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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 The Michigan Immigrant Rights Center (MIRC) 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). MIRC opposes the verification of eligible status rule. We urge the rule to be withdrawn in its entirety, and that HUD's long-standing regulations remain in effect.

The Michigan Immigrant Rights Center (MIRC) is a legal resource center for Michigan's immigrant communities. MIRC works to build a thriving Michigan where immigrant communities experience equity and belonging. MIRC provides legal representation to indigent immigrants across the State of Michigan at no cost to them before the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR). Our clients are individuals living below the federal poverty guidelines and this proposed rule would have major impact to their living situations.

Although HUD contends that the proposed rule is a means of addressing the waitlist crisis faced by a majority of Public Housing Authorities nationwide,[1] MIRC recognizes that the proposed rule is a part of the current administration's coordinated attack on immigrant families.[2] We all share the concern that millions of 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

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[1] 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.

[2] *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.

of the proposed rule concludes that fewer, not more, families are likely to receive assistance as a result of the rule.[3] 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.[4]

However, since 70% of mixed status families currently receiving HUD assistance are composed of 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."[5] 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.[6] These mass evictions and departures from housing assistance will cause increased rates of homelessness and unstable housing among an already vulnerable population.[7]

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.[8] 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,[9] and can dramatically increase the risk of an acute episode of a behavioral health

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[3] 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).

[4] 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/.

[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, at 7 (Apr. 15, 2019).

[6] *Id.* at 8.

[7] 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.

[8] 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.

[9] *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-

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.[10] 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.[11]

The proposed rule will bar children who are U.S. citizens and lawful permanent residents from maintaining and seeking federally subsidized housing.

By eliminating the ability of mixed status families to receive prorated assistance on a permanent basis, the proposed rule robs eligible children of housing subsidies because they have parents with ineligible noncitizen status. Section 214 of the Housing and Community Development Act of 1980 (Section 214) limits access to federally subsidized housing programs to U.S. citizens and a specific list of noncitizen categories.[12] Nearly all of the children in mixed status families who are receiving HUD assistance covered by Section 214 are U.S. citizens and lawful permanent residents (LPR) who live with parents or other adults who do not have eligible immigration status. HUD's statistics show that 70% of mixed status families are composed of eligible children and ineligible parents. There are over 38,000 U.S. citizen and otherwise eligible children in these families, and over 55,000 eligible children in mixed status families overall.[13] Since these children lack the legal capacity to sign leases themselves, the adult heads of household, including those who do not receive assistance, must sign these contracts on behalf of their family. However, by prohibiting the ineligible adults from living in subsidized units, the proposed rule forecloses the possibility of these U.S. citizen and LPR children from receiving any housing assistance under the covered housing programs. As explained below, the proposed rule directly contradicts the face of the statute governing these HUD regulations.

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and-provide-platform-for-longterm-gains; *see also* Linda Giannarelli et al., *Reducing Child Poverty in the US: Costs and Impacts of Policies Proposed by the Children's Defense Fund* (Jan. 2015), http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPoliciesProposedbytheChildrensDefenseFund.pdf.

[10] 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.

[11] *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).

[12] 42 U.S.C.A. § 1436a(a)(1)-(6) (West 2019) (Noncitizens eligible for Section 214 housing programs: Lawful Permanent Residents, VAWA Self-Petitioners, Asylees and Refugees, Parolees, Persons Granted Withholding of Removal/Deportation, Qualified Victims of Trafficking, Persons granted admission for emergent or public interest reasons, Persons granted lawful temporary residence amnesty under the Immigration Reform and Control Act of 1986, Immigrants eligible for registry who entered the U.S. before June 30, 1948, Lawful U.S. residents and individuals who entered the U.S. under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam Immigrants admitted for lawful temporary residence prior to January 1, 1982).

[13] *See* 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 6-8 (Apr. 15, 2019) (73% of eligible family members are children and there are a total of 76,141 eligible individuals in the covered programs, for a total of 55,582 eligible children; 70% of households are composed of eligible children with ineligible parents, for a total of 38,907 eligible children in households with ineligible parents).

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…" (emphasis added). 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.

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

[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.

