

April 21, 2026

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

We are writing on behalf of the National Housing Law Project (NHLP) 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 February 20, 2026 (RIN 2501-AE16; HUD Docket No. FR-6124-P-01).

NHLP's mission is to advance housing justice for poor people and other marginalized communities, including immigrants and their families. Our expertise on Section 214 of the Housing and Community Development Act of 1980 and federal housing issues is long-established. NHLP participated in a critical stakeholder process that led to the creation of the current rule¹ and have for decades provided technical assistance to advocates and government officials about Section 214 and its impact on mixed status families and immigrant families. We urge HUD to withdraw the proposed rule in its entirety and to allow its long-standing regulations governing mixed status families and verification of status to remain in effect.

The proposed rule would eliminate the right of mixed status families to continue living in HUD-assisted housing, even though federal law gives these families the right to live together in HUD-subsidized housing.² If finalized, the proposed rule would specifically:

1. Eliminate a family member's right not to contend eligibility; and
2. Eliminate ongoing prorated assistance for mixed status families; and
3. Impose new verification requirements on all HUD tenants, regardless of age.

NHLP opposes this cruel proposal to force over 20,000 families with "mixed" immigration status to either separate or lose their housing assistance and to impose new verification requirements which will amount to red tape that threatens the housing security of

¹ Revised Restrictions on Assistance to Noncitizens, 61 Fed. Reg. 60535 (Nov. 29, 1996) (to be codified at 24 C.F.R. § pt. 5), <https://www.govinfo.gov/content/pkg/FR-1994-08-25/html/94-20710.htm> (listing the National Housing Law Project as part of a meeting convened by HUD in 1994 about Section 214 restrictions).

² 42 U.S.C. §1436a(a).

8.5 million U.S. citizens currently receiving HUD assistance.³ NHLP's opposition is grounded in the following arguments.

First, the proposed rule contradicts the statutory text of Section 214 of the Housing and Community Development Act of 1980 as well as its legislative and regulatory history.

Second, the proposed rule also imposes significant costs on a variety of stakeholders for which HUD has not adequately accounted. By forcing mixed status families to separate or leave HUD housing, the proposed rule puts them at risk of eviction, and in worse cases, homelessness, even though these families include U.S. citizens and eligible immigrants. The harm extends beyond immigrant families to all HUD residents who will be subject to a new citizenship verification process that relies on a flawed, unreliable system that poses significant data privacy risks.

Together, these changes will lead to a reduction in the quantity and quality of HUD housing with no discernable benefit for anyone. Contrary to HUD Secretary Scott Turner's claims that this rule will increase housing assistance for U.S. citizens, the proposed rule will decrease – not increase or even maintain – the overall number of families who will receive assistance.⁴

With fewer units and more displaced families, the proposed rule will contribute to high rates of homelessness, increasing costs to states and localities. These impacts will place an even heavier burden on community members protected by the federal Fair Housing Act, including Latino, Asian and Pacific Islander, and Black immigrants; people with disabilities; survivors of gender-based violence; families with children; and people who identify as LGBTQ. The burden will also greatly impact children and older adults.

The proposed rule is part of the current administration's campaign to scapegoat immigrants for a housing crisis that's only worsened under its watch. HUD's own analysis of the proposed rule confirms that fewer people, including citizens, will receive housing assistance under the policy. Secretary Turner's misleading claims obscure the proposal's true intent: to undermine the federal housing programs.

Instead of scapegoating immigrants, HUD should focus on its mission is to “create strong, sustainable, inclusive communities and quality affordable homes for all”⁵ and work on solving the affordable housing crisis. Nationwide, there is a shortage of 7.1 million affordable rental units. Three out of four extremely low-income renters are severely rent burdened, spending more than half of their income on rent and utilities.⁶ Everyday people in the United

³ ERIK GARTLAND & SONYA ACOSTA, CTR. ON BUDGET POL' & PRIORITIES, ADMINISTRATION PLAN TARGETING IMMIGRANTS WOULD TAKEAWAY RENTAL ASSISTANCE, CREATE NEW BARRIERS 3 (Dec. 12, 2025), <https://www.cbpp.org/sites/default/files/12-12-25hous.pdf>.

⁴ U.S. Dep't of Hous. & Urban Development, Regulatory Impact Analysis: Housing and Community Development Act of 1980, at 19 (Sept. 30, 2025) [hereinafter 2025 Regulatory Impact Analysis].

⁵ HUD, HUD Partners, Multifamily Residents, <https://www.hud.gov/hud-partners/multifamily-residents> (last visited Apr. 20, 2026).

⁶ NAT'L LOW INCOME HOUSING COALITION, THE GAP: A SHORTAGE OF AFFORDABLE HOMES 2 (Mar. 2025), https://nlihc.org/sites/default/files/gap/2025/gap-report_2025_english.pdf.

States view housing as increasingly unaffordable and a significant area of concern.⁷ In an October 2025 national survey, more than 70% of all respondents reported that housing affordability has worsened in their community in the last few years.⁸

To address these concerns, the Trump administration should withdraw this proposed rule and work with Congress to make significant new investments in the federal housing programs to ensure that every family has a safe place to call home.

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⁷ Erin Dougherty, *New Poll Paints a Grim Picture of a Nation Under Financial Strain*, POLITICO (Dec. 10, 2025), https://www.politico.com/news/2025/12/10/poll-affordability-cost-of-living-00678076?experience_id=EXYF89KVT5UQ&is_login_link=true&template_id=OTJIR2CRKUD6&variant_id=OTV7T8G93R30L (last visited Apr. 20, 2026); U.S. CONFERENCE OF MAYORS, *MAYORAL HOUSING REPORT: 68-CITY SURVEY* (June 2025), <https://www.usmayors.org/wp-content/uploads/2025/06/USCM-Housing-Report-AM-2025-June-19-2025.pdf> (reporting that “[m]ore than 94% [of bipartisan mayors surveyed] report that their residents are dissatisfied or very dissatisfied with housing affordability”).

⁸ Ctr. for Pub. Interest Commc’ns., *Nationwide Survey Sheds Light on Americans’ Increasing Worry about Housing Affordability* (Oct. 2025), <https://realgoodcenter.jou.ufl.edu/center-update/october-2025-nationwide-survey-sheds-light-on-americans-increasing-worry-about-housing-affordability/>

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I. The Proposed Rule’s Provisions about Mixed Status Families Exceed the Scope of its Statutory Authority.

Section 214 provides for families to receive prorated financial assistance “[i]f the eligibility for financial assistance of at least one member of a family has been affirmatively established [...], and the ineligibility of one or more family members has not been affirmatively established ...”⁹ To understand the meaning of this language, it is critical to understand Section 214’s legislative and regulatory history.

Although Section 214 was originally enacted in 1980, it took 15 years for HUD to promulgate a rule and for the rule to go into effect. Section 214 originally did not impose substantial restrictions on noncitizen eligibility, but a year later,¹⁰ Congress amended the statute to enumerate a list of eligible noncitizen categories and to render all other noncitizens ineligible.¹¹ This resulted in families with a mix of eligible and ineligible members (*i.e.*, mixed status families), but neither of these early iterations of Section 214 accounted for the harm that these families would face due to displacement resulting from the new immigration-related eligibility requirements.¹² In describing these harms, the House Report explains why Congress sought to delay implementation of HUD’s early attempts to implement Section 214:

To date, implementation of those amendments has been delayed because of the recognition by the Congress, by the courts, by HUD, by owners of federally-subsidized housing projects and by residents that their enforcement, especially as planned in HUD’s present regulations, will produce extraordinary hardships, excessive paperwork and unnecessary financial difficulties for the individuals, the owners and, in some cases, the Federal Government.¹³

The House Report continues:

The injustice that would be caused by implementation of Sec. 214 of the Housing and Community Development Act of 1980 include: the mandatory eviction of thousands of

⁹ 42 U.S.C. § 1436a(b)(2); see also 42 U.S.C. § 1436a(i)(1) (providing that a family may receive financial assistance upon “the affirmative establishment and verification of eligibility of at least [...] one family member”).

¹⁰ As originally enacted, Section 214 prohibited only one category of immigrants – “nonimmigrant student-alien” – from receiving federal housing assistance. Restriction on the Use of Assisted Housing, Pub. L. No. 96-399, 94 Stat. 1637 (1980).

¹¹ Restriction on the Use of Assisted Housing, Pub. L. No. 97-35 (1981).

¹² See Restriction on the Use of Assisted Housing, Pub. L. No. 96-399, 94 Stat. 1637 (1980); Restriction on the Use of Assisted Housing, Pub. L. No. 97-35, 95 Stat. 408 (1981).

¹³ H.R. Rep. No. 100-122(I), 100th Cong., 1st Sess. 3317, 3365-66 (1987).

families now residing in federally-subsidized housing; the eviction of individuals who are citizens or who are properly documented aliens because other members of their household cannot meet the documentation requirements; the denial of admission to families which include citizens and properly documented aliens because not all family members can be properly documented; and the imposition of documentation and verification requirements upon citizens and aliens alike which are not only unduly burdensome, but also impossible even for some citizens to meet.¹⁴

Congress was fully aware of the harms that would fall upon mixed status families and their members if it failed to allow mixed status family members to live together despite the differences in their eligibility. Indeed, these are the same harms that over 30,000 comments cited in opposition to HUD's mixed status families rule in 2019 and that many commenters will cite in opposition to the substantially similar rule at issue today in 2026.

HUD's proposal to break up or drive out mixed status families conveniently ignores Congress's intent to alleviate the "injustice" that it so thoroughly articulates above. In allowing mixed status families to receive prorated rental assistance, Congress alleviated this injustice through a deliberate and purposeful arrangement to enable mixed status families to live together in federally subsidized housing, while providing financial assistance only to eligible persons. The proposed rule ignores this legislative and regulatory history altogether and conflicts fundamentally with the intent and function of Section 214.

- A. The legislative and regulatory history of Section 214 demonstrates that prorated rental assistance achieves Congress's twin goals of keeping families together while restricting assistance to eligible family members.

The history of Section 214 and its regulations demonstrates that Congress intended to strike a balance between two purposes: to keep families together and to provide financial assistance only to eligible family members. Fifteen years after Section 214 was enacted, Congress ultimately struck this balance through the provision of prorated rental assistance, which permitted mixed status families to receive a smaller subsidy for eligible family members while they paid the rent for the remaining family members themselves.

HUD first published a rule to implement Section 214's noncitizen eligibility restrictions in 1982.¹⁵ But before that rule ever took effect, Congress directed HUD to delay the effective date of the rule multiple times before finally amending Section 214 in 1986.¹⁶ The 1986 amendments established temporary deferral of termination to ease the burden on HUD-assisted families whose members might be ineligible under the new eligibility restrictions and therefore in danger of displacement.¹⁷ But Section 214 still did not make any provision for mixed status families or the rights of eligible persons residing with ineligible family members.

HUD nevertheless promulgated a rule to implement the amended Section 214, but the court in *Yolano-Donnelly Tenant Ass'n v. Pierce* preliminarily enjoined enforcement of this rule. *Yolano-Donnelly Tenant Ass'n v. Pierce* involved a nationwide class of plaintiffs who would have been eligible for HUD-assisted housing but for the presence of an ineligible immigrant

¹⁴ *Id.*

¹⁵ Restriction on Use of Assisted Housing, 47 Fed. Reg. 43,674 (Oct. 4, 1982).

¹⁶ See, e.g., Housing and Urban-Rural Recovery Act of 1983, Pub. L. No. 98-181, 97 Stat. 1239 (1983).

¹⁷ Modification of Restriction on Use of Assisted Housing by Aliens, Pub. L. No. 100-242, 101 Stat 1860 (1988).

adult in their household.¹⁸ In granting the preliminary injunction, the court held that the restrictions raised constitutional concerns because it sought to “depriv[e] an individual of his shelter [which] is a significant penalty to impose for exercising one’s [fundamental] right to live with one’s family.”

HUD subsequently withdrew its implementing regulation in January 1988.¹⁹ That same year, Congress amended Section 214 yet again, this time authorizing “the continued provision of financial assistance, if necessary to avoid the division of a family in which the head of household or spouse” was a U.S. citizen or eligible noncitizen.²⁰ In passing these amendments, Congress explained HUD had “incorrectly interpreted the original Act. The modifications are intended to clarify the original intent of Congress that families in which at least one person is eligible are not disqualified and that the rules not be applied retroactively.”²¹ Subsequently, HUD acknowledged that “[t]he general Congressional intent ... was to protect ‘the sanctity of the family’” and that the agency sought not to “thwart the pro-family intent of the Congress [...]”²²

Even the 1988 amendments did not fully resolve concerns about the rights of mixed status families and the harsh impacts of displacement under the noncitizen eligibility rules, however. Some mixed status families did not have an eligible head of household (or spouse), but had eligible children who stood to be denied federal housing assistance just because their parents were not eligible. And the preservation assistance adopted in the 1986 and 1988 amendments applied only to families participating in federal housing programs at the time the noncitizen eligibility restrictions were adopted—not to future families who would move into the housing thereafter.

