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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

**Re: HUD Docket No. FR-6524-P-01, RIN 2501-AE16 Comments in Response to Proposed Rulemaking: Housing and Community Development Act of 1980: Verification of Eligible Status**

To Whom It May Concern:

The National Fair Housing Alliance strongly opposes the above-captioned proposed rule, which was published in the Federal Register on February 20, 2026. This cruel and discriminatory proposal would force tens of thousands of people across approximately 20,000 low-income families<sup>1</sup> to make the impossible choice between staying together and keeping housing benefits to which they are entitled, the loss of which likely will mean eviction and possible homelessness. This proposal does not save money, create housing opportunities, or prevent housing benefits from going to ineligible people. But it does destroy stable housing opportunities for thousands of eligible people, most of them children and people of color, for no good reason. We urge that this rule be withdrawn and that HUD's long-standing regulations, under which mixed-status families may reside in assisted housing with prorated subsidies provided for eligible household members only, be maintained.

NFHA is the voice of fair housing. It works to eliminate housing discrimination and to ensure equal housing opportunity for all people. Unfortunately, the Trump Administration has attacked fair housing relentlessly and taken numerous actions to exacerbate rather than ameliorate the worsening fair and affordable housing crisis. NFHA views this proposed rule as the next step in the administration's coordinated assault on immigrant families, people of color, fair housing, and civil rights in general.

Our nation is in the throes of a fair and affordable housing crisis. As drafted, this rule will only make that worse. NFHA agrees with the many commenters that have pointed out that this rule is based on an incorrect reading of the relevant statutory scheme and that it will put unnecessary and increased costs and obligations on already overburdened HUD-assisted housing providers. NFHA's focus in this comment is to point out that, as described below, the proposed rule will disproportionately harm children, people with disabilities, seniors, and people of color, all of whom are already at greater risk of

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<sup>1</sup> Center for Budget and Policy Priorities, Administration Plan Targeting Immigrants Would Take Away Rental Assistance, Create New Barriers ("CBPP study"), available at <https://www.cbpp.org/research/housing/administration-plan-targeting-immigrants-would-take-away-rental-assistance-create>



homelessness. Under the Fair Housing Act, a governmental policy may not deny housing disproportionately to people based on protected class without any corresponding benefit. Yet this proposed rule does just that.

### **The Proposed Rule Will Disproportionately Harm Populations Most in Need of Housing Assistance and Could Increase Homelessness**

Low-income families that abruptly lose federal housing assistance during the nation’s fair and affordable housing crisis are at risk of homelessness, as they will have to swiftly find market rate housing, which may be unaffordable for them, or located far enough away to disrupt their lives, if they can find it at all. This will have dire consequences for family well-being and child development. When families have access to housing assistance or otherwise have housing that is affordable for them, they have more resources to cover the cost of nutritious foods, health care, and other necessities. And where families live is directly tied to where they work, where their children attend school, the transportation options available to them, and the kinds of community resources available to them which may help them succeed.<sup>2</sup> If parents lose access to their housing, they may also be at risk of losing their jobs, school placements, and other important resources they need to maintain a stable household.

The rule destroys existing affordable housing arrangements in at least two ways. First, it would require the production of specified documents for proof of citizenship, a practice that has proven to be burdensome and costly even for those who are citizens, while being unnecessary to protect program integrity. Obtaining documentary proof of citizenship or nationality, such as a birth certificate, can be very difficult for certain segments of the population. As HUD acknowledges, a recent report found more than 9 percent of citizens do not have such documentation readily available,<sup>3</sup> and obtaining such documentation is particularly difficult for U.S. citizens over the age of 50, citizens of color, citizens with disabilities, and citizens with low incomes – all of whom are disproportionately users of housing assistance. The same study showed that at least 12 percent of U.S. citizens earning less than \$25,000 annually do not have documentation of citizenship readily available.

Thus, even many of those whom this rule does not purport to affect will lose housing assistance—and likely their housing—because of it. HUD itself acknowledges that the rule could cause “denial, termination, or delay of housing assistance because some tenants and applicants cannot produce the required documents.”<sup>4</sup> It also could cause many eligible people not to apply “because the process appears too complex or intimidating.”<sup>5</sup>

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<sup>2</sup> For a collection of studies regarding the benefits of affordable housing and the effects of housing location, see the National Low-Income Housing Coalition’s Opportunity States at Home, at <https://www.opportunityhome.org/resources/economic-mobility-and-anti-poverty-advocates-are-housing-advocates/>.

