



July 8, 2019

Submitted via www.regulations.gov

Office of the 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 Supportive Housing Network of New York 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). The Supportive Housing Network (the "Network") is a state-wide membership organization for developers, owners and operators of supportive housing, a proven model to end homelessness amongst the most vulnerable members of our communities. Supportive housing is permanent affordable housing with voluntary wraparound social services for formerly homeless individuals and families struggling with chronic mental or physical illness, addiction, and/or a history of trauma and abuse. The supportive housing model is successful because of many HUD programs, including programs funded under Section 214, like the Housing Choice Voucher program. The Network and its members are dedicated to preventing and ending homelessness; this proposed rule would only exacerbate the homelessness crisis plaguing the nation. As such, we urge the rule to be withdrawn in its entirety, and that HUD's long-standing regulations remain in effect.

The Proposed Rule Will Limit the Quantity of Subsidies and Increase Homelessness in New York City

In New York, there are approximately 92,000 people experiencing homelessness, including 52,000 households with children¹. The vast majority of the state's homeless population sleep in shelters in New York City, which also has the largest public housing agency in the nation. As of May, 2018, there were more than 200,000 households on the waiting list for New York City public housing, which has a vacancy rate of less than one percent.²

¹ U.S Department of Housing and Urban Development (2019). *2018 Annual Homelessness Assessment Report*. Washington, DC., p. 90. <https://www.hudexchange.info/resource/5783/2018-ahar-part-1-pit-estimates-of-homelessness-in-the-us/>

² New York Public Housing Agency. (2018). *NYCHA 2018 Fact Sheet*. New York City. Retrieved from https://www1.nyc.gov/assets/nycha/downloads/pdf/NYCHA-Fact-Sheet_2018_Final.pdf

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 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. Under the current rule, mixed status families receive prorated assistance for the eligible household members; ineligible members do not get their rent subsidized, which results in mixed status families paying more of their income in rent than a household comprised of members who are all eligible. Because of this, HUD actually subsidizes less for mixed status families, allowing an already limited rental assistance resource to serve more households. However, this will change drastically if this new rule were to take effect. According to HUD, if the agency were to replace the 25,000 mixed status families currently receiving HUD assistance with households comprised of members who are all eligible, this transition would cost HUD from \$372 million to \$437 million annually.⁴ To pay for these new costs of the proposed rule,⁵ HUD has surmised that the likeliest scenario is a reduction in the quantity and quality of assisted housing. 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 HUD-assisted programs.

Additionally, the inevitable exodus of mixed-status immigrant families from subsidized housing will not significantly reduce the number of households awaiting housing, but will increase the number of families, and particularly families with children, entering into the shelter system after years of being stably housed. The financial impact on HUD, which will be forced to increase subsidies and decrease the number of households receiving assistance, and New York City, which largely covers the cost of family and single adult shelter, will be severe.

The rule as it stands already prohibits ineligible individuals from receiving financial assistance. However, there is no such prohibition on noncitizens in emergency shelter.⁶ One possible outcome for mixed status households in public housing would be to exit to shelter or have the ineligible household member exit to shelter. Either way, HUD and local municipalities would be forced to shoulder the full cost of the ineligible household member in emergency shelter. In essence, this proposed rule, which aims to limit financial resources to noncitizens, is antithetical to its own philosophy.

The Proposed Rule Will Have an Adverse Effect on Citizen Children's Stability

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 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).

⁵ Braktkon Booker, *White House Budget Calls for Deep Cuts to HUD*, NPR (Feb. 13, 2018), <https://www.npr.org/2018/02/13/585255697/white-house-budget-calls-for-deep-cuts-to-hud>.

⁶ Congressional Research Service. (2015). *Immigrants: Noncitizen Eligibility for Needs-Based Housing Programs* (p. 3). Library of Congress. Retrieved from <https://fas.org/sgp/crs/homesecc/RL31753.pdf>

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).

In New York City, there are approximately 5,700 children who could be evicted from their home, and potentially become homeless.⁷ New York City already has one of the highest rates of family homelessness in the country, with one in 10 students in public schools experiencing homelessness or housing instability, a figure that has steadily increased over the last decade. The proposed rule would only serve to further increase child homelessness, which is associated with an 87 percent greater likelihood of a child or youth dropping out of school.

Research shows that instances of homelessness, housing and family instability for youth contribute to poor academic performances and behavioral and health issues.⁸ Housing insecurity is directly related to decreases in student retention rates and contributes to homeless students' high suspension rates, school turnover, truancy, expulsions and limiting students' opportunity to obtain the education they need to succeed later in life.⁹

With approximately 55,000 citizen children facing displacement or forced family separation under the new proposed rule, HUD will only succeed in creating lasting trauma and detrimental effects to a child's well-being. The economic impact on individual children and the U.S economy will also be severe. A recent study from the National Academy of Sciences finds that child poverty and homelessness cost our society over \$1 trillion each year¹⁰. However, access to Housing Choice Vouchers can lift about 1 million children out of poverty each year, and can improve a child's chances for long-term economic mobility. Immigrant families already have higher rates of poverty than children born to U.S citizen parents.¹¹ By stripping away the limited financial resources available to citizen children in mixed status families, HUD has taken the opposite approach in ensuring the economic and social mobility of U.S born children.

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.

The Proposed Rule Will Hurt U.S. Citizens and the Formerly Homeless Population

While it is clear that the proposed rule is directed at immigrants and citizens in mixed status households, these families are not the only group that will be harmed if the rule is finalized. 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.¹²

⁷ Ferre- Sadurni, L. (2019). She's Undocumented. Her Children Aren't. The Trump Administration Wants to Evict Them. *New York Times*. Retrieved from <https://www.nytimes.com/2019/05/16/nyregion/public-housing-immigration-trump.html>

⁸ Sandstrom, H., & Huerta, S. (2013). The Negative Effects of Instability on Child Development: A Research Synthesis. *Urban.Org*. Retrieved from <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>

⁹ 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).

¹⁰ 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>.

¹¹ Ibid 1. Page 140

¹² 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*

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, especially people experiencing homelessness.

Those who are unable to produce the required documents within the required time period under the proposed HUD rule will lose their housing assistance, and many will be evicted from their homes. A significant share could become homeless.

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.¹³ 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.

The Proposed Rule Creates an Administrative Burden on Public Housing Agencies and Housing Providers

The rule's impact will not be limited to immigrants and their families. Under the proposed new requirement for documentation, the New York City Public Housing Agency (NYCHA), which houses nearly 400,000 residents¹⁴, will be required to collect documents "proving" the citizenship of their tenants, which have already attested under penalty of perjury, and also the citizenship status of future tenants. Additionally, supportive housing providers with tenants utilizing project based or housing choice vouchers would be required to do the same, creating a significant cost burden on providers that are completely unaccounted for in the rule. For elderly and/or formerly homeless tenants, providing this documentation could be burdensome, creating additional barriers to maintaining housing, and potentially resulting in returns to homelessness through eviction. Many of these costs and burdens are not considered in the proposed rule, and would require already overburdened public housing authorities and housing providers to take on additional costs without the benefit of reducing the waitlists or improving the public housing stock.

Conclusion

We urge HUD to immediately withdraw its current proposal, and dedicate its efforts to advancing policies that strengthen the ability of immigrants to support themselves and their families in the future. If we want

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>.

¹³ 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.

¹⁴ NYCHA - About. (2019). Retrieved from <https://www1.nyc.gov/site/nycha/about/about-nycha.page>

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 the Network for more information.