HUD would finally resolve these remaining concerns in a 1995 final rule that obligated subsidized housing providers to make federal financial assistance available to all mixed status families, with the amount of assistance prorated to cover only eligible household members.²³ This rule finally implemented Section 214 for the first time since its enactment. On September 12, 1996, the *Yolano-Donnelly Tenant Ass’n* lawsuit was settled, with an agreement that the 1995 rule adequately protected the right of mixed status families to live together in housing covered by Section 214.²⁴ And two weeks later, Congress amended Section 214 again to explicitly authorize prorated financial assistance for mixed status families.²⁵

As the legislative and regulatory history makes clear, the promulgation of permanent prorated financial assistance to mixed status families addressed the core objection that had blocked implementation of Section 214 for fifteen years after its enactment. Contrary to HUD’s misrepresentations in the proposed rule, prorated financial assistance has never been a temporary measure intended to apply while the eligibility of certain family members was awaiting verification. Congress made clear it intended to enable families with at least one eligible member to participate in subsidized housing programs, HUD promulgated the prorated

¹⁸ *Yolano-Donnelly Tenant Ass’n v. Pierce*, No. CIV S-86-0846 MLS (E.D. Cal. 1996).

¹⁹ Aliens; Withdrawal of Restrictions on the Use of Assisted Housing, 53 Fed. Reg. 842 (Jan. 13, 1988.)

²⁰ Modification of Restriction on Use of Assisted Housing by Aliens, Pub. L. No. 100-242, 101 Stat 1860 (1988).

²¹ H.R. Rep. No. 100-122, 100th Cong., 1st Sess. 49 (1987).

²² Restrictions on Assistance to Noncitizens, 94 Fed. Reg. 20710 (Aug. 25, 1994) (only basic text format available), <https://www.govinfo.gov/content/pkg/FR-1994-08-25/html/94-20710.htm>.

²³ Restrictions on Assistance to Noncitizens, 60 Fed. Reg. 14816 (Mar. 20, 1996); see 24 C.F.R. § 5.520.

²⁴ No. CIV S-86-0846 MLS (E.D. Cal. 1996).

²⁵ Prorating of Financial Assistance, Pub. L. No. 104-208, 110 Stat. 3009-684 to 3009-688 (1996).

assistance as a mechanism to fulfill that intent, and Congress quickly approved prorated assistance by amending the statute to specifically authorize it.

B. Congress ratified ongoing prorated rental assistance as a means of keeping mixed status families together while restricting assistance to eligible family members.

That Congress approved and ratified the use of prorated assistance as a means of enabling mixed status families to live together in subsidized housing with the financial assistance benefitting only eligible individuals is further apparent from subsequent Congressional actions. HUD promulgated an interim rule in 1996 to conform its regulations with Congress's 1996 amendments to Section 214, which had adopted prorated assistance.²⁶ As part of that interim rule, HUD added a provision allowing a housing authority to "opt out" of HUD's requirements for noncitizen eligibility.²⁷ The opt-out provision was based on HUD's interpretation of language the Immigration Reform Act which had stated that a PHA could elect not to comply with Section 214 in its entirety.²⁸

In response, Congress amended Section 214 yet again—this time removing the statutory provision HUD had interpreted to allow housing authorities to opt-out of compliance with Section 214 altogether.²⁹ In its place, Congress added language to Section 214 authorizing housing authorities to not affirmatively verify eligibility before providing assistance, but did nothing to change or remove the ability of mixed status families to receive prorated assistance indefinitely.³⁰ This showed at least tacit approval as to the balance of HUD's implementing regulations, which made prorated assistance indefinitely available to mixed status families.³¹ This inference has only grown stronger in the 30 years since, which has seen Congress amend Section 214 only twice: in 2000 to add "COFA migrants" as an additional eligible noncitizen category,³² and again in 2016 to grant U.S. citizens and nationals priority for financial assistance over COFA migrants³³ – and never to change or remove the ability of mixed status families to receive prorated assistance on a long-term basis.

II. The Proposed Rule's Provisions Governing Mixed Status Families Directly Contradict the Statutory Language in Section 214.

In addition to ignoring this legislative and regulatory history, HUD ignores the fundamental conflicts between the Proposed Rule and the statutory text of Section 214 in an apparent attempt to re-write the statute by rulemaking.

²⁶ Revised Restrictions on Assistance to Noncitizens, 61 Fed. Reg. 60535 (Nov. 29, 1996) (interim rule) (to be codified at 24 C.F.R. pt. 5), <https://www.govinfo.gov/content/pkg/FR-1996-11-29/pdf/96-30498.pdf>.

²⁷ *Id.* at 60537.

²⁸ *Id.*

²⁹ Use of Assisted Housing by Aliens, Pub. L. 105-276, 112 Stat. 2653 (Oct. 21, 1998).

³⁰ *Id.* Note HUD then promulgated a final rule consistent with this change in 1999. Revised Restrictions on Assistance to Noncitizens, 64 Fed. Reg. 25726 (May 12, 1999). In the current proposed rule, HUD neglects to acknowledge the existence of this final rule, let alone address it.

³¹ See 24 CFR § 5.516(a)(iii), § 5.520.

³² Application of Federal Programs Under the Compacts of Free Association, Pub. L. No. 106-504, 114 Stat. 2312 (Nov. 13, 2000). "COFA Migrants" are persons lawfully present in the U.S. under the Compact of Free Association with the Republic of the Marshall Islands and the Federated States of Micronesia. *Id.*

³³ Preference for United States Citizens or Nationals, Pub. L. No. 114-201, 130 Stat. 804 (July 29, 2016).

Express language in Section 214 allows non-eligible individuals to live together with eligible family members in HUD housing. HUD asserts that “an individual without verified eligible status living in a mixed household receiving long-term prorated assistance is benefiting from HUD financial assistance in a way that is prohibited by Section 214.”³⁴ However, Section 214 explicitly authorizes family members whose “ineligibility . . . has not been affirmatively established” to reside in assisted housing, provided the amount of *financial assistance* is prorated.³⁵ In allowing mixed status families to receive prorated assistance, Congress chose to deny non-eligible family members the right to receive financial assistance – not the ability to live with their families. Any incidental benefit those non-eligible family members may enjoy by reason of the financial assistance to their eligible family members was specifically contemplated and approved by Congress, as described in Section 214’s legislative and regulatory history above.

In attempting to terminate assistance for mixed status families in the proposed rule, HUD also overreaches in removing regulatory language taken directly from Section 214. Currently, both Section 214 and HUD’s implementing regulations require termination of assistance where a family knowingly permits an ineligible individual to reside in their assisted dwelling unit.³⁶ That provision does not apply, however, if the family’s financial assistance was prorated to exclude the ineligible person.³⁷ The proposed rule would remove this exemption from the regulation, and the effect would be that HUD regulations would mandate termination of eligible individuals for knowingly permitting an ineligible individual to reside in a HUD-assisted dwelling unit even if assistance was prorated to exclude that person. This would cause the regulation to conflict directly with Section 214, which still contains that exemption. HUD’s regulations cannot authorize termination for conduct Section 214 explicitly states does not authorize termination.

HUD’s attempt to restrict prorated assistance to the period pending final verification also lacks statutory support under Section 214. Nothing in Section 214 imposed any limits, time or otherwise, on prorated assistance. Yet in the Proposed Rule, HUD would limit prorated assistance to the period pending final verification of all family members. HUD claims it does so because “Section 214 does not contemplate indefinite prorated assistance for families that are ineligible for prorated continued assistance.” However, this assertion is devoid of any supporting authority and contrary to the Congressional intent behind Section 214.

Congress knew how to impose time limits and conditions on preservation assistance. Section 214 refers to a different form of preservation assistance called deferral of termination, which is subject to an 18-month time limit and applied only to the extent “necessary to permit the orderly transition of the individual and any family members involved to other affordable housing.”³⁸ Congress chose not to impose similar time limits or conditions on prorated assistance; therefore, HUD should not be able to place similar limits either.

³⁴ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed. Reg. at 8156.

³⁵ 42 U.S.C. § 1436a(b)(2); *see also* 42 U.S.C. § 1436a(i)(1) (providing that a family may receive financial assistance upon “the affirmative establishment and verification of eligibility of at least [...] one family member”).

³⁶ 42 USC § 1436(d)(6); 24 CFR § 5.514(c)(iii).

³⁷ 42 USC § 1436(d)(6); 24 CFR § 5.514(c)(iii).

³⁸ 42 U.S.C. § 1436a(c)(1)(B).

HUD's claim that prorated assistance was only intended to be available until the eligibility of each family member has been established is also untenable because such short-term assistance would have been impractical and unworkable in housing programs. HUD claims that when Section 214 was enacted, "verification of eligible immigration status was a manual, paper-driven process that could take days or even weeks to complete."³⁹ Even assuming this is true, tenants seldom move into housing with the intention of staying only days or weeks. The costs and burdens of such short-term moves are seldom worthwhile. Tenant turnover imposes costs and burdens on landlords—who tend to be even less interested in tenancies just days or weeks in duration. Thus, had Congress intended for prorated assistance to be time-limited, then Congress would almost certainly have made prorated assistance available in 6-month blocks similar to deferral of termination, or taken other measures to ensure any such limitations were not so short as to be impractical and unduly burdensome to tenants and housing providers. But in fact, no such measures were necessary because Congress understood prorated assistance to be available indefinitely.

Note also that families subject to deferral of termination may have had no eligible members, whereas mixed status families must have at least some eligible members (and on average 70% of household members are eligible). The notion that Congress would have established mechanics for families with no eligible members to transition into other affordable housing, while leaving the rug to be pulled out completely from beneath mixed status families, simply defies credulity.

Furthermore, the remaining scenario in which a family could receive prorated assistance under the proposed rule appears fully foreclosed by Section 214, which prohibits the denial or termination of financial assistance for failure to verify eligible immigration status until after all verification attempts and appeals have concluded.⁴⁰ For HUD to prorate the assistance of a family whose members all claim eligibility because some members have yet to be verified would thus unlawfully deny or terminate assistance prematurely in violation of the statute.

III. HUD Fails to Adequately Explain Why it is Upending Decades of Prior Statutory Interpretation Allowing Mixed Status Families to Live Together.

For over two decades, through several administrations, HUD has consistently interpreted Section 214 to provide that mixed status families may live together in HUD-subsidized housing and receive prorated assistance. HUD now proposes to radically change this longstanding interpretation. HUD must state good reasons for the new policy and consider the serious reliance interests HUD's prior interpretation has engendered to affected groups.⁴¹ HUD must also consider the impacts of its new policy, including the costs, economic impacts, and potential harms—and weigh these impacts against the anticipated benefits of the new policy.⁴² HUD does none of this, offering only dubious and impertinent explanations for the rule change, ignoring serious harms to families and communities and devastating costs and economic harms, and disregarding reliance interests that both mixed status families and the housing providers who depend on their higher rents have developed under the prior interpretation.

³⁹ See 2025 Regulatory Impact Analysis *supra* note 4, at 14.

⁴⁰ See 42 U.S.C. § 1436a(d)(4).

⁴¹ See *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126, 195 L. Ed. 2d 382 (2016) (holding that a Department of Labor regulation was arbitrary and capricious.)

HUD gives only two reasons for its decision to drastically reinterpret Section 214 so as to deny non-eligible individuals to live with their eligible family members in mixed status families and receive prorated assistance. The first reason, that the rule change is supposedly necessary to “bring HUD’s Section 214 implementing regulations into greater alignment with the wording and purpose of Section 214,” is demonstrably false. As discussed in detail above, the current mixed status families rule came about as a means of restricting federal financial assistance to eligible persons while not breaking up families or displacing families in which at least one person was eligible.⁴³ Congress specifically modified Section 214 in 1996 to facilitate prorated assistance to mixed status families, and left HUD’s rules providing for such assistance untouched for 30 years. So not only does the Proposed Rule fail to “better align” HUD’s regulations with the statute, it does the opposite.

At the time it adopted its current regulations concerning mixed status families in 1995, HUD addressed comments urging that “ineligible persons should not be allowed to reside in an assisted unit.”⁴⁴ Squarely rejecting that position, HUD stated that “[t]he ‘preservation of family’ provisions [in its final rule] flow directly from the statute.”⁴⁵ There has been no intervening change in Section 214 that justifies the proposed changes to its mixed family rule. Indeed, HUD previously observed that Section 214 “allowed little discretion on the part of HUD to expand or reduce the statutory provisions by regulation. Section 214 is specific about the special assistance to be provided to certain families with members who have eligible status and those who have ineligible status.”⁴⁶ Yet after allowing mixed status families for nearly 30 years, HUD’s claim now, that Section 214 requires HUD to exclude mixed status families, cannot be taken seriously.