<sup>3</sup> RIA at 28; see also 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](http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf).

<sup>4</sup> RIA at 31.

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

Second, the rule will withdraw federal housing assistance from family members who *are* undisputably eligible because they are living with people who cannot establish eligibility – even though no assistance is paid for those ineligible members. This will eliminate stable affordable housing for thousands of eligible people, most of them U.S. citizens and most of them children, without saving a dollar in taxpayer money or achieving anything else worthwhile.

These two effects will be felt disproportionately by a few groups of people, most of whom are eligible for housing assistance but who nonetheless will lose it under this rule.<sup>6</sup>

Children: A primary effect of HUD’s action will be to strip thousands of children, almost all of whom are eligible, of their housing assistance and subject them to housing uncertainty and potentially homelessness. Children make up 65 percent of the eligible members of mixed-status families, and only 4 percent of the ineligible members.<sup>7</sup> As HUD acknowledges, eligible children are not going to stay in their housing if the head of household is removed. HUD acknowledges that approximately 36,000 *eligible* children will lose their housing assistance as a result of this rule.<sup>8</sup>

Congress made families with children a protected class under the Fair Housing Act for a reason: such families face discrimination in trying to secure suitable housing, particularly if they are low-income families and by necessity must obtain relatively small units that they can afford at market rates. NFHA’s most recent report found that 1,786 complaints were filed in FY 2024 alleging familial status discrimination,<sup>9</sup> and the complaints actually filed likely represent the tip of the iceberg in terms of the discrimination families face. Thus, it is extremely likely that this rule will result in thousands of families with children that currently have stable, affordable housing plunged into homelessness.

People with disabilities: 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-senior with a disability and about 1 in 5 households living in public housing are headed by a non-senior with a disability. People with disabilities often have few financial resources and remain among the country’s poorest.<sup>10</sup> At the same time, people with disabilities all too often face discrimination when seeking housing and have difficulty finding

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<sup>6</sup> Regulatory Impact analysis at 8 (acknowledging that 70 percent of family members in mixed-status families are eligible for housing assistance).

<sup>7</sup> RIA at 8.

<sup>8</sup> RIA at 13 n.26.

<sup>9</sup> NFHA, 2025 Trends Report at 9, available at <https://nationalfairhousing.org/wp-content/uploads/2025/11/2025-NFHA-Fair-Housing-Trends-Report.pdf>.

<sup>10</sup> See Annual Report on People with Disabilities in America: 2024 at 16 (adults with disabilities have a poverty rate of 25.9%, more than twice that of adults without disabilities), available at <https://www.researchondisability.org/sites/default/files/media/2024-03/2024-annual-report-a11y-1.pdf>.



housing that is accessible to them.<sup>11</sup> Termination of assistance under the proposed rule could put people with few options at risk of homelessness, with tremendous cost to their health, earning potential, and well-being as well as risk of other significant harm.

**Seniors:** The rule creates documentation challenges that will be felt particularly hard by those 62 years old or older. One study found that 18 percent of citizens over the age of 65 do not have photo identification;<sup>12</sup> this group will struggle to prove citizenship to the rule's satisfaction.

**People of color:** This proposed rule would hit hardest people of color, especially Latino and Asian American Pacific Islander (AAPI) people in need of housing assistance.

One estimate indicates that 86 percent of those who will lose housing because of this rule are Latino—most of them U.S. citizens.<sup>13</sup> Latinos, who often live in areas with high rental costs, are in particular need of affordable housing, with the majority of Latino renters paying more than 30 percent of their paycheck to rent.<sup>14</sup> According to one analysis, federal housing assistance – including public and other subsidized housing – lifts approximately 800,000 Latino people out of poverty, including more than 280,000 children.<sup>15</sup> That is true even though Latinos are underrepresented in federal programs already, even before these proposed changes.<sup>16</sup> By precluding them from receiving housing assistance while living with their families, the proposed rule would prevent thousands of eligible Latinos, particularly children, from receiving assistance and thus take away desperately needed affordable housing.