[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.

with high housing costs.[19] For example, California—the state with the largest immigrant population[20]—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. One survey from 2006 showed that as many as seven percent of citizens did not have citizen documentation readily available.[23] Obtaining such documentation can be particularly difficult for U.S. citizens over the age of 50, citizens of color, citizens with disabilities, and citizens with low incomes. Older individuals face many challenges in getting this kind of documentation, including difficulties getting to government offices to replace lost records, coming up with the funds to replace these records, and some may have never been issued a birth certificate in the first place.[24] That same survey suggests that:

- At least 12 percent of citizens earning less than $25,000 a year do not have proof of citizenship;
- Many people who do have documentation have birth certificates or IDs that don't reflect their current name or address, such as people who changed their name;
- 18 percent of citizens over the age 65 do not have a photo ID; and

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[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 eequirement 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] Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification, Brennan Center for Justice (Nov. 2006), http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf

[24] 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.

- 25 percent of African American citizens lacked a photo ID.

After Medicaid began implementing a citizenship documentation requirement, there was a sharp decline in Medicaid enrollment. Half of the 44 states responding to a Government Accountability Office survey indicated that Medicaid enrollment fell because of the citizenship documentation requirement. The GAO also found that states reported increased administrative costs and needing to spend more time providing help to applicants and beneficiaries, increasing their time spent on applications and redeterminations of eligibility.[25]

For those who are unable to produce the required documents within the required time period under the proposed HUD rule, they will lose their housing assistance, and many will be evicted from their homes. A significant share could become homeless. The figures above suggest that hundreds of thousands of U.S. citizens could experience these harsh consequences under the proposed rule.

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.[26] 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 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.[27] Adding more documentation requirements creates more barriers to housing for those who need it most, and could cause many people who have gained stability through rental assistance to return to homelessness. HUD has failed to take into account the added costs and burdens of these new documentation requirements and should complete an analysis of these costs before finalizing the proposed rule.

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.[28] While it is true that there is a public housing and Section 8 waitlist crisis—there are currently 3 million individuals

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[25] U.S. GOV'T ACCOUNTABILITY OFFICE, *Medicaid: States Reported That Citizenship Documentation Requirement Resulted in Enrollment Declines for Eligible Citizens and Posed Administrative Burdens* (June 2007), https://www.gao.gov/new.items/d07889.pdf.

[26] 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).

[27] 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.

[28] 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.

on voucher waitlists around the country, with an additional 6 million that would like to be on these waitlists[29]—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 of members who are all eligible, this transition would cost HUD from $372 million to $437 million annually.[30]

To pay for these new costs of the proposed rule,[31] 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...[32]

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."[33] In fact, the proposed rule will do the exact opposite, reducing the quantity of affordable homes on the market.

<u>The proposed rule would lead to a reduction in the quality of federally assisted housing provided by HUD.</u>

It is no secret that public housing conditions are deplorable in many parts of this country.[34] 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

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[29] *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.

[30] 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).

[31] Brakkton 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.

[32] 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).

[33] HUD, ABOUT HUD, MISSION (last visited May 20, 2019), https://www.hud.gov/about/mission.

[34] 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; Jill Ripenhoff & Lee Zurik, *Failure to Fix: Mold.Mice. Messes.*, INVESTIGATE TV (2018), http://www.investigatetv.com/failure-to-fix-mold-mice-messes/; 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/.

desperately needed repairs, and making matters worse, the Trump administration has proposed to eliminate the federal fund used to make (already insufficient) repairs.[35]

Given this current state of affairs, HUD should focus on using its limited funds to address these inhabitable conditions faced by so many of its residents. Instead, HUD has taken the opposite approach. In the Regulatory Impact Analysis issued by HUD, the agency acknowledged that the proposed rule could create about $200 million in new costs and hurt public housing by reducing the "maintenance of the units and possibly [leading to] deterioration of the units that could lead to vacancy."[36] In light of the negative consequences of the proposed rule, it is hard to see what legitimate purpose the proposed rule serves. We urge HUD to address this critical issue before it publishes the final rule.

IV. The Proposed Rule Will Hurt the U.S. Economy and is in Conflict with U.S. Policy Priorities on Preventing and Responding to Homelessness.

America's economy depends on immigrants.