HUD additionally describes unspecified initiatives to “reduce unnecessary regulatory burdens.”⁴⁷ Yet the proposed rule does not reduce any regulatory burdens, and in fact imposes substantial new regulatory burdens on housing authorities and subsidized owners. These new burdens include expanding verification requirements to all 9 million residents of HUD-assisted housing and dramatically increased costs, as well as obligating the eviction of roughly 20,000 mixed households.

None of these reasons for the proposed rule adequately explains HUD’s reversal from the positions it took 30 years ago, and which has served the program and low-income families well throughout that time. In the absence of a serious explanation from HUD, one is left to conclude that the predominant, if not sole, reason for the rule change is anti-immigrant bias.

Moreover, as the Supreme Court in *Encino* made clear, courts hold changes in regulations to higher scrutiny where stakeholders — individual persons, public agencies, and private firms alike — have relied upon long-standing statutory interpretations and regulations to order their lives and manage their business affairs. Because the proposed rule does not squarely address the impact of the rule on existing eligible residents or the impacts on housing

⁴³ H.R. Rep. No. 100-1222, 100th Cong., 1st Sess. 49-50 (1987).

⁴⁴ Restrictions on Assistance to Aliens, 60 Fed. Reg. 14816 (Mar. 20, 1995).

⁴⁵ *Id.* at 14820-21.

⁴⁶ Restrictions on Assistance to Noncitizens, 59 Fed. Reg. 20710 (Aug. 25, 1994) (only basic text format available), <https://www.govinfo.gov/content/pkg/FR-1994-08-25/html/94-20710.htm>.

⁴⁷ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed. Reg. at 8153.

providers and managers, discussed in more detail below, the proposed rule fails to satisfy the test of the "serious reliance interests that must be taken into account."⁴⁸

IV. By Forcing Mixed Status Families to Separate or Leave HUD Housing, The Proposed Rule Inflicts Harm on Thousands of Families, Many of Which Include U.S. Citizens.

If finalized, 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 (that enable them to afford their homes) so that the families can stay together. This impossible choice will cause significant harm to these families. 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 housing, and have a sequence of adverse physical and mental health outcomes.⁴⁹ 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.⁵⁰

A. The proposed rule will harm family members because of the forced separation.

HUD acknowledges that the proposed rule may cause some families to separate, noting that "some charitable and ineligible adult members may even volunteer to leave if there is a financial benefit for eligible members."⁵¹ Despite HUD's language, make no mistake: separation is not a family choice, but rather part and parcel of the administration's scheme to break up immigrant families and push their immigration enforcement agenda through the proposed rule. For this reason, HUD sails past any meaningful discussion of the harms that separation will inflict on immigrant families.

Families who are forced to separate are more likely to experience family instability, which gives rise to toxic stress, trauma, and attachment issues in children. Even 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.⁵² This harm is compounded at a time when displaced family members may be more vulnerable to the administration's aggressive immigration enforcement campaign.

B. The proposed rule will harm family members because of eviction and displacement, both in the short term and the long term.

⁴⁸ See *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126, 195 L. Ed. 2d 382 (2016).

⁴⁹ Allison Bovell-Ammon & Megan Sandel, *The Hidden Health Crisis of Eviction*, CHILDREN'S HEALTH WATCH BLOG (Oct. 15, 2018), <http://www.bu.edu/sph/2018/10/05/the-hidden-health-crisis-of-eviction/>; Matthew Desmond. & Rachel Tolbert Kimbro, *Evictions Fallout: Housing, Hardship, and Health*, 94 SOCIAL FORCES 295 (2015).

⁵⁰ Shruti Simha, *The Impact of Family Separation on Immigrant and Refugee Families*, 80 N.C. MED J. 95, 96 (2019).

⁵¹ See 2025 Regulatory Impact Analysis *supra* note 4, at 48.

⁵² 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/>.

Many mixed status families will forgo their housing assistance instead. Indeed, approximately 80% of mixed status families in HUD housing consists of eligible children and at least one ineligible parent, making separation an unworkable option.⁵³

HUD's regulatory impact analysis makes clear that self-eviction is the administration's preferred outcome for families. In discussing why families are more likely to terminate their assistance than separate, HUD explains:

Expelling a parent, whether forced or voluntary, is improbable among households whose goals is to maximize the welfare of the family. The benefit to a household of children growing up in a two-parent household could outweigh the loss of the housing subsidy. Studies on family structure and its implications on child well-being (e.g., economic mobility and cognitive, behavioral, physical, and mental health) show that children growing up in two-parent households fare better, on average, than those in single-parent households.⁵⁴

HUD's claim about the benefits of two-parent households outweighing the costs of losing a housing subsidy callously disregards the context in which mixed status families will find themselves. HUD does not account for the stress that families will experience due to fear of housing instability and increased exposure to aggressive immigration enforcement. In addition, HUD makes the conclusory statement that "a household [that separates] would probably suffer a worse outcome by trying to adapt to the new rules rather than by leaving together" but fails to offer any evidence to support this claim.⁵⁵

Short-term costs of evictions and displacement. HUD's regulatory impact analysis underestimates the short-term costs of eviction and displacement on tenants. For example, HUD discusses moving costs⁵⁶ but ignores the costs that families will incur to find a new place to move to. Examples include the costs associated with viewing prospective units, such as transportation from one unit to another and taking time off work. Families may also have to pay application fees, security deposits, and other upfront rental housing fees.⁵⁷ HUD also failed to consider whether there are any affordable homes for these displaced families to move to in affected communities, many of which face rising rents and low inventory. Families who are unsuccessful in their search still incur costs as they attempt to finding a shelter or arrange to live with family or friends, such as the costs of storing or getting rid of furniture, household goods, and other personal belongings. Even HUD's moving costs are an underestimate because it assumes without adequate explanation that "all moves are local and completed without hiring a moving company."⁵⁸ HUD also refused to consider eviction costs, asserting that "[i]t is not likely that many households with ineligible tenants, especially adults, would

⁵³ See 2025 Regulatory Impact Analysis *supra* note 4, at 13.

⁵⁴ *Id.* at 47-48.

⁵⁵ *Id.* at 48.

⁵⁶ *Id.* at 32.

⁵⁷ Julie Aguilar, *Pathways to Support Mixed-Status Immigrant Families Receiving Federal Housing Assistance*, TERNER BLOG: NO LIMITS (Feb. 19, 2026), <https://turnercenter.berkeley.edu/blog/pathways-to-support-mixed-status-immigrant-families-receiving-federal-housing-assistance/>.

⁵⁸ See 2025 Regulatory Impact Analysis *supra* note 4, at 32.

choose to actively protest HUD's decision".⁵⁹ But HUD offers no evidence to support this assumption.

Long-term impact on families. In addition, the proposed rule, if finalized, will have severe long-term health consequences for thousands of displaced immigrant families.⁶⁰ Public housing provides a crucial source of homes affordable to 1.6 million low-income people in America,⁶¹ and the evidence is clear that affordable housing supports health.⁶² An increase in housing costs also increases problems such as food insecurity.⁶³ Indeed, many renters delay needed medical care because they can't afford it.⁶⁴ 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.⁶⁵ They are also more likely to become homeless, experience long-term housing instability, and visit an emergency room.⁶⁶ Unstable housing situations can cause individuals to experience increased hospital visits, and loss of employment, and can dramatically increase the risk of an acute episode of a behavioral health condition, including relapse of addiction in adults. Many of these impacts are pronounced in immigrant families and communities.⁶⁷

Long-term impact on children. Housing instability arising from the proposed rule would specifically harm the health of the estimated 37,000 children who are part of mixed status families. Evictions are associated with worse mental health outcomes for children, including symptoms such as depression, anxiety, impulsivity, disruptiveness, and aggression.⁶⁸ One study showed that evictions also impeded the cognitive development of children during

⁵⁹ *Id.* at 33.

⁶⁰ 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>.

⁶¹ CTR. ON BUDGET & POLICY PRIORITIES, *Policy Basics: Public Housing* (updated Sep. 30, 2024), <https://www.cbpp.org/sites/default/files/atoms/files/policybasics-housing.pdf>.

⁶² Nabihah Maqbool, Janet Viveiros, & Mindy Ault, *The Impacts of Affordable Housing on Health: A Research Summary*, INSIGHTS FROM HOUSING POLICY RESEARCH (Apr. 2015), <https://nhc.org/wp-content/uploads/2017/03/The-Impacts-of-Affordable-Housing-on-Health-A-Research-Summary.pdf>.

⁶³ 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.

⁶⁴ Reed Abelson, *Higher Bills Are Leading Americans to Delay Medical Care*, N.Y. TIMES (Feb. 16, 2023), <https://www.nytimes.com/2023/02/16/health/inflation-delayed-health-care.html>.

⁶⁵ Alison Bovell & Megan Sandel, *The Hidden Health Crisis of Eviction*, CHILDREN'S HEALTH WATCH BLOG (Oct. 5, 2018), <http://childrenshealthwatch.org/the-hidden-health-crisis-of-eviction/>.

⁶⁶ Robert Collinson & Davin Reed, *The Effects of Evictions on Low-Income Households*, N.Y.U. LAW (Dec. 2018), https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf.

⁶⁷ PRATT CTR. FOR CMTY. DEV., *CONFRONTING THE HOUSING SQUEEZE: CHALLENGES FACING IMMIGRANT TENANTS, AND WHAT NEW YORK CAN DO* (2018), https://mail.prattcenter.net/sites/default/files/confronting_the_housing_squeeze.pdf

⁶⁸ See Gabriel L. Schwartz et. al., *Eviction, Inability to Pay Rent, and Youth Mental Health: A Fixed Effects Study*, 194 AM. J. EPIDEMIOLOGY 3501 (2025), <https://academic.oup.com/aje/advance-article-abstract/doi/10.1093/aje/kwaf212/8268864?redirectedFrom=fulltext&login=false>; see also WILL FISCHER, *RESEARCH SHOWS HOUSING VOUCHERS REDUCE HARDSHIP AND PROVIDE PLATFORM FOR LONG-TERM GAINS AMONG CHILDREN* (Oct. 7, 2015), <https://www.cbpp.org/sites/default/files/atoms/files/3-10-14hous.pdf>; 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>.

middle childhood, leaving them behind the equivalent of as much as a full school year.⁶⁹ Housing instability is directly correlated to a decrease in student retention rates and contributes to homeless students' high suspension rates, school turnover, truancy, and expulsions, limiting students' educational opportunities.⁷⁰ Education itself is linked to positive health outcomes and longer lives;⁷¹ thus, creating housing instability in children's lives can have immediate and negative health impacts, but can also lead to poorer health through educational disruption.

Research shows that rental assistance for households with children results in significant positive effects for future child outcomes and family economic security. In 2024, housing subsidies lifted nearly 650,000 children out of poverty,⁷² and they 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.⁷³

Housing assistance also improves child health. Children of families receiving housing assistance were more likely to be labeled a "well child," less likely to be seriously underweight, and less likely to experience food insecurity.⁷⁴ 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 necessities—they spend \$200 less per month on food, nearly \$100 less on transportation, and about \$80 less on healthcare.⁷⁵

The proposed rule will only serve to further increase child homelessness, with detrimental effects to child well-being and the 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.⁷⁶

⁶⁹ Gabriel Schwartz et. al., *Childhood Eviction and Cognitive Development: Developmental Timing-Specific Associations in an Urban Birth Cohort*, 292 SOC. SCI. & MED. (Jan. 2022),

<https://www.sciencedirect.com/science/article/abs/pii/S0277953621008765?via%3Dihub>; see also 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>).

⁷⁰ Mary Cunningham & Graham MacDonald, *Housing as a Platform for Improving Education Outcomes among Low-Income Children*, URBAN INSTITUTE (May 2012), <https://www.urban.org/sites/default/files/publication/25331/412554-Housing-as-a-Platform-for-Improving-Education-Outcomes-among-Low-Income-Children.PDF>.

⁷¹ *Effect of Education on Adult Mortality: A Global Systemic Review & Meta-Study*, 9 LANCET PUB. HEALTH e155 (Mar. 2024), <https://www.thelancet.com/action/showPdf?pii=S2468-2667%2823%2900306-7>.

⁷² ANNIE E. CASEY FOUND., *MEASURING ACCESS TO OPPORTUNITY IN THE UNITED STATES: A 10-YEAR UPDATE 5* (Oct. 2025), <https://assets.aecf.org/m/resourcedoc/aecf-measuringaccessupdate-2025.pdf>.

⁷³ Fredrik Andersson et. al., *Childhood Housing and Adult Earnings: A Between-Siblings Analysis of Housing Vouchers and Public Housing*, NAT'L BUREAU OF ECON. RES. WORKING PAPER SERIES (Sept. 2018), https://www.nber.org/system/files/working_papers/w22721/w22721.pdf.