Asian American and Pacific Islanders, meanwhile, constitute the fastest growing racial group in the United States. The number of AAPI people who are rent burdened and in need of housing assistance is increasing quickly, with the majority of all AAPIs in poverty living in zip codes with housing costs above the national median.<sup>17</sup> Moreover, many AAPI families live in multigenerational households that include a mix of immigrants and U.S. citizens, making AAPI citizens particularly likely to be deprived of housing assistance to which they should be entitled due to this rule.

### **The Proposed Rule Will Not Save Money or Otherwise Further Any Legitimate Aim; It Will Only Reduce the Quality and Quantity of Federally Assisted Units**

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<sup>11</sup> See National Fair Housing Alliance, 2025 Fair Housing Trends Report at 9 (complaints of disability discrimination account for more than half of all fair housing discrimination complaints), available at <https://nationalfairhousing.org/wp-content/uploads/2025/11/2025-NFHA-Fair-Housing-Trends-Report.pdf>

<sup>12</sup> Ina Jafe, *For Older Voters, Getting the Right ID Can Be Especially Tough*, NPR: All Things Considered (Sept. 7, 2108), available at <https://www.npr.org/2018/09/07/644648955/for-older-voters-getting-the-right-id-can-be-especially-tough>.

<sup>13</sup> See CBPP study, *supra* note 1.

<sup>14</sup> UnidosUS "Latinos and the Great Recession: 10 Years of Economic Loss and Recovery" (March 2019), available at [https://unidosus.org/wp-content/uploads/2021/07/unidosus\\_latinosgreatression.pdf](https://unidosus.org/wp-content/uploads/2021/07/unidosus_latinosgreatression.pdf).

<sup>15</sup> UnidosUS, "Federal Programs Lift Millions of Latinos Out of Poverty" (October 2018), available at [https://unidosus.org/wp-content/uploads/2021/07/federalprograms\\_national\\_101718.pdf](https://unidosus.org/wp-content/uploads/2021/07/federalprograms_national_101718.pdf).

<sup>16</sup> See Latinos and the Great Recession, *supra* note 5.

<sup>17</sup> US Census, 1-Year American Community Survey, 2011-2017



HUD’s own economic analysis shows that the proposed rule will not achieve cost savings or otherwise further any legitimate aim. HUD acknowledges that all it can accomplish by making thousands of families produce (and PHAs and HUD-assisted owners process) onerous documentation and rendering thousands of families homeless is to “redistribute tenant subsidies from the mixed families . . . to households with only eligible members.”<sup>18</sup> As HUD further acknowledges, because mixed-status families receive prorated (lesser) amounts of assistance, the replacement households would “require higher levels of subsidy,” meaning that “fewer households would receive housing assistance.”<sup>19</sup> Moreover, HUD acknowledges that the cost for PHAs to administer the new requirements include “the administrative costs of verification, formal eviction costs, and repair costs,” while current families will suffer the costs of having to move. All these costs will add up, HUD acknowledges, to “an estimated \$17 million to \$33 million.”<sup>20</sup> All that cost, just to serve fewer families and unnecessarily put thousands of children who currently have stable housing at risk of homelessness.

HUD suggests that fully eligible households will be more likely to take advantage of mobility opportunities.<sup>21</sup> NFHA certainly agrees that where you live matters, and that HUD should be doing everything it can to create opportunities for voucher holders and others to live where they want. But HUD in this Administration has not made that a priority; to the contrary, it has eliminated enforcement of the Fair Housing Act’s Affirmatively Furthering Fair Housing requirement, which should be a leading tool to create mobility opportunities.<sup>22</sup> Given that, HUD’s rationale is unsupported, since it refuses to make mobility opportunities real.

For all the reasons described above, NFHA strongly urges HUD to withdraw this discriminatory, cruel, and senseless rule.

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<sup>18</sup> RIA at 4.

<sup>19</sup> *Id.* at 5.

<sup>20</sup> *Id.*

<sup>21</sup> RIA at 12.

<sup>22</sup> Interim Final Rule: Affirmatively Furthering Fair Housing Revisions, 90 Fed. Reg. 11020 (March 3, 2025).