights issues that promote integration of people with disabilities into the mainstream of society, and works to address continued barriers to housing for people with disabilities. Lack of accessible, affordable housing is one the biggest obstacles to people with disabilities living in and contributing to the community outside of an institution. Immigrant families, with and without disabled family members, face an added barrier to housing. California has the largest immigrant population and eight of the ten highest rental cost metropolitan counties in the country. The San Francisco Bay Area is experiencing an unprecedented lack of affordable, accessible housing, putting people with disabilities, and all those who would be impacted by the proposed rule, at greater risk for homelessness.

Safe, accessible, affordable housing is needed for students to learn and thrive

One-third of DREDF's work aims to protect and advance the rights of students with disabilities, including immigrant students and children in mixed-status families. We seek to ensure disabled students are able to live in the community, receive a free and appropriate public education, and attend integrated schools. DREDF's Parent Training and Information center staff routinely assist parents and students of immigrant and low-income families to obtain access to a free and appropriate public education. We believe firmly that in order for students to fully engage in, and receive the benefits of, an education, they must also be provided safe, secure, accessible and affordable housing with their families.

The proposed rule could negatively impact direct support professionals and caregivers

People with disabilities rely on the services of direct support professionals, and the demand for these services is growing. An estimated one million immigrants work in direct care, making up a quarter of the direct care workforce. Direct care work is often low-paying, requiring housing assistance and public benefits to survive. People with disabilities may also rely on immigrant family members to provide support and care.

Requiring documentation creates an unnecessary and additional barrier to housing for direct care workers and families who may not have the access to transportation, time or money to collect documents. In addition, evicting ineligible family members, rather than prorating the assistance, would separate people with disabilities from caregivers or lead to evacuation to unstable housing or homelessness.

The proposed rule violates the obligation to affirmatively further fair housing

In October 15, 2018 comments submitted regarding proposed streamlining of the affirmatively furthering fair housing (AFFH) rule (FR-6123-A-01), DREDF supported robust implementation of the rule. 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. 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."

The proposed rule's documentation requirements create an additional, unnecessary barrier to housing

People with disabilities and low-income individuals often face additional obstacles to accessing proof of citizenship and identity, including challenges with transportation to identification-issuing offices and other accessibility barriers. This provision would threaten housing assistance for millions of households that otherwise remain eligible for assistance.

Three major civil rights statutes, the Individuals with Disabilities Education Act, Section 504 of the 1973 Rehabilitation Act and the Americans with Disabilities Act have been enacted which recognize that people with disabilities face discrimination and are entitled to an equal opportunity to participate in society to the same extent that others take for granted. The Fair Housing Amendments Act guarantees that qualified persons with disabilities will not be excluded from housing because of their disabilities. Under federal law, public entities are prohibited from using criteria or methods of program administration that have a discriminatory effect on people with disabilities. The added documentation requirement creates an additional and unnecessary barrier to housing, and an additional regulatory burden on service providers.

DREDF urges HUD to withdraw the rule in its entirety and reaffirm civil rights advances and access to housing for people with disabilities, direct support professionals, caregivers, and all families. For more information about DREDF's opposition to the proposed rule to require verification of eligible status please contact Carol Tyson, Government Affairs Liaison, at ctyson@dredf.org.

Sincerely yours,



Susan Henderson
Executive Director