⁷⁴ CHILDREN'S HEALTH WATCH, *Rx FOR HUNGER: AFFORDABLE HOUSING*, (December 2009), https://childrenshealthwatch.org/wp-content/uploads/rxforhunger_report_dec09-1.pdf.

⁷⁵ JOINT CTR. FOR HOUS. STUD. OF HARVARD U., *THE STATE OF THE NATION'S HOUSING 2025* (2025), https://www.jchs.harvard.edu/sites/default/files/reports/files/Harvard_JCHS_The_State_of_the_Nations_Housing_2025.pdf

⁷⁶ Megan Sandel, Richard Sheward, & Lisa Sturtevant, *Compounding Stress: The Timing and Duration Effects of Homelessness on Children's Health*, INSIGHTS FROM HOUS. POL'Y RES. (June 2015), <https://www.issuelab.org/resources/21731/21731.pdf>.

Homelessness is also associated with an 87 percent greater likelihood of a child or youth dropping out of school.⁷⁷

Evicting families or forcing them to separate will harm children’s health both today and well into the future. This outcome is especially unfair to the children in mixed status families who are U.S. citizens and who would otherwise be eligible to receive housing subsidies but for the fact that they are related to a parent, grandparent, or other family member without eligible immigration status.

C. The proposed rule will cause a chilling effect among immigrant families who may fear that HUD will target them next for removal, even if all family members are eligible.

If HUD implements the proposed rule and succeeds in prohibiting mixed status families from living together in HUD-assisted housing, this will create a chilling effect among immigrant families who would justifiably fear for the continued availability of their housing assistance. Currently, immigrants are living “in a climate where the fear of losing one’s housing or having personal information used against them by immigration enforcement is omnipresent for many people, even those with legal residency status.”⁷⁸ A resident of the New York City Housing Authority explains how the mixed status rule impacts the entire community:

“It’s just that today, nobody feels okay,” said Terry Campuzano, president of the Meltzer Tower Tenant Association, which represents about 200 families in his building. “They’re going after everybody, and the whole thing feels totally out of control.” Campuzano said residents worry that increased scrutiny of immigration status could create fear among public housing developments and attract more immigration enforcement activity. That fear extends even to tenants who are U.S. citizens, he said, noting that recent incidents of two U.S. citizens being fatally shot by federal immigrant agents during enforcement operations in Minneapolis have shaken residents’ sense of safety. “That’s why we have to care about everybody,” he said. “If we don’t, it could be us next.”⁷⁹

HUD has cultivated this climate through unjustified and unlawful policy reversals that upend longstanding agency practices. Examples of legally dubious policy changes include data sharing with the Department of Homeland Security and directives to public housing authorities to re-verify citizenship and immigration status that had already been previously verified.

HUD has also paired these policy changes with deliberate misinformation and incendiary rhetoric. In a recent speech about HUD’s mixed status families rule, HUD Secretary

⁷⁷ ERIN S. INGRAM ET. AL., HIDDEN IN PLAIN SIGHT: HOMELESS STUDENTS IN AMERICA’S PUBLIC SCHOOLS (2016), <https://files.eric.ed.gov/fulltext/ED572753.pdf>.

⁷⁸ Katherine Dailey, *When Home Isn’t Safe: Immigration Enforcement Meets Housing Discrimination*, MOTHER JONES (Sept. 26, 2025), <https://www.motherjones.com/politics/2025/09/when-home-isnt-safe-immigration-enforcement-meets-housing-discrimination/>

⁷⁹ April Xu & Eileen Grench, ‘*This is Everybody’s Fight: Residents Urge Pushback on Public Housing Proposal to Verify Citizenship*’, DOCUMENTED (Mar. 11, 2026), <https://documentedny.com/2026/03/11/public-housing-immigration-status-check-nyc/>.

Turner asserted that the prior administration “had rolled the red carpet out for illegals that led from the border right up to our public housing units.” By proposing to remove mixed status families, he remarked, “we are finally ending this gravy train for illegals.”⁸⁰ Similarly, in announcing the HUD-DHS data sharing agreement, former Department of Homeland Security Secretary Kristi Noem issued a stark warning: “If you are an illegal immigrant, you should leave now.”⁸¹

Although HUD purports to target undocumented immigrants, the truth is that the proposed rule’s prohibition against mixed status families will also harm immigrants with legal status who are not eligible to receive HUD assistance under Section 214. One notable example is individuals with U-visas, a nonimmigrant status that “is set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity.”⁸² The objectives of the U-visa program are twofold: (1) to provide law enforcement with a mechanism to address serious crimes perpetrated against unauthorized immigrants, and (2) to extend humanitarian assistance to vulnerable, marginalized individuals who suffered serious crimes.⁸³ Other examples include individuals with Temporary Protected Status (TPS), Deferred Action for Childhood Arrivals (DACA) recipients, and work visa holders. By conflating ineligible immigrants with undocumented immigrants, HUD reveals its focus on the latter to be pretextual. Against the backdrop of the administration’s actions to upend immigration law, HUD’s policy reversals, inflammatory rhetoric, and deliberate misinformation are designed to strike fear among immigrant families and induce self-eviction.

D. The proposed rule will harm communities because of eviction and displacement of mixed status families.

Access to stable and affordable housing impacts not only individual and family health, but it impacts community health as well. Communities thrive when everyone has access to a high-quality home, including immigrants and their families. The resulting mass evictions, terminations of housing assistance, and family separations from this proposal would harm the health of immigrant families and of entire communities. State and local governments will have to bear the costs of the uptick in eviction and homelessness rates. Public housing communities would also suffer if a large number of mixed status families were to be displaced within a short period of time. As in any other community, the children and parents in these families are often interwoven into the fabric of public housing communities, and neighbors often want to protect one another. Mass displacement of members of these families will leave a large hole in these communities and deepen their sense of fear that they have. These harms will be exacerbated by the proposed rule’s 90-day deadline for verifying the status of mixed status families.

⁸⁰ FORBES BREAKING NEWS, “We are Finally Neding This Gravy Train for Illegals:” Turner Details New Public Housing Rules (YouTube, Mar. 28, 2026), <https://www.youtube.com/watch?v=ScsDtQ1PQ9Q>.

⁸¹ Press Release, HUD Secretary Scott Turner, DHS Secretary Kristi Noem Establish Partnership to End Illegal Alien Exploitation of Housing Programs (Mar. 24, 2025), <https://www.hud.gov/news/hud-no-25-046>.

⁸² U.S. Citizenship & Immigration Services, Victims of Criminal Activity: U Nonimmigrant Status, <https://www.uscis.gov/humanitarian/victims-of-criminal-activity-u-nonimmigrant-status> (last visited Apr. 16, 2026).

⁸³ USCIS POLICY MANUAL, vol. I, pt. C, ch. 1 (2026), <https://www.uscis.gov/policy-manual/volume-3-part-c-chapter-1> (purpose of U visa nonimmigrant classification).

Displacement of these families would occur in a simultaneous, concentrated period, which would put a significant strain on HUD housing providers, shelter resources, emergency services, and other local resources.

V. By Forcing Mixed Status Families to Separate or Leave HUD Housing, the Proposed Rule Inflicts Disproportionate Harm on Latino Families.

Even though Latinos are underrepresented in the federal housing programs generally with respect to their poverty rate,⁸⁴ the current provisions allowing mixed status families to live together in HUD-assisted housing provide an important avenue for Latino families to access the housing that they need. Of the mixed status families currently receiving HUD rental assistance, the vast majority – 86% – identify as Latino.⁸⁵

Latino households face multiple barriers to accessing affordable housing. In 2024, more than half of Latino renters (54 percent) were cost-burdened, *i.e.*, they devoted 30 percent or more of their income towards rent.⁸⁶ Among renter households with extremely low incomes, forty-six percent of Latino households experience both severe rent burden and severely inadequate housing, higher than the average population.⁸⁷ These barriers are due in part to income, language barriers, immigration status, and discrimination.⁸⁸ These housing burdens also have a significant impact upon children in these households. Among Latino children, who account for a quarter of all U.S. children, the majority (52 percent) have at least one immigrant parent,⁸⁹ and more than half of children of immigrants are Latino.⁹⁰ Latino households in assisted housing are also more likely to be multigenerational, and their options for housing to accommodate more household members may be more limited.⁹¹

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.⁹²

If implemented, the proposed rule would result in the displacement of thousands of Latino multigenerational families with children. It will also deter many eligible Latinos from participating in public or subsidized housing programs and increase housing insecurity for these families, with serious consequences for family well-being, child development, and

⁸⁴ Claudia Aiken et al., *Understanding Low-Income Housing Challenges and the Use of Housing and Homelessness Assistance*, 23 CITYSCAPE 123, 151-52 (2021), <https://www.huduser.gov/portal/periodicals/cityscape/vol23num2/ch7.pdf>.

⁸⁵ See GARTLAND & ACOSTA *supra* note 3, at 3.

⁸⁶ See JOINT CTR. FOR HOUS. STUD. OF HARVARD U, *supra* note 75, at 32.

⁸⁷ See Aiken *supra* note 84, at 125.

⁸⁸ *Id.* at 126.

⁸⁹ RICHARD FRY & JEFFREY S. PASSEL, *LATINO CHILDREN: A MAJORITY ARE U.S.-BORN OFFSPRING OF IMMIGRANTS* (2009), <https://www.pewhispanic.org/2009/05/28/latino-children-a-majority-are-us-born-offspring-of-immigrants>.

⁹⁰ URBAN INST., *PART OF US: A DATA-DRIVEN LOOK AT CHILDREN OF IMMIGRANTS*, (2019) <https://www.urban.org/features/part-us-data-driven-look-children-immigrants>.

⁹¹ Sandra Newman & C. Scott Holupka, *Hispanic Families in Assisted Housing*, 23 CITYSCAPE 161, at 192 (2021), <https://www.huduser.gov/portal/periodicals/cityscape/vol23num3/ch6.pdf>.

⁹² UNIDOSUS, *FEDERAL PROGRAMS LIFT MILLIONS OF LATINOS OUT OF POVERTY* (Oct. 2018), https://unidosus.org/wp-content/uploads/2021/07/federalprograms_national_101718.pdf.

economic security. Latino immigrants should have an opportunity to support the resilience and upward mobility of their families. The proposed rule fails 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.

VI. The Proposed Rule's New Verification Requirements Will Harm All HUD Residents, Regardless of Citizenship or Immigration Status.

In addition to the harm to mixed status families, the proposed rule's new verification requirements will create red tape that threatens the housing security of the 8.5 million U.S. citizens currently receiving HUD assistance as well as U.S. citizens applying for these benefits in the future.

How it works now: Currently, to establish eligibility for HUD housing assistance, U.S. citizens must provide a declaration of their citizenship or nationality signed under penalty of perjury.⁹³ Each public housing agency decides whether it collects documentation proving citizenship or eligible immigration status.⁹⁴

How it would work: Under the proposed rule, PHAs and owners would no longer rely upon signed declarations. Instead, HUD proposes to require PHAs and owners to verify citizenship status through a new two-stage process that incorporates the Systematic Alien Verification for Entitlement (SAVE) system administered by U.S. Citizenship and Immigration Services at the U.S. Department of Homeland Security. In the first stage, which HUD refers to as *primary verification*, U.S. citizens will have to submit both a signed declaration and a signed verification consent form, allowing their PHA or owner to run their information through SAVE to obtain an automated response.⁹⁵ If primary verification fails to confirm an individual's citizenship, then *secondary verification* is necessary. At this point, the individual will have to submit documentary proof of their citizenship, and either the PHA/owner or SAVE will perform a manual review, depending on the type of document submitted.⁹⁶

A. HUD's attempt to change the verification requirements for HUD residents exceeds its statutory authority under Section 214.

The Proposed Rule's changes to the verification requirements for HUD citizens and eligible noncitizens are inconsistent with the express provisions of Section 214. Most notably, **HUD has no statutory authority to require PHAs and other housing providers to verify citizenship status through the SAVE system.** Section 214 only authorizes verification of citizenship status "by requiring *presentation of documentation* that the [HUD] Secretary considers appropriate, including a United States passport, resident alien card, alien registration card, social security card, or other documentation."⁹⁷ By contrast, in the case of eligible noncitizens younger than 62 years of age, Section 214 explicitly mandates verification of their immigration status by the Immigration and Naturalization Service, today known as the

⁹³ 24 C.F.R. § 5.508(b)(1).

⁹⁴ *Id.*

⁹⁵ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed. Reg. at 8155, 8169 (proposed 24 CFR § 5.508(b)(1)).

⁹⁶ *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(ii)-(iii)).

⁹⁷ 42 U.S.C. § 1436a(d)(1)(A).

