

July 7, 2019

Office of General Counsel, Rules Docket Clerk  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW, Room 10276  
Washington, DC 20410-0500  
*Submitted via [www.regulations.gov](http://www.regulations.gov)*

**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: 1

I am writing on behalf of the Hispanic Bar Association of the District of Columbia (HBA-DC) to oppose the Department of Housing and Urban Development's (HUD) proposed rule regarding "verification of eligible status," published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01). HBA-DC opposes the proposed rule because it targets "mixed" status families – where at least one member of the family is undocumented while the others are citizens or legal residents – making the entire family ineligible for federal housing assistance. The consequence will be thousands of displaced eligible U.S. citizens, immigrants, and their children and will exacerbate the affordable housing crisis in this country and specifically, in the Washington, D.C. area. We urge the rule to be withdrawn in its entirety, and that HUD's long-standing regulations remain in effect.

Founded in 1977, HBA-DC is a non-profit organization dedicated to the professional development of its membership and supporting the Latino community in the Washington, DC area. HBA-DC membership includes several hundred lawyers with immigrant roots practicing in Washington, DC, Maryland, and Virginia, and students attending local law schools. Our organization has always supported immigration reform and the rule of law, however, HBA-DC believes that this issue should be address with compassion. We stand in solidarity with those who are being unfairly targeted.

Although HUD contends that the proposed rule is a means of addressing the waitlist crisis faced by a majority of public housing authorities nationwide,<sup>1</sup> HBA-DC recognizes that the

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<sup>1</sup> 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>.

proposed rule is a part of the current administration's coordinated attack on immigrant families.<sup>2</sup> We all share the concern that millions of U.S. households struggle to find affordable housing in the ongoing nationwide housing crisis, however misappropriating the blame for the lack of available and affordable housing for all on struggling immigrant families will not address HUD's inability or unwillingness to comply with its mandate.

### **I. The Proposed Rule Will Hurt Tens of Thousands of Immigrant Families, Including Many U.S. Citizen Children.**

The proposed rule threatens to undermine the well-being of low-income immigrants, including citizens 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 their families can stay together. Family separations undermine family stability and lead 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.<sup>3</sup>

Given the fact that 70 percent 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 the agency “expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether [or not] that fear is justified.”<sup>4</sup> 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.<sup>5</sup> These mass evictions and

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<sup>2</sup> 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](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.reuters.com/article/us-usa-immigration-benefits-exclusive/exclusive-trump-administration-proposal-would-make-it-easier-to-deport-immigrants-who-use-public-benefits-idUSKCN1S91UR>.

<sup>3</sup> 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/>.

<sup>4</sup> HUD, *Regulatory Impact Analysis, Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 7 (Apr. 15, 2019).

<sup>5</sup> *Id.* at 8.

departures from housing assistance will cause increased rates of homelessness and unstable housing among an already vulnerable population, and explicitly violate HUD’s mandate.<sup>6</sup>

## **II. The Proposed Rule Will Disproportionately Hurt Latino Communities.**

Latinos make up about 85 percent of the mixed status households that would likely lose assistance under this proposal. The proposal to take away critical public or other subsidized housing support from families of mixed immigration status would irreparably harm Latino families. Today, the Latino population in the United States stands at more than 55 million, comprising 18 percent of the total U.S. population, and approximately one in five Latinos are non-citizens.<sup>7</sup> Among Latino children, who account for a quarter of all U.S. children, the majority (52 percent) have at least one immigrant parent,<sup>8</sup> and more than half of children of immigrants are Latino.<sup>9</sup> Latinos continue to face systemic and institutional prejudice and discrimination throughout the United States—including by public institutions—and many continue to struggle to meet basic needs, including affordable housing. In 2017, 4.4 million Latinos who rented their home were cost-burdened – meaning they devoted 30 percent or more of their income towards rent.<sup>10</sup>

Over time, access to federal housing assistance has allowed hundreds of thousands of Latinos to access secure and safe housing, serving as an important pillar to building an economically more stable life for their families. While Latinos remain underrepresented in federal housing programs,<sup>11</sup> HUD’s proposed rule would deter many eligible Latinos from participating in public or subsidized housing programs and would increase housing insecurity for Latino families. As HUD acknowledges, families that lose housing assistance are at risk of homelessness, with serious consequences for family well-being and child development. When

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<sup>6</sup> PRATT CTR. FOR CMTY. DEV., CONFRONTING THE HOUSING SQUEEZE: CHALLENGES FACING IMMIGRANT TENANTS, AND WHAT NEW YORK CAN DO (2008), <https://prattcenter.net/research/confronting-housing-squeeze-challenges-facing-immigrant-tenants-and-what-new-york-can-do>.

<sup>7</sup> U.S. Census Bureau, American FactFinder: Selected Population Profile in the United States: 2017 American Community Survey 1-Year Estimates.

<sup>8</sup> 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/>.

<sup>9</sup> 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>.

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

<sup>11</sup> *Id.*

families have access to housing assistance, they have more resources to cover the cost of nutritious foods, health care, and other necessities.<sup>12</sup>

In sum, the proposed rule disproportionately impacts low-income Latinos families and most importantly, their children. 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.

We appreciate the opportunity to submit comments on this critical issue and remain available to provide additional information on the harm this rule will cause on immigrant families should the Agency seek it.

Regards,

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<sup>12</sup> Nabihah Maqbool, Janet Viveiros, and Mindy Ault, *The Impacts of Affordable Housing on Health: A Research Summary*, Center for Housing Policy, 2015, [http://www.housingpartners.com/assets/creating\\_change/http\\_\\_app.brnto.pdf](http://www.housingpartners.com/assets/creating_change/http__app.brnto.pdf).