Immigrants are a critical factor in keeping the United States' economy healthy and growing. Currently, there are more than 27 million foreign-born workers in the U.S. labor market, accounting for about 17% of the total U.S. workforce.[37] Immigrants are more concentrated in labor markets that literally feed and house America—immigrants make up 28% of construction trade workers and upwards of 70% of agricultural workers. In-depth statistical analysis shows that low-income immigrants and their families make important contributions to the U.S. economy, and that overall, immigration into the United States is a long-term fiscal net positive.[38] The proposed rule will cut into these economic gains by increasing housing instability—essential immigrant workers, particularly those in areas with high rents, rely on stable housing in order to maintain their employment, contribute to local economies, and help their communities thrive. The proposed rule does not adequately consider these issues, and HUD should study the extended impact the rule will have on the U.S. economy before publishing its final rule.

The proposed rule runs counter to U.S. policy priorities on preventing and responding to homelessness and poverty.

The proposed rule is in direct conflict with federal policy priorities of ending homelessness and federal mandates for states to provide certain assistance and programs to everyone. For example, the U.S. Interagency Council on Homelessness (USICH) has prioritized ending and preventing homelessness among families with children, regardless of immigration status.[39] USICH's mission is to

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[35] 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.

[36] 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).

[37] U.S. DEPT. LABOR, BUREAU OF LABOR STATISTICS, USDL-18-0786, FOREIGN-BORN WORKERS: LABOR FORCE CHARACTERISTICS—2017 (2018), https://www.bls.gov/news.release/pdf/forbrn.pdf.

[38] *See* PANEL ON ECON. & FISCAL CONSEQUENCES OF IMMIGRATION, THE ECONOMIC AND FISCAL CONSEQUENCES OF IMMIGRATION (Francine D. Blau & Christopher Mackie, eds., 2017), https://www.nap.edu/catalog/23550/the-economic-and-fiscal-consequences-of-immigration.

[39] U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, SUMMARY OF ESSENTIAL ELEMENTS OF THE PLAN 2 (July 2018), 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.

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."[40] The proposed rule directly contradicts this policy goal by erecting additional barriers to housing access. Furthermore, the rule is in conflict 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."[41]

Although HUD acknowledges the potential costs of homelessness in their Regulatory Impact Analysis, noting that temporary and long-term homelessness is a likely for many families because of the proposed rule, it has not provided a detailed analysis of this economic impact.[42] To fully understand the fiscal consequences of this rule, HUD should complete an in-depth study on these issues before finalizing the proposed rule.

The proposed rule poses a danger to public health, and will lead to increased medical costs hurting the U.S. economy as a whole.

Access to stable and affordable housing is a basic platform for family and community health, well-being, and dignity, and our communities thrive when everyone has access to a high quality home. Immigrants and their families are vital to parts of the country's social and economic fabric, and we should be building a housing system that creates the conditions for all of us to flourish. Instead, this proposed rule change would harm the health of immigrant families and of our communities as a whole, threatening people with evictions and homelessness and breaking families apart. Public housing provides one crucial source of homes affordable to over 2 million low-income people in America,[43] and the evidence is clear that affordable housing supports health.[44] When families have to put too much of their income towards their rent, they can't afford to pay for other basic needs like food and health care, which is why problems like food insecurity increase along with housing costs,[45] and many renters delay needed medical care because they can't afford it.[46]

Thousands of immigrant families will be evicted from federally subsidized housing under this proposal that will have severe consequences for their health. People who are evicted from their homes, or even threatened with eviction, are more likely to experience health problems like depression, anxiety, and high blood pressure than people with stable housing.[47] They are also more likely to become

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[40] U.S. INTERAGENCY COUNCIL ON HOMELESSNESS, SUMMARY OF ESSENTIAL ELEMENTS OF THE PLAN 2 (July 2018).

[41] 42 U.S.C. § 12701.

[42] *Id.* at 15-16.

[43] CENTER ON BUDGET & POLICY PRIORITIES, *Policy Basics: Public Housing* (Nov. 15, 2017), https://www.cbpp.org/research/policy-basics-public-housing.

[44] Nabihah Maqbool, Janet Viveiros, & Mindy Ault, CENTER FOR HOUSING POLICY, *The Impacts of Affordable Housing on Health: A Research Summary* (Apr. 2015), https://www.rupco.org/wp-content/uploads/pdfs/The-Impacts-of-Affordable-Housing-on-Health-CenterforHousingPolicy-Maqbool.etal.pdf.