Department of Homeland Security.⁹⁸ Section 214 also specifies that the housing provider “shall utilize the individual’s alien file or alien admission number to verify with the [INS] the individual’s immigration status through *an automated or other system (designated by the [INS] for use with States)*.”⁹⁹ Section 214 makes no mention of INS, DHS, or an automated system for verifying citizenship status, much less mandate it. HUD’s attempt to require citizenship verification through the SAVE program, therefore, falls outside of the scope of the agency’s statutory authority. If the administration wants to verify citizenship status of HUD residents through SAVE, it will need to pursue legislative changes to Section 214 through Congress. Until this happens, its attempts to insert the SAVE system into the citizenship verification process and to amend a statute through administrative rulemaking should be stricken.

Similarly, HUD has no statutory authority to impose additional verification requirements onto older noncitizens (62 and older) with eligible immigration status. Under Section 214, older noncitizens are only required to provide a signed declaration of their eligible immigration status.¹⁰⁰ The statute is crystal clear that they are exempt from other verification requirements. Verification through INS, for example, is limited to “individual[s] younger than 62 years of age.”¹⁰¹ The current regulations conform with Section 214 because they only require that older noncitizens provide a signed declaration of their eligible immigration status and submit a document proving their age to determine whether they qualify for this exemption.¹⁰² HUD’s proposal, on the other hand, does not conform with Section 214. HUD proposes to require older noncitizens to provide documentary proof of their eligible immigration status – not authorized under Section 214 – and a consent form for a system that neither HUD nor their housing providers are allowed to access for this population. Given the utter lack of statutory authority, HUD should abandon these changes and retain the exemptions set forth in Section 214 for older noncitizens with eligible immigration status.

As a practical matter, many older immigrants will struggle to produce the necessary documentation. First, they may not readily have these documents available, especially when they did not have to produce documentary proof upon admission. Second, obtaining these documents would cost money that older immigrants on fixed incomes may not have. They may also lack reliable access to transportation during business hours to the government offices that produce these documents. Finally, older adults who do not speak English may face language barriers and lack the English proficiency necessary to navigate bureaucratic government offices efficiently. HUD has not accounted for these concerns in the proposed rule and must address these issues before it can finalize the rule.

Likewise, HUD attempts to remove the statutorily-required INS appeals process. The proposed rule removes 24 CFR 5.514(e), which details the process for an individual to appeal the results of an INS determination and specifically provides that “[p]ending the completion of the INS appeal under this section, assistance may not be delayed, denied, reduced, or terminated on the basis of immigration statute.”

⁹⁸ *Id.*

⁹⁹ 42 U.S.C. § 1436a(d)(3).

¹⁰⁰ 42 U.S.C. § 1436a(d)(3).

¹⁰¹ 42 U.S.C. § 1436a(d)(1)(A)(1), (2), (4).

¹⁰² 24 C.F.R. § 5.508 (b)(2).

The problem, however, is these sections directly implements two provisions of Section 214 and therefore cannot simply be removed through regulatory action. First, Section 214 provides that where a person's eligible immigration status has not been verified, then HUD "shall provide a reasonable opportunity, not to exceed 30 days, [...] *to appeal to the [INS] the verification determination of the [INS]*."¹⁰³ Section 214 further provides that "pending such verification or *appeal*, [HUD] may not ... deny the application for such assistance on the basis of the immigration status of that individual."¹⁰⁴

HUD seems to be aware it is interfering with a statutory right. In the notice of denial or termination, HUD tellingly proposes to swap out language stating that the family has "a right to request an appeal to the INS of the results of secondary verification" with much weaker language stating that the family has "the *ability* to pursue at any point in the verification process a records correction with any agency that issued or maintains records and original or certified copies of documents relevant to verification."¹⁰⁵ Fortunately for residents, HUD cannot simply swap out their statutory rights via rulemaking.

HUD's explanation for removing the appeals provision does not justify its attempt to deprive residents of their statutory right. HUD states the that appeals process is "outdated, reflects procedures that existed before the SAVE program was utilized by HUD, and does not account for U.S. citizenship verification."¹⁰⁶ In fact, Section 214 specifically provides for HUD to verify "immigration status through an automated or other system," such as SAVE, so the statute is not outdated in this way.¹⁰⁷ And as discussed above, Section 214 neither requires verification of citizenship or nor authorizes the use of automated systems for verification of citizenship or eligible immigration status for persons over age 62.¹⁰⁸

Even if the SAVE system has replaced the prior practice of checking INS, this would justify updating the appeals process to reflect the new practice, not throwing out the appeal process altogether. Given that neither DHS nor HUD know SAVE's accuracy rate for verifying citizenship status, it is reckless for HUD to do away with provisions protecting assistance while a family's appeal is pending. HUD suggests that an appeal process is unnecessary because "SAVE does not offer an appeal process,"¹⁰⁹ but this reasoning is backwards. Applicants and residents in fact need a more robust appeals process that allows families to continue receiving assistance until that process is complete. And the appeal process is statutorily required.

HUD residents and applicants will be worse off if HUD removes this right to an INS appeal. HUD is not clear about what documentation would be needed to verify; it simply refers to "original or certified copies of documents relevant to verification."¹¹⁰ Nor does HUD specify what agency residents and applicants should go to for the relevant document. Instead, HUD refers generally to "any agency" rather than INS (DHS), which is completely at odds with the statute.¹¹¹ Without specific directions, HUD residents and applicants will not know which

¹⁰³ 42 U.S.C. 1436a(d)(4)(A)(1) (emphasis added)

¹⁰⁴ 42 U.S.C. 1436a(d)(4)(B)(ii)(II).

¹⁰⁵ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed.Reg. at 8167 (proposed changes to 24 C.F.R. § 5.512(e)).

¹⁰⁶ *Id.* at 8160.

¹⁰⁷ 42 U.S.C. § 1436a(d)(3).

¹⁰⁸ See 42 U.S.C. § 1436a(d)(1)(A).

¹⁰⁹ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed.Reg. at 8160.

¹¹⁰ *Id.* at 8167 (proposed changes to 24 C.F.R. § 5.510(d)(4)).

¹¹¹ *Id.*

agencies to reach out to and what documents to request. They are also likely to encounter difficulties in navigating agencies, especially if one agency deflects to another agency rather than corrects the underlying issue. HUD residents and applicants with limited English proficiency will face even greater challenges seeking a records correction because HUD makes no provisions for language access services in connection with any such procedures, even though it is required to do so under Federal law.¹¹²

HUD's vague instructions about records corrections will also hinder the ability of HUD residents and applicants to fix these problems within a reasonable timeframe. The proposed rule fails to provide adequate time to pursue records corrections with agencies. If residents and applicants cannot resolve issues in a timely way, the housing provider will move onto the next family on the waiting list, and their limited opportunity to obtain or maintain HUD-subsidized housing will evaporate. HUD suggests that a person can simply re-apply if the records corrections take longer than the verification process,¹¹³ but re-applying for HUD housing assistance is arduous, difficult, and time-consuming. Most programs have waiting lists that extend years in duration, and many conduct periodic lotteries just for a chance at being added to a waiting list. The ability to re-apply and potentially regain housing many years later is no substitute for a clear appeal procedure that can prevent improper denial or termination in the first place.

Finally, it is important to note that while the proposed rule takes pains to limit prorated rental assistance to the time period while verification is pending and in fact justifies the elimination of ongoing prorated rental assistance on statutory language, HUD ignores Section 214's prohibition against denials of assistance "pending such verification *and appeal*." HUD can't pick and choose which parts of the statute it wants to implement. If HUD is going to provide prorated assistance pending verification, then it should also provide prorated assistance during an appeal that they are entitled to under Section 214. To preserve this statutory scheme, therefore, HUD should withdraw the proposed rule to avoid removing the provisions governing the INS appeal process.

B. HUD failed to assess SAVE's capacity to verify citizenship status and its impact on public housing authorities, project owners, and residents.

Repurposing SAVE to verify citizenship status will impose extensive new burdens on both residents and housing providers in the HUD housing programs, and these burdens are even worse because this new function is unreliable and prone to error. Since its inception in 1987, SAVE's primary purpose has been to verify immigrant eligibility for public benefits.¹¹⁴ In

¹¹² See Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.

¹¹³ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed.Reg. at 8166 ("If record corrections are needed but do not occur prior to secondary verification, an individual that receives a notice of denial of assistance may seek a records correction and then submit a new application for assistance with corrected records and documentation.")

¹¹⁴ SAVE's ability to verify immigration status also presents problems. For example, according to an Social Security Administration operations manual, "SAVE does not contain information about victims of a severe form of trafficking or nonimmigrant alien family members, which leads the manual to issue the following caution to users: "do not use SAVE to verify the status of victims of trafficking or nonimmigrant alien family members." Social Security Administration, SI 00502.111 SSI Eligibility for Victims of Severe Forms of Trafficking (Apr. 2026), <https://secure.ssa.gov/poms.nsf/lnx/0500502111>. This raises significant problems for trafficking victims, who are supposed to be treated the same as refugees and therefore would be eligible for HUD housing assistance.

April 2025, DHS and the Department of Government Efficiency (DOGE) announced its intent to turn SAVE into “a single, reliable source for verifying noncitizen status nationwide,”¹¹⁵ that is, to verify *citizenship* status in addition to immigration status. DHS then proceeded to “merge a massive amount of data from multiple federal agencies – while also establishing new verification procedures – in just a few months.”¹¹⁶

Despite significant public scrutiny of DHS’s attempt to deploy SAVE to verify citizenship status, HUD’s regulatory impact analysis barely mentions this novel use of SAVE, stating only “[i]n May 2025, DHS added verification capacity for citizens to SAVE.”¹¹⁷ The remaining discussion of SAVE is in the context of verifying immigration status, not citizenship status. For example, in asserting that “SAVE has a 1 percent error rate,” HUD cites a Government Accountability Office report from 2017 whose assessment is limited to SAVE’s verification of immigration status.

There is, in fact, no official assessment of the accuracy and reliability of SAVE’s ability to verify citizenship. DHS has not publicly identified whether it has tested “the reliability of SAVE’s responses or any corresponding error rates, mismatches, or inconclusive responses,” and what the testing results were, if any.¹¹⁸

In the absence of concrete information about SAVE’s accuracy and reliability, HUD’s proposal to incorporate this flawed system into the citizenship verification process for millions of its residents is perplexing. HUD simply does not have enough information to assess its impact on HUD residents, applicants, or housing providers, and neither, frankly, do commenters. Having failed to adequately consider the risks of SAVE, HUD should abandon its proposal to incorporate SAVE into the citizenship verification process for its housing programs.

Because the accuracy rate of SAVE’s citizenship verification process is unknown, neither HUD nor commenters have enough information to assess its impact on HUD housing providers or residents.

C. SAVE’s automated responses to verify citizenship raise concerns of inaccuracy and privacy risks.

There are, however, indications that SAVE’s automated responses are unreliable and inaccurate, especially in light of its hasty redesign to perform verification of citizenship status. The American Immigration Council has warned “its design poses significant risks of false

¹¹⁵ AM. IMMIGRATION COUNCIL, THE SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM: A FACT SHEET (Apr. 3, 2026), <https://www.americanimmigrationcouncil.org/report/systematic-alien-verification-entitlements-save-program-fact-sheet/>

¹¹⁶ INST. FOR RESPONSIVE GOVERNMENT, AN UPDATED FEDERAL SYSTEM TO VERIFY VOTER CITIZENSHIP (May 28, 2025), <https://responsivegov.org/wp-content/uploads/2025/10/An-Updated-Federal-System-to-Verify-Voter-Citizenship.pdf>.

¹¹⁷ See 2025 Regulatory Impact Analysis *supra* note 4, at 3.

¹¹⁸ Secretaries of State from California, Connecticut, Massachusetts, Maine, Michigan, Minnesota, New Jersey, New Mexico, Oregon, Rhode Island, Vermont and Washington, Comment on Modifications to and Reissuance of “DHS/USCIS-004 Systematic Alien Verification for Entitlements Program System of Records” 21 (Dec. 1, 2025) (“DHS has provided no information on how (or whether) it has tested the reliability of SAVE’s responses or any corresponding error rates, mismatches, or inconclusive responses.”) [hereinafter Secretaries of State Comment]. https://www.maine.gov/sos/sites/maine.gov.sos/files/inline-files/DHS-SORN_Final-Comment-Signed-12012025.pdf.

positives, particularly when relying on partial Social Security numbers and shared biographical data.” Some users of the new citizenship verification function have reported error rates of at least 14%,¹¹⁹ with “[r]eports [of] naturalized citizens incorrectly flagged as potential noncitizens.”¹²⁰ In the voting rights context, state election officials have reported instances of citizens being purged from voter rolls after being misidentified.¹²¹

In addition, public housing authorities (PHAs) have experienced SAVE’s unreliability firsthand under HUD’s recent directive to PHAs to verify citizenship and eligible immigration status. Some PHAs “have reported that the data in the EIV-SAVE report appears to be inaccurate” and have “given anecdotes where most of the people flagged in the agency’s report were clearly U.S. citizens or eligible immigrants who had submitted the appropriate documentation.”¹²² PHAs have also reported that “the EIV-SAVE report appears to be constantly changing” and “that running the report more than once results in different length lists with different numbers of individuals.”¹²³ In a recent article, PHAs reported additional challenges:

Local teams quickly realized the vast majority of people who turned up on the lists were redundant or flagged in error. Some names were double- or triple-counted. Some people had become citizens over time. Other discrepancies boiled down to basic input errors: missing initials, errant hyphens, or Social Security numbers off by one digit.¹²⁴

Finally, under the proposed rule, PHA staff will be tasked with interpreting the information in a SAVE report without any proper training and with little or no technical assistance available. Immigration status can be complicated to interpret on its own, let alone decoding the abbreviations in a written report and applying them to a complicated statutory scheme for purposes of verifying eligibility for federal housing programs. The lack of training and technical assistance provided to housing staff will certainly lead to additional inaccuracies in use of SAVE reports for purposes of verifying citizenship and immigration eligibility.

On top of inaccuracy issues, the use of SAVE to verify citizenship raises significant privacy concerns for HUD residents and applicants. State voting officials have sounded this alarm:

¹¹⁹ Jen Fifield & Zach Despart, “‘Not Ready for Prime Time.’ A Federal Tool to Check Voter Citizenship Keeps Making Mistakes,” PROPUBLICA (Feb. 13, 2026), <https://www.propublica.org/article/save-voter-citizenship-tool-mistakes-confusion> [hereinafter “‘Not Ready for Prime Time.’”]; see also Electronic Privacy Information Center, Comment on the U.S. Dep’t of Homeland Security, Systems of Records Notice, Department of Homeland Security/U.S. Citizenship and Immigration Services (USCIS)-004 Systematic Alien Verification for Entitlement Programs (SAVE) 4-8 (Dec. 1, 2025), <https://epic.org/wp-content/uploads/2025/12/EPIC-DHS-12-25-SAVE-SORN-Comment-Final.pdf>.

¹²⁰ See AM. IMMIGRATION COUNCIL, *supra* note 115.

¹²¹ See “‘Not Ready for Prime Time’” *supra* note 119.

¹²² Letter from National Association of Housing and Redevelopment Officials to Ben Hobbs, Asst. Secretary, Office of Public and Indian Housing, U.S. Dep’t of Hous. & Urban Dev. 3 (Feb. 13, 2026), <https://www.nahro.org/wp-content/uploads/2026/02/EIV-SAVE-Letter-to-HUD-2-13-2026-final.pdf>.

¹²³ *Id.* at 4.

¹²⁴ Rachel Siegel, *As Trump Blames Immigrants for Housing Shortages, HUD Joins Crackdown*, WASH. POST (Mar. 30, 2026), <https://www.washingtonpost.com/business/2026/03/30/hud-immigration-housing-enforcement/>.

SAVE amasses voters' personal information and leaves that information subject to possible misuse and abuse. Even where SAVE provides an initial response to a registered user that confirms a voter's U.S. citizenship, DHS will maintain that voter's personal information for the next decade. This opens voters to security, privacy, and other risks and complications.¹²⁵

The same privacy risks will apply to HUD residents whose information will be run through SAVE to verify their citizenship status. HUD residents who have already declared their citizenship under penalty of perjury should not have to prove their citizenship again, especially when doing so will unnecessarily feed their personal information to DHS. Such recklessness with respect to the personal information of citizens runs counter to Section 214's guarded approach to verification systems. Section 214 requires that HUD's automated verification system for immigration status "protects the individual's privacy to the maximum degree possible."¹²⁶ Setting aside for now the argument that Section 214 does not authorize automated verification of citizenship, this statutory language is a stark reminder that HUD should take seriously the privacy of its citizens and applicants. If HUD is going to automate verification of citizenship, then the system should also protect citizens' privacy to the maximum extent possible. SAVE does not do this.

D. Because of the unreliability of SAVE's automated responses, a significant number of HUD residents will be required to submit documents proving their citizenship, burdening both residents and housing providers.

The lack of information about SAVE's accuracy rate for verifying citizenship status makes it difficult to pinpoint how frequently HUD residents will be required to undergo secondary verification and provide documentary proof of their citizenship. And without this information, it is challenging to assess the costs of this new verification system for HUD, housing providers, tenants, and applicants.

Obscuring these costs may have been HUD's purpose in introducing SAVE to the citizenship verification process. HUD's regulatory impact analysis, dated September 30, 2025, estimates that verification costs will be between \$807,140 to \$3.2 million for public housing authorities and project owners; and \$2 million to \$8.8 million for tenants and applicants.¹²⁷ However, according to HUD's September 8, 2025 draft regulatory impact analysis of a leaked draft of the mixed status families rule, the estimated verification costs were dramatically higher. For public housing authorities and owners, the draft verification costs ranged from \$12.3 million to \$36.8 million. For tenants and applicants, those costs jumped to a staggering \$64.3 million, nearly eight times the amount of the upper range of verification costs for tenants and applicants in the final RIA.¹²⁸ The draft and final RIAs are dated a mere three weeks apart, and yet their estimated verification costs differ by tens of millions of dollars. Although the leaked rule and the proposed rule have a major substantive difference – namely, SAVE's incorporation into the citizenship verification process – the calculations in the final regulatory impact analysis

¹²⁵ See Secretaries of State Comment, *supra* note 118.

¹²⁶ 42 U.S.C. § 1436(d)(3)(B).

¹²⁷ See 2025 Regulatory Impact Analysis *supra* note 4, at 33-34.

¹²⁸ U.S. Dep't of Hous. & Urban Development, Regulatory Impact Analysis: Housing and Community Development Act of 1980, at 35 (draft, Sept. 8, 2025) (available in appendix).

do not justify such a significant change in numbers. Instead, HUD seems to be relying on unsupported assumptions to reach different numbers, which is baffling given the lack of concrete information about SAVE's accuracy rate. Given the dearth of information to support HUD's calculations, it seems highly likely that HUD introduced SAVE to give the illusion of lower verification costs.

As noted earlier, HUD does not provide an accuracy rate for SAVE's verification of citizenship. Regardless of the exact rate, given the accuracy issues that have arisen in the voting rights context, it is certain that primary verification will fail for some HUD residents, who will then have to provide documentary proof of their citizenship to their PHA or owner.

Impact on residents: This requirement to submit documentary proof during secondary verification will impact a significant number of HUD residents. Over nine percent of adult citizens (18+) cannot readily access documents proving of their citizenship, such as a birth certificate, passport, naturalization certificate, or certificate of citizenship.¹²⁹ Low-income individuals are less likely to possess the necessary documents,¹³⁰ which means that the number of HUD residents who lack ready access to these documents is likely even higher.

According to HUD's regulatory impact analysis, HUD residents will incur costs from the requirement of documentary proof in two ways. First, residents will have to pay fees to obtain the necessary documents,¹³¹ especially since the proposed rule requires original or certified copies.¹³² Second, because obtaining identity documents from state and local government agencies is a time-consuming and often tedious process, HUD anticipates that residents will have to miss work and miss out on wages.¹³³ In low-income households struggling with rising costs and a shrinking social safety net, families living in HUD housing have neither the time nor the money to satisfy a new requirement that ultimately produces no tangible benefit, at least none that HUD has pointed to in its regulatory impact analysis.

In addition to the lack of time and money, there are other non-monetary reasons why a HUD resident or applicant cannot obtain the necessary documentation, according to HUD. A person may not be able to take time off work¹³⁴ or to have ready access to Internet services

¹²⁹ JILLIAN ANDRES ROTHSCHILD ET AL., WHO LACK ID IN AMERICA TODAY? AN EXPLORATION OF VOTER ID ACCESS, BARRIERS, AND KNOWLEDGE (June 2024), <https://cdce.umd.edu/sites/cdce.umd.edu/files/Voter%20ID%20survey%20Key%20Results%20June%202024.pdf>; see also BRENNAN CENTER FOR JUSTICE CITIZENS, WITHOUT PROOF: A SURVEY OF AMERICANS' POSSESSION OF DOCUMENTARY PROOF OF CITIZENSHIP AND PHOTO IDENTIFICATION (Nov. 2006), http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf.

¹³⁰ See, e.g., INST. FOR RESPONSIVE GOV'T, WHO HAS PROOF OF CITIZENSHIP? A SUMMARY OF UMD'S TEXAS AND GEORGIA CASE STUDIES (undated), <https://responsivegov.org/wp-content/uploads/2025/01/20250107-Who-Has-Proof-of-Citizenship-A-Summary-of-UMDs-Texas-and-Georgia-Case-Studies-2.pdf>; see also BRENNAN CENTER FOR JUSTICE, *supra* note 129 (noting that at least 12 percent of citizens earning less than \$25,000 a year did not have proof of citizenship).

¹³¹ See 2025 Regulatory Impact Analysis *supra* note 4, at 31.

¹³² Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed.Reg. at 8167 (proposed 24 CFR § 5.510).

¹³³ See 2025 Regulatory Impact Analysis *supra* note 4, at 31.

¹³⁴ *Id.*

that would ease the process of obtaining records.¹³⁵ The complexity or intimidation from the additional requirements could also deter applicants with eligible citizenship or immigration status from applying.¹³⁶ Although HUD acknowledges these non-monetary costs in its regulatory impact analysis, HUD fails to offer ways to meaningfully address these costs.

Obtaining the necessary documentation can be particularly difficult for specific populations.

- Older citizens: Some older adults with mobility issues or limited access to transportation will have difficulty going to the necessary government offices and affording the fees to replace lost records. In addition, some older adults may have never been issued a birth certificate in the first place.¹³⁷
- People who have experienced homelessness: People who have experienced or are currently experiencing homelessness often have lost important documents such as photo identification, birth certificates, and social security cards because they have no safe places to store them.¹³⁸ 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.¹³⁹
- Disaster survivors: In a disaster, many survivors may lose the type of documents that they would need to establish citizenship, such as birth certificates and passports. To obtain replacement documents, survivors would need time and resources that they may lack in the aftermath.
- Black citizens: Some Black individuals may have never received birth certificates if their parents were denied access to hospitals because of discrimination, especially in the South.¹⁴⁰ Others may face barriers because of time and money needed to obtain the necessary documentary proof of citizenship.¹⁴¹

In other public benefit programs – most notably, Medicaid – the introduction of citizenship documentation requirement has impeded access for benefit recipients and diverted limited agency resources away from helping people in need and toward pointless red tape. Once Medicaid began requiring citizenship documentation, enrollment sharply declined because of increased administrative costs.¹⁴² Indeed, HUD acknowledged a GAO study that explained these negative outcomes in its regulatory impact analysis and yet failed to identify any discernable benefits that would justify the costs of documentation requirements, especially

¹³⁵ *Id.*

¹³⁶ *Id.* at 31-32.

¹³⁷ 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>.

¹³⁸ 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

¹³⁹ See Jafe, *supra* note 137.

¹⁴⁰ MOVEMENT ADVANCEMENT PROJECT, IDENTITY DOCUMENTS & BLACK COMMUNITIES, <https://www.mapresearch.org/file/ID-info-Black-communities.pdf>.

¹⁴¹ *Id.*

¹⁴² 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>.

“for PHAs that are in areas where there are no populations of ineligible immigrants or very small populations of ineligible immigrants.”¹⁴³

For those who are unable to produce the required documents within the required time period under the proposed rule, they face the risk of termination of their housing assistance, eviction from their homes, and homelessness. Hundreds of thousands of U.S. citizens could experience these harsh consequences under the proposed rule. HUD has failed to consider these added costs and burdens of these new verification requirements.

Impact on PHA and owners: HUD has very likely underestimated the costs to PHAs and owners of performing manual reviews of documents during secondary verification.¹⁴⁴ HUD touts SAVE as a time-saving measure but has provided no evidence to support their assertion. As noted earlier, because SAVE’s accuracy rate for citizenship verification is unknown, it is difficult to predict how often a resident’s citizenship verification process will move onto the secondary verification stage. Moreover, the responsibility for secondary verification will fall mostly on PHAs and owners since SAVE lacks the ability to perform a manual review of birth certificates and passports, the most common documents that people use to prove their citizenship.¹⁴⁵

HUD also masks the true verification costs on PHAs and owners by leaving the details about when and in what instances PHAs and owners must request “additional verification” through SAVE to future guidance that HUD may release at some unspecified time.¹⁴⁶

HUD’s rollout of its verification directive and the EIV-SAVE matching report have demonstrated the chaos that befalls PHAs and HUD residents when this administration tries to implement a change in policy related to verification of citizenship and immigration status through sub-regulatory guidance. HUD’s communications to public housing authorities lacked clear directions on how to comply with the directive. As a result, there was a wide range of actions by public housing authorities. Some conducted business as usual,¹⁴⁷ while others sent letters to residents with requests that clearly violated the law.¹⁴⁸ The practical and legal

¹⁴³ See 2025 Regulatory Impact Analysis *supra* note 4, at 23. HUD explains: “A 2003 GAO study on Medicaid citizenship requirement found that it increased the administrative cost of the program, generated confusion among applicants and beneficiaries, and created further administrative costs for states. It also added burden to local administrators in terms of time spent on applicants, appeals, and redeterminations of eligibility.” *Id.* at 23 fn. 41.