[45] Jason M. Fletcher, Tatiana Andreyeva, & Susan H. Busch, *Assessing the Effect of Increasing Housing Costs on Food Insecurity* (Nov. 12, 2009), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1503043.

[46] ENTERPRISE, *Renters Report Housing Costs Significantly Impact Their Health Care* (Apr. 3, 2019), https://www.enterprisecommunity.org/news-and-events/news-releases/2019-04_renters-report-housing-costs-significantly-impact-their-health-care.

[47] Alison Bovell & Megan Sandel, *The Hidden Health Crisis of Eviction*, CHILDREN'S HEATH WATCH BLOG (Oct. 5, 2018), http://childrenshealthwatch.org/the-hidden-health-crisis-of-eviction/.

homeless, contend with long-term housing instability, and visit an emergency room.[48] Eviction and other forms of housing instability, such as having to move frequently, are particularly harmful for children, which means that these rule changes would harm the health of many children living in mixed status families. Unstable housing means that kids are more likely to have behavioral problems and to struggle in school[49]—and in classrooms where the student population changes quickly and frequently, all students can fall behind. [50] Education itself is linked to positive health outcomes and longer lives;[51] thus, creating housing instability in children's lives can have immediate and negative health impacts, but can also lead to poorer health across the life course by disrupting their education. **This rule change would leave families with the terrible choice of either losing their housing or splitting up their family members.** Rather than continuing to target and scapegoat immigrant families, we should support public health and strengthen our communities by working to expand housing subsidies and supports for all low-income families.

V. 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.[52] 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."[53] 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*.[54] Since

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[48] Robert Collinson & Davin Reed, *The Effects of Evictions on Low-Income Households*, NYU LAW (Dec. 2018), https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf.

[49] *Housing Instability is Linked to Adverse Childhood Behavior*, HOW HOUSING MATTERS (May 9, 2019), https://howhousingmatters.org/articles/housing-instability-linked-adverse-childhood-behavior/.

[50] Mary Cunningham & Graham MacDonald, *Housing as a Platform for Improving Education Outcomes among Low-Income Children*, URBAN INSTITUTE (May 2012), https://www.researchgate.net/profile/Heather_Schwartz/publication/267687704_Housing_as_a_Platform_for_Improving_Education_Outcomes_among_Low-Income_Children/links/546621100cf25b85d17f58d7/Housing-as-a-Platform-for-Improving-Education-Outcomes-among-Low-Income-Children.pdf.

[51] S. Egerter, P. Braveman, T. Sadegh-Nobari, R. Grossman-Kahn, and M. Dekker, *An Examination of the Many Ways in Which Education can Influence Health, Including How Educational Attainment Affects Health Across Generations and the Social and Economic Adantages it Represents*, ROBERT WOOD JOHNSON FOUNDATION (Apr. 1, 2011), https://www.rwjf.org/en/library/research/2011/05/education-matters-for-health.html.

[52] 42 U.S.C.A. § 3608(e)(5) (West 2019).

[53] 24 C.F.R. § 5.152 (definition of "Affirmatively furthering fair housing").

[54] RIA at 8.

minor children comprise the vast majority of eligible occupants of mixed status households,[55] 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.

VI. 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.[56] 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.[57] The proposed rule would also make it impossible for many intergenerational families to live together and share resources that enable them to succeed. It ignores the critical roles many grandparents play in caring for their grandchildren and other family members, as well as the role adult children play in caring for their aging parents and relatives.

Furthermore, the proposed rule adds new documentation requirements that will be particularly burdensome on older adults.[58] 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 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.[59]

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

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

[56] https://apps.cbpp.org/4-3-19hous/PDF/4-3-19hous-factsheet-us.pdf

[57] *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-OlderAmericans%E2%80%99-Basic-Needs_Health-Care-Income-Housing-and-Food.pdf

[58] 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).