¹⁴⁴ HUD estimates that PHAs and owners will incur the following in verification costs: \$530,140-\$2.1 million for existing tenants and \$277,000-\$1,108,000 for new tenants. *Id.* at 24.

¹⁴⁵ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed.Reg. at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(ii)).

¹⁴⁶ This guidance is to account for the fact that “SAVE is an evolving program with an evolving system which may be able to utilize certain information or documents in the future,” *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(iii); see also *id.* at 8519 (“This guidance *may* provide information on how to proceed depending on the documentation and information received by responsible entities from individuals declaring U.S. citizenship or U.S. nationality, when to request additional verification through the SAVE program, and what responsible entities should do where secondary verification fails.”) (emphasis added).

¹⁴⁷ Email from Benjamin Hobbs, HUD Office of Public and Indian Housing, to Executive Directors of Public Housing Authorities (Mar. 9, 2026), <https://www.nahro.org/wp-content/uploads/2026/03/HUD-EIV-SAVE-Guidance-Email-March-2026.pdf>

¹⁴⁸ Fernando del Valle, *Public Housing Authorities Requiring Tenants Prove Legal Residency*, MYRGV.COM (Apr. 4, 2026), <https://myrgv.com/publications/the-monitor/2026/02/04/public-housing-authorities-requiring-tenants-prove->

deficiencies of the initial directive were so significant that three major industry groups representing public housing authorities publicly intervened.¹⁴⁹ In conversations with advocates on the ground, NHLP also learned that in some communities, the letters from PHAs created panic among both mixed status families and fully-eligible immigrant families, and that this fear is ongoing. If a HUD directive elicits this type of chaotic and harmful response when the law and regulations are clearly established, it stands to reason that the impact on housing providers and HUD residents will be even more chaotic as HUD tries to implement a rule change that deviates from the current rule which has been on the books for decades.

Given the lack of specificity around when secondary verification is needed and when PHAs and owners must perform secondary verification, HUD's calculation of the costs of verification to PHAs and owners are highly likely to be a gross underestimate. By kicking the can down the road to future guidance, HUD has not given itself or PHAs and owners enough information to assess the cost-effectiveness of incorporating SAVE into the citizenship verification process.

Moreover, HUD neglects to include any anticipated costs to public housing authorities and project owners of complying with their language access requirements under Title VI of the Civil Rights Act of 1964. For example, PHAs and owners will likely need to pay for interpreters and translation services to explain the new documentation requirements to residents and to answer their questions.

HUD has failed to present an adequate estimate of the costs of secondary verification for public housing authorities and owners. It has not set forth an accurate assessment of how often secondary verification will occur, and it has ignored the costs of providing language access as public housing authorities and owners are obligated to do under federal law. Without these costs, HUD's cost-benefit analysis of the verification proposal is deficient, which should compel HUD to withdraw the proposed rule.

VII. The Proposed Rule Will Decrease the Quantity and Quality of Affordable Housing Amid an Acute Housing Affordability Crisis.

The burdens on HUD residents and applicants go beyond the expenses and time associated with the new citizenship verification requirements. Prohibiting mixed status families from living together in HUD-subsidized housing will reduce affordable housing units for everyone, including citizens, at a time when communities across the country need more affordable housing, not less.

Currently, because mixed status families receive prorated rental assistance only for the eligible household members, they receive a smaller subsidy than other families and pay more in rent to cover the remaining household members. HUD housing providers can serve more

legal-residency/; Jesse Mendez, *LUPE, MALDEF Help Mixed-Status Families With Housing Aid*, VALLEY CENTRAL (Mar. 9, 2026), <https://www.valleycentral.com/news/local-news/lupe-maldef-help-mixed-status-families-with-housing-aid/>.

¹⁴⁹ Letter from National Association of Housing and Redevelopment Officials (NAHRO) to Ben Hobbs, Asst. Secretary, Office of Public and Indian Housing, U.S. Dep't of Hous. & Urban Dev. 3 (Feb. 13, 2026), <https://www.nahro.org/wp-content/uploads/2026/02/EIV-SAVE-Letter-to-HUD-2-13-2026-final.pdf>.

families because there are more subsidies to spread around. They can also use the higher rental payments to help defray the costs of providing affordable housing for other families, including those comprised entirely of citizens.

If mixed status families are prohibited from HUD-subsidized housing, the fully-eligible families who replace them will require higher subsidies to cover all household members and to account for the lower income that these families tend to have.¹⁵⁰ Since rent in HUD-assisted housing is calculated at 30% of income, fully-eligible families will pay less in rent and therefore require a higher subsidy from HUD to make up for the difference between rent and operating costs.

Practically, this means that, absent supplemental funding, PHAs and owners will serve far fewer fully-eligible families than the mixed status families they replaced. According to HUD, “[t]he decline in the number of households occurs automatically because HUD would no longer pro-rate assistance and so cannot spread resources as thinly across families.”¹⁵¹ The following chart taken from HUD’s regulatory impact analysis demonstrates how removing mixed status families is counterproductive to HUD’s purported goal of making more housing assistance for U.S. citizens and eligible immigrants. Currently, mixed status families include 55,100 citizens and eligible immigrants. According to HUD’s chart, if these families left the HUD housing programs, public housing authorities and project owners would only be able to provide assistance to 24,100 citizens and eligible immigrants, far fewer than the number of eligible individuals receiving assistance under the current rule today (55,100).

Table 3. Estimated Exchange of Housing Assistance

	Eligible Persons	Ineligible Persons	Total Persons	Annual Assistance Per Person
From Mixed Families	55,100	24,100	79,300	\$2,700
To Fully Eligible	24,100	0	24,100	\$7,700

Assuming that all members of mixed families exit assistance of \$218 million and that the policy response is limited to reducing households assisted.

To serve the same number of fully-eligible families as the mixed status families they replaced, HUD estimates that it would need **an additional \$311-\$354 million in supplemental funding**,¹⁵² but there is no indication that this funding will be appropriated.

HUD spells out the practical consequences of replacing mixed status families with fully-eligible families that require higher subsidies for each of the major HUD housing programs.

In the Housing Choice Voucher program, HUD anticipates that “[w]ith less revenue from tenants, a PHA may have to respond simply by offering fewer vouchers or delaying issuing vouchers, [... or] lowering its payment standard or using any financial reserves.”¹⁵³ Each of these actions would harm applicants, residents, and the programs themselves. Offering fewer vouchers or delaying issuing vouchers both have the impact of reducing the number of

¹⁵⁰ See 2025 Regulatory Impact Analysis *supra* note 4, at 17.

¹⁵¹ *Id.*

¹⁵² *Id.* at 19.

¹⁵³ *Id.* at 17-18.

vouchers in use and therefore put the future of the voucher program at risk (PHAs are funded based in part on how many vouchers they used in the prior year). In addition, many PHAs have long waitlists for vouchers, sometimes as much as twelve years. If PHAs cease issuing new vouchers, applicants would also be harmed as they will be forced to wait even longer for rental assistance. Finally, many local governments rely on project basing vouchers as a key tool to develop affordable housing. Cities may already have projects in the pipeline that rely on the use of vouchers. Offering fewer vouchers or delaying issuance has many potential negative impacts on local communities.

Note also that even if HUD received the supplemental funding it needed to fund the same number of vouchers, it is unclear whether PHAs would even be able to issue new vouchers after mixed status families leave. In the President’s budget for fiscal year 2027, the administration seeks to include a provision that prohibits PHAs from assisting any new families through the housing voucher program.¹⁵⁴ With more than half of mixed-status families receiving vouchers, this prohibition undercuts the administration’s purported goal of making more housing assistance available for citizens and eligible immigrants.

In public housing, where a PHA cannot easily eliminate or downsize units, HUD says that “the PHA could devote less to overall project expenses, such as housing maintenance, protective services, management and leasing services, and/or self-sufficiency programs for tenants.”¹⁵⁵ HUD also recognizes that PHAs may decide to “leave some units vacant” to save money by “defer[ring] the costs of turnover and operation.”¹⁵⁶ Allowing units to sit vacant fails to help either the mixed status families forced to vacate these units or the fully-eligible households that HUD is purportedly trying to house. It also does not make financial sense because the PHA is not receiving any rental income during this time. HUD also suggests that PHAs could eliminate waiting list preferences “that provide an implicit priority to families who have lower incomes on average,” such as a preference for homeless families.¹⁵⁷

For project-based rental assistance (PBRA) properties, the loss of revenue that will result in HUD’s proposed rule will have a particularly harsh impact because the program relies on private owners. Private owners will be less likely to do business with the federal government if faced with revenue cuts, not to mention onerous new rules. In turn, PBRA owners could opt out of the PBRA program at contract renewal, which would result in a permanent loss of affordable housing.¹⁵⁸ With a national shortage of over 7 million housing units, such a loss would exacerbate this shortage and would displace residents en masse from established projects and communities. Moreover, the loss of projects in higher opportunity areas will displace residents to lower-opportunity areas and potentially increase residential segregation. Last, if the rule is implemented, PBRA owners will be forced to provide the same level of

¹⁵⁴ THE BUDGET FOR FISCAL YEAR 2027, HOUSING & URBAN DEVELOPMENT (2026), https://www.whitehouse.gov/wp-content/uploads/2026/04/hud_fy2027.pdf

¹⁵⁵ See 2025 Regulatory Impact Analysis *supra* note 4, at 18.

¹⁵⁶ *Id.*

¹⁵⁷ *Id.*

¹⁵⁸ *Id.*

services with less resources, impacting decisions about maintenance, capital repairs, and other conditions that will directly impact tenants' health and well-being.

Making matters worse, HUD acknowledges that it will not be able to offer timely financial support to these housing providers as they experience this revenue drop. HUD explains: "Because subsidies to PHAs are based on projections from historic data, at least one year would elapse before the additional expenses are partially compensated for by a funding/budget allocation."¹⁵⁹ This comes at a time when Congress recently decreased public housing funding.

No matter which HUD program it is, the consequence is the same. To accommodate the drop in revenue and the hike in expenses from the proposed rule, PHAs and PBRA owners will have to offer HUD residents less – fewer vouchers, fewer units with habitable conditions, fewer units altogether. HUD's analysis directly contradicts Secretary Turner's blatantly misleading claims that evicting mixed status families will create more housing for Americans.¹⁶⁰ The reality, as HUD lays out very clearly in its regulatory impact analysis, is that the proposed rule will ultimately mean less affordable housing for *everyone*, citizens and immigrants alike.

VIII. The Proposed Rule Imposes Significant Administrative Burdens on Public Housing Authorities and Other Covered Housing Providers.

PHAs and other HUD housing providers should not be expected to stretch their limited time, funding, and resources to cover expenses that are extraneous or contradictory to their central mission of providing affordable housing. Many HUD-assisted providers have experienced a number of hits to their budgets over the past year through insufficient appropriations and unprecedented threats to their funding through unlawful grant conditions. Meanwhile, housing continues to become more unaffordable, increasing expenses for programs tied to the private market like the Housing Choice Voucher program. Moreover, because of the year-long lag time between PHAs requesting and receiving a higher operating subsidy to cover new expenses, they are unlikely to find timely relief from HUD.

Because of flawed assumptions, HUD significantly underestimates the costs that housing authorities and other subsidized housing providers will have to bear because of the proposed prohibition against mixed status families.

Costs of evicting and terminating assistance for mixed status families: HUD's estimated eviction costs are minimal because HUD assumes that "[g]iven the current administration's policy in illegal immigration, [...] most mixed households without the required documents to establish immigration eligibility are expected to leave the assisted housing."¹⁶¹ Even though the chilling effect of HUD's proposal on mixed status families is real, HUD's assumption that only 5% of mixed status families will contest their eviction has no support whatsoever in the regulatory impact analysis. Many of the housing markets where mixed status families live have limited affordable housing options readily available. Without a place to move

¹⁵⁹ *Id.* at 19.

¹⁶⁰ Press Release, HUD Moves to Close "Mixed Status Households" Roommate Loophole (Feb. 20, 2026), <https://www.hud.gov/news/hud-no-26-015>.

¹⁶¹ See 2025 Regulatory Impact Analysis *supra* note 4, at 26.

to, families facing displacement will have every incentive to fight eviction and prolong the legal process. Five percent, therefore, may be a significant underestimate, meaning that PHAs and owners will likely incur higher eviction costs than HUD anticipates.