[59] 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.

housing, and have a sequence of adverse physical and mental health outcomes.[60] 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.[61]

Approximately 18 million children in the U.S. live in a family with at least one immigrant parent,[62] 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.[63] 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.[64]

Access to housing assistance already remains limited for families—only one in four families who are eligible for rental assistance in the U.S. receive it. Nearly 40% of the of households currently receiving rental assistance include children.[65] Research shows that rental assistance for households with children results in significant positive effects for future child outcomes and family economic security. Housing assistance lifts about a million children out of poverty each year,[66] and can improve a child's chances for long-term economic mobility—one study finds that children in households receiving Housing Choice vouchers have higher adult earnings and a lower chance of incarceration.[67]

Housing assistance also improves child health—children of families receiving housing assistance had a 35 percent higher chance of being labeled a "well child," a 28 percent lower risk of being seriously underweight and a 19 percent lower risk of food insecurity.[68] Access to affordable housing provides stability for families and frees up income for other necessities. Low-income households with children that pay more than half of their monthly income on rent spend considerably less on other basic necessities—they spend $200 less per month on food, nearly $100 less on transportation, and about $80 less on healthcare.[69]

This rule would add insult to injury by further limiting access to housing assistance for families with children. HUD estimates that 55,000 children will be displaced and at-risk of homelessness as a

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[60] 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).

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

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

[63] 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.

[64] Ibid 1. Page 140.

[65] "National and State Housing Fact Sheets & Data." Center on Budget and Policy Priorities, August 2017, https://www.cbpp.org/research/housing/national-and-state-housing-fact-sheets-data.

[66] Liana Fox, "The Supplemental Poverty Measure: 2017," September 2018, https://www.census.gov/library/publications/2018/demo/p60-265.html.

[67] Andersson, Fredrik and Haltiwanger, John C, et. al. "Childhood Housing and Adult Earnings: A Between-Siblings Analysis of Housing Vouchers and Public Housing." National Bureau of Economic Research, Working Paper No. 22721, September 2018, http://www.nber.org/papers/w22721.

[68] Elizabeth March, "Rx for Hunger: Affordable Housing," *Children's Health-Watch; Medical-Legal Partnership*, December 2009, http://www.vtaffordablehousing.org/documents/resources/435_RxforhungerNEW12_09.pdf.

[69] "The State of the Nation's Housing 2018", Joint Center for Housing Studies of Harvard University, tabulations of US Bureau of Labor Statistics, 2016 Consumer Expenditure Survey, 2018, http://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf

result of implementation of this rule. Child and youth homelessness continues to skyrocket in the United States – the U.S. Department of Education identified 1.3 million homeless children in the 2016-2017, which is a 70 percent increase since the 2007-2008 school year.[70]

The proposed rule will only serve to further increase child homelessness, with detrimental effects to child well-being and our economy. Homelessness, even for a brief time, is extremely detrimental to a child's healthy development. The younger and longer a child experiences homelessness, the greater the cumulative toll of negative health outcomes.[71] Homelessness is also associated with an 87 percent greater likelihood of a child or youth dropping out of school.[72]

A recent landmark study from the National Academy of Sciences finds that child poverty and homelessness costs our society over $1 trillion each year.[73] This same study finds that making housing vouchers available for 70 percent of the families who are currently eligible would reduce child poverty by 3 percentage points.

This rule takes the opposite approach by taking away housing assistance from thousands of children and families, ignoring research from leading experts regarding what is best for the well-being of the nation's children and families. Evicting families or forcing them to separate will not only harm children's health today, but well into the future. We need policies that expand, not reduce, access to stable homes for families with children in order to ensure all children have opportunities to be healthy and reach their highest potential.

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)[74], 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).[75] 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

[70] "Federal Data Summary School Years 2014-2015 to 2016-2017, National Center for Homeless Education, February 2019, https://nche.ed.gov/wp-content/uploads/2019/02/Federal-Data-Summary-SY-14.15-to-16.17-Final-Published-2.12.19.pdf.

[71] Megan Sandel, Richard Sheward, and Lisa Sturtevant, Compounding Stress: The Timing and Duration Effects of Homelessness on Children's Health, Insights from Housing Policy Research (Washington, DC: Center for Housing Policy; Boston: Children's HealthWatch, 2015), https://www.issuelab.org/resources/21731/21731.pdf.

[72] Erin S. Ingram, John M. Bridgeland, Bruce Reed, and Matthew Atwell, Hidden in Plain Sight: Homeless Students in America's Public Schools (Washington, DC: Civic Enterprises and Hart Research Associates, 2016), http://www.americaspromise.org/report/hidden-plainsight.

[73] National Academies of Sciences, Engineering, and Medicine 2019. *A Roadmap to Reducing Child Poverty*, The National Academies Press, 2019, https://doi.org/10.17226/25246.

[74] US Census, 1-Year American Community Survey, 2011-2017

[75] US Census, 5-Year American Community Survey, 2016

at twice the risk of displacement relative to the general US poverty population.[76] 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 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.[77] Further, nearly 10% of AAPI households live in multi-generational homes,[78] 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.[79] By 2050, it is projected that nearly one-third of the U.S. workforce will be Latino.[80] Among Latino children, who account for a quarter of all U.S. children, the majority (52 percent) have at least one immigrant parent,[81] and more than half of children of immigrants are Latino.[82] 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. 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.[83]

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.[84] While research suggests that Latinos remain underrepresented in these programs,[85] the proposed rule would deter many eligible Latinos participating in public or subsidized housing programs, and increase housing insecurity for Latino families. As HUD acknowledges, families that lose housing assistance are at risk of homelessness, with

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[76] National CAPACD analysis of US Census data (5-Year ACS, 2016)

[77] US Department of Housing and Urban Development, *Picture of Subsidized Households*, 2018

[78] US Census, 2010 Decennial Census, SF2

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

[80] 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/.

[81] 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/.

[82] 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.

[83] 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.

[84] UnidosUS, "Federal Programs Lift Millions of Latinos Out of Poverty" (Washington, DC: UnidosUS, October 2018) http://publications.unidosus.org/handle/123456789/1894.

[85] 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.

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.[86] 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.

For progress to continue in the Latino community and our nation, immigrants should have an opportunity to support the resilience and upward mobility of their families. The proposed changes by HUD fail in this respect as Latino families of mixed immigration status would be forced to break up to receive housing assistance, to forego the assistance altogether, or face termination from the programs.

Individuals with Disabilities

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.[87] At the same time, people with disabilities all too often face discrimination when seeking housing.[88] 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.[89]

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.

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[86] 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.bronto.pdf.

[87] *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.")

[88] *See, e.g.*, National Fair Housing Alliance, " Making Every Neighborhood A Place of Opportunity: 2018 Fair Housing Trends Report," 52 (2018) athttps://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.")

[89] 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/.

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.[90]

Financial security, and affordable housing in particular, are critical to increasing survivors' chances of escape, recovery, and prevention of future abuse.[91] Strikingly, domestic violence, including sexual abuse, is reported as the acute cause of homelessness among 22% to 57% of all homeless women.[92] 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.[93] The National Alliance to End Sexual Violence reports that 65% of victims' average daily unmet requests for help from domestic violence programs nationwide are for housing related services.[94] Survivors of sexual assault note that if they do not have housing, then other auxiliary services are only minimally helpful.[95] Housing can be determinative as to whether a survivor can escape an abusive intimate partner or employer in many cases.[96]

Violent perpetrators are well-aware of the link between a victim's financial independence and her access to safety. Abusers notoriously keep immigrant survivors in a state of isolation, poverty, and economic dependence, conditioning them to fear retaliation not only for trying to flee, but for seeking a work permit and/or employment. They prevent survivors from doing either by holding their immigration documents hostage, leaving them in a state of paralysis. Further, even survivors able to work outside the home endure such instability day to day that they face difficulty maintaining regular employment.[97] As a

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[90] 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.

[91] 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.

[92] 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

[93] See FN 4 above.

[94] 2018 statistics show 72,245 victim requests for assistance per day; 11,441 requests are unmet, and of those, 7,416 are for housing. Available at https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/; See also National Alliance to End Sexual Violence, 2016 internet survey of rape crisis centers from all 50 states, Washington D.C. and two territories.

[95] See, e.g., Logan, TK, Evans, L., Stevenson, E., & Jordan C. E. (2005). Barriers to services for rural and urban survivors of rape. Journal of Interpersonal Violence, 20, 591-616. doi:10.1177/0886260504272899.

[96] See FN 4 above.

[97] Ibid.

result, even current and future survivors who are eligible for subsidized housing will be vulnerable to eviction under the proposed rule. The rule requires proof of immigration status and submitting such evidence will be challenging for those whose abusers have destroyed or withheld their documents from them as a tool of abuse.

Securing non-subsidized housing is also extremely difficult for survivors. They are susceptible to manipulation by landlords who charge them high rents for single rooms in unsafe conditions. . Undocumented survivors suffer in silence, deterred from seeking recourse by the looming threat of immigration, incarceration, or deportation. Overcrowding at shelters, or rules prohibiting children with disabilities from residing there, drive many back onto the streets. Others face discrimination such that either no one will rent to them, or they cannot have their name on a lease or utility bills.[98]

Finally, without adequate housing, survivors, including those who have been recently released from immigration detention, will have tremendous difficulty maintaining regular, meaningful communication with service providers. Notifications of critical appointments and court hearings may never reach them, and they may struggle to access evidence needed for legal matters involving immigration, child custody, or protection orders. If a survivor is homeless and cannot effectively participate in her immigration case, the consequence could be permanent loss of child custody and return to her home country to face dangerous circumstances. Legal access can also be instrumental in helping victims find long term safety.[99]

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;[100] as nearly one in ten LGBTQ adults are immigrants,[101] 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.[102]

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.[103]

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[98] http://www.tahirih.org/wp-content/uploads/2018/01/Tahirih-Justice-Center-Survey-Report-1.31.18-1.pdf

[99] Reckdenwald, A., & Parker, K.K. (2010). Understanding gender-specific intimate partner homicide: A theoretical and domestic service-oriented approach. Journal of Criminal Justice, 38, 951-958.

[100] 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.

[101] 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/

[102] *Ibid.*

[103] 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/.

VII. HUD Has Not Adequately Addressed the Administrative Burdens Created by the Proposed Rule.

Housing providers and landlords will be significantly burdened by the rule.

The rule's impact will not be limited to immigrants and their families. Under the proposed new requirements for documentation, tens of thousands of public housing agencies and private property owners and managers would need to collect documents "proving" the citizenship of over nine million assisted residents receiving HUD assistance who have already attested, under penalty of perjury, as well as the citizenship of future applicants for assistance. Housing providers would also need to collect status documentation from 120,000 elderly immigrants. Additionally, the proposed rule calls for public housing authorities to establish their own policies and criteria to determine whether a family should receive continued or temporary deferral of assistance. All of these requirements will place a significant cost burden on housing authorities and other subsidized housing providers that are completely unaccounted for in the rule. Housing authorities, charged with administering the public housing and Housing Choice Voucher programs, have spoken out against the proposed rule. For example, the president of the Public Housing Authorities Directors Association (PHADA)—John Clarke—noted that "[r]removing a family is not free. It takes staff time. It takes legal resources. Staff will have to sit in court instead of screening families or going over eligibility applications. It doesn't seem like a quality way to maximize the slim resources we do have."[104]

Other anticipated costs for housing authorities and other subsidized housing providers include:

- Formally evicting and terminating the assistance of thousands of mixed status families that HUD estimates would be $4.4 million.[105]
- Unit turnovers because of the chilling effect of this rule on eligible immigrant families who will forgo housing assistance.
- Fielding questions from tenants fearful about the implications of the proposed rule on their families. Housing providers will have to be prepared to answer consumer questions about the new rule. They will experience increased call volume and traffic from tenants and applicants about the new policies.
- Updating forms and notices to ensure that they are providing tenants and applicants with accurate information about the potential consequences of receiving certain housing assistance.

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[104] Matt Quinn, *Public Housing Agencies Oppose HUD's Plan to Evict Immigrant Families*, GOVERNING (May 21, 2019), https://www.governing.com/topics/health-human-services/gov-hud-public-housing-immigrants-rule-hearing-congress.html.

[105] 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 15 (Apr. 15, 2019).

Again, many of these costs and burdens on housing providers are not considered in the proposed rule. Moreover, these costs could deter housing providers from participating or continuing to participate in these programs, which would decrease the affordable housing supply even more. The proposed rule will require already overburdened public housing authorities and housing providers to take on additional administrative costs, without providing the benefit of reducing waitlists or improving public housing. HUD has failed to account for these costs and should do its due diligence and perform a comprehensive study on the impact the proposed rule will have on housing providers and local housing markets more generally, before finalizing the proposed rule.

As we stated above, 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, Susan E. Reed, Managing Attorney at the Michigan Immigrant Rights Center at susanree@michiganimmigrant.org to provide further information.

Sincerely,

/s/Susan E. Reed

Susan E. Reed
Managing Attorney

/s/Evangelina Alvarez

Evangelina Alvarez
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