Costs arising from the chilling effect on mixed status families: HUD does not adequately discuss the chilling effect of the proposed rule on eligible immigrant families who will forgo housing assistance. This impact extends beyond mixed status families to immigrant families, who may feel insecure about their housing in light of the administration's overly broad immigration enforcement that has swept in immigrants with legal status as well.¹⁶² In addition, many housing providers have had to field calls from tenants fearful of the implication of the proposed rule on their families.

Other anticipated costs for housing authorities and other subsidized housing providers include: costs for staff re-training; reconfiguring software and information systems; staff time for reviewing tenant files and redetermining eligibility, outreach to tenants and meetings, phone calls, etc.; interpretation & translation costs; costs for hearing officers and staff time for grievance informal meetings and formal hearings; staff time for writing eviction notices and termination letters; legal costs for eviction proceedings (court fees, attorney fees, sheriff fees, etc.); and costs associated with physical eviction (removal and storage of personal property in some jurisdictions).

These costs could deter housing providers from participating or continuing to participate in these programs, which would further 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 assess the impact the proposed rule will have on housing providers and local housing markets more generally before moving forward with the proposed rule.

Under the proposed new verification requirements, thousands of public housing agencies and private property owners and managers would need to implement a new system for verifying citizenship status for 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 older immigrants. 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.

IX. With Fewer Units and More Displaced Families, the Proposed Rule Will Contribute to High Rates of Homelessness, Hurting Families and Increasing Costs to States and Localities.

The proposed rule will increase the number of displaced immigrant families, decrease the number of affordable HUD-assisted units for everyone, and jeopardize assistance for many non-immigrant families. This will lead to an increase in the number of people experiencing

¹⁶² See *supra* Section IV.C.

homelessness. The burden will fall most heavily on immigrant families, formerly homeless families, and families experiencing homelessness, as well as the local governments helping them.

Cost of homelessness for families. In its regulatory impact analysis, HUD sidesteps any meaningful discussion of the costs of homelessness for families. HUD focuses instead on homelessness in the aggregate and concludes that “[t]he net effect on homelessness is ambiguous.”¹⁶³ HUD barely provides any support for this conclusion:

“The mixed status families in our sample have higher household income so may be more able to withstand the withdrawal of assistance. At the same time, mixed families may have a harder time negotiating the private market compared to fully eligible households.”¹⁶⁴

HUD does not bother to elaborate on the barriers that immigrant families face on the private market and that would likely increase their chances of homelessness, even though these barriers are well-documented.¹⁶⁵ 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.¹⁶⁶ Many of these additional burdens are attributable to the fact that immigrants disproportionately live in states with high housing costs.¹⁶⁷ For example, California—the state with the largest immigrant population¹⁶⁸—has eight of the ten highest rental cost metropolitan counties in the country.¹⁶⁹ In addition, immigrants encounter language and education barriers, prejudice and discrimination, and cultural differences that may deter them from seeking and receiving services.¹⁷⁰ These discriminatory barriers are certain to grow in the wake of HUD’s actions to dismantle fair housing enforcement, such as staffing and funding cuts, its rescission of key guidance documents to ensure language access and to prevent discrimination against immigrants, and its campaign to curtail the enforcement work of FHIPs and FHAPs. Furthermore, the Administration’s aggressive immigration enforcement tactics using highly visible means of violence and intimidation -- particularly against Latino immigrants, Black immigrants, and other immigrants of color – have

¹⁶³ See 2025 Regulatory Impact Analysis *supra* note 4, at 35.

¹⁶⁴ *Id.*

¹⁶⁵ See, e.g., 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>.

¹⁶⁶ 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>.

¹⁶⁷ 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/>.

¹⁶⁸ 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/>.

¹⁶⁹ 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.

¹⁷⁰ Jaime Ballard et al., *A Place to Call Home: Housing Challenges Among Immigrant Families*, National Council on Family Relations Report (June 24, 2020), <https://www.ncfr.org/ncfr-report/summer-2020/place-call-home-housing-challenges-among-immigrant-families>; see also 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>.

emboldened others to discriminate against immigrants and weaponize threats to call immigration enforcement as a means of control. The private rental market has not been immune to these shifts of the past year. In this environment of heightened discrimination and intimidation of immigrants, immigrant families who are evicted from HUD housing under the proposed rule – families who are by definition in a precarious financial situation – will be at significantly higher risk of being pushed into homelessness and have been driven to an even more precarious position because of this administration’s aggressive immigration raids¹⁷¹.

As for families who are currently homeless, even they make it to the top of the waiting list for HUD-assisted housing, many may encounter barriers accessing this housing because of the proposed citizenship verification process, which in certain cases will require the submission of official citizenship documents that these families may not have in their possession. These families will also be vying for a smaller pool of HUD housing assistance than the mixed status families they would be replacing.¹⁷²

Costs of homelessness for state and local governments. In addition to immigrant families, the governments of the cities, counties, and states they live in will also bear the costs of homelessness. Additional families transitioning in and out of homelessness creates administrative burdens on the local Continuum of Care (CoC) systems and individual service providers, which could reduce how many unhoused people the CoC can serve. These burdens will have an even greater negative impact given the financial chaos that the administration has sowed through the CoC NOFO process.

HUD attempts to downplay the impact on local governments, cruelly claiming that “[t]he costs of homeless ineligible to U.S. local governments would decrease if any of the displaced families were displaced from the United States.”¹⁷³ This argument is callous and deeply unserious. Deportation is not a homelessness strategy, no matter how much the administration tries to co-opt the nation’s housing programs into its immigration enforcement agenda. It is also irrelevant – more than 70% of the members of mixed status families are U.S. citizens or noncitizens with eligible immigration status.¹⁷⁴

Although HUD acknowledges the potential costs of homelessness in its regulatory impact analysis, the omission of a detailed analysis of this economic impact is glaring.¹⁷⁵ Without this analysis, HUD cannot fully assess the fiscal consequences of the proposed rule on local governments as it is required to do.

X. The Proposed Rule Will Harm All Older Adults Receiving HUD Housing Assistance, Including Residents Who Are Not Part of a Mixed Status Family.

¹⁷¹ See, e.g., The Rent Brigade, *Disappeared and Displaced: ICE Pushes LA Tenants Toward Eviction* (Sept. 2025), <https://static1.squarespace.com/static/67931cff4d613f32d7b66deb/t/6941e1e8e07bd11e1509984b/1765925381829/BRIEF%3A+Disappeared-and-Displaced-December-2025.pdf>.

¹⁷² See section above about the reduction of the quality and quantity of HUD-assisted housing that would result from the proposed rule.

¹⁷³ See 2025 Regulatory Impact Analysis *supra* note 4, at 35-36.

¹⁷⁴ See 2025 Regulatory Impact Analysis *supra* note 4, at 8.

¹⁷⁵ See 2025 Regulatory Impact Analysis *supra* note 4, at 34-36.

HUD housing assistance provides vital support to older adults age 62 and over, with HUD programs serving an increasingly older population.¹⁷⁶ This proposed rule would harm almost 3,000 older adults (both citizens and non-citizens) living in mixed-status families with HUD housing assistance, as well as about 1.8 million older adult citizens who would be subject to the rule's new documentation requirements.¹⁷⁷

Older adults are the fastest-growing age group among people experiencing homelessness. Many low-income seniors rely solely on Social Security or Supplemental Security Income (SSI) benefits and have fixed incomes that have failed to keep pace with rising rents.¹⁷⁸ Once older adults become homeless, they generally face more barriers to regaining housing than younger individuals due to issues such as chronic health conditions, disabilities, and limited opportunities to work to increase income.¹⁷⁹ Becoming homeless later in life takes a particularly serious health toll on older adults.¹⁸⁰

By forcing mixed-status families to separate or lose their assistance, the proposed rule would also make it impossible for many multigenerational families to live together and share resources that help them succeed. Caregiving is often a major reason for multigenerational households.¹⁸¹ This proposed rule ignores the critical role many grandparents play in providing unpaid childcare, as well as the role adult children play in caring for their aging parents and relatives. These caregiving arrangements allow younger household members with children to work, and they also enable older adults to age in place with dignity and avoid institutionalization.

Further, the proposed rule's new verification and documentation requirements will likely burden older adults. The proposed rule would require U.S. citizens in certain cases to provide documentary proof of citizenship. Many older adults do not have ready access to these types of verifying documents – older adults are, for example, more likely to have been born outside of hospitals and never received a birth certificate.¹⁸² Older adults also face more barriers when trying to secure documents from government agencies, including the documentary proof of eligible immigration status that the proposed rule would require older noncitizens to submit.

¹⁷⁶ Urban Institute, “Staffing and Funding Cuts at HUD Would Have an Outsize Effect on Older Adults” (April 2025), available at <https://www.urban.org/urban-wire/staffing-and-funding-cuts-hud-would-have-outsize-effect-older-adults>.

¹⁷⁷ See GARTLAND & ACOSTA *supra* note 3, at 3.

¹⁷⁸ Justice in Aging, “The Importance of Federal Rental Assistance for Older Adults” (May 2025), available at <https://justiceinaging.org/the-importance-of-federal-rental-assistance-for-older-adults/>.

¹⁷⁹ Benioff Homelessness and Housing Initiative, “Toward Dignity: Understanding Older Adult Homelessness” (May 2024), available at <https://homelessness.ucsf.edu/resources/reports/toward-dignity-understanding-older-adult-homelessness>.

¹⁸⁰ UCSF Department of Epidemiology a& Biostatistics, “Older Homeless People Are at Great Risk of Dying” (August 2022), available at <https://epibiostat.ucsf.edu/news/older-homeless-people-are-great-risk-dying>; Rebecca T. Brown, et al., “Factors Associated With Mortality Among Homeless Older Adults in California,” (August 2022), available at <https://jamanetwork.com/journals/jamainternalmedicine/fullarticle/2795475>.

¹⁸¹ Pew Research Center, “Financial Issues Top the List of Reasons U.S. Adults Live in Multigenerational Homes” (March 2022), available at <https://www.pewresearch.org/social-trends/2022/03/24/financial-issues-top-the-list-of-reasons-u-s-adults-live-in-multigenerational-homes/>.

¹⁸² ABA Commission on Law and Aging, “The Impact of Voter ID Laws on Older Adults” (October 2024), available at https://www.americanbar.org/groups/law_aging/publications/bifocal/vol46/vol46issue1/voteridlawsandolderadults/.

Seniors have higher rates of mobility and cognitive impairments, which make it more difficult for them to physically visit offices and navigate administrative procedures.¹⁸³ Technology is another common barrier for older adults, who tend to have less access to and familiarity with online systems.¹⁸⁴

XI. The Proposed Rule Will Deny Housing Opportunities to Members of Communities Protected by the Fair Housing Act.

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.¹⁸⁵

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, especially for Latino households as discussed earlier.¹⁸⁶ This clearly discriminatory policy is wholly inconsistent with HUD's obligation to combat housing discrimination and segregation. The following section details how the proposed rule will impact additional communities protected by the Fair Housing Act.

A. Black immigrants

The current administration's relentless targeting of Black immigrant communities also raises serious concerns about the implementation of the mixed status rule if it goes into effect. In both the immigration context and the housing context, the administration has enacted policies directed at Black immigrants. For example, in January 2026, the State Department suspended approval of immigrant visas for individuals from seventy-five countries, which effectively banned nearly 90% of African immigrant visa applicants.¹⁸⁷ Of the thirty-six countries on the travel ban or restrictions list, over three-quarters (29) are located in Africa.¹⁸⁸ During the presidential election, President Trump denigrated Haitians,¹⁸⁹ and leading up to the administration's immigration enforcement surge in Minneapolis, he referred to Somalis as

¹⁸³ Pamela Herd, "Improving Older Adults' Health by Reducing Administrative Burden" (April 2023), available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC10126975/>.

¹⁸⁴ Brookings, "Public Policy Can Improve Older Adults' Access to Technology" (June 2017), available at <https://www.brookings.edu/articles/public-policy-can-improve-older-adults-access-to-technology/>.

¹⁸⁵ 42 U.S.C.A. § 3608(e)(5).

¹⁸⁶ See Section V *supra* for a discussion of the impact of the proposed rule on Latino families.

¹⁸⁷ Ruth Maclean, *Sports Fans, Doctors, Musicians: Africans Lament U.S. Travel Ban*, N.Y. TIMES (Mar. 16, 2026), <https://www.nytimes.com/2026/03/16/world/africa/trump-africa-travel-visa-ban.html>.

¹⁸⁸ *Id.*

¹⁸⁹ Brief of *Amicus Curiae* Springfield Neighbors United in Opposition to Application to Stay at 11, *Trump v. Miot*, Docket No. 25A999 (Mar. 16, 2026), https://www.supremecourt.gov/DocketPDF/25/25A999/400909/2026031611112416_25A999%20Amicus%20Brief.pdf

“garbage” that have “destroyed our country.”¹⁹⁰ Given how this administration has so visibly targeted Black immigrants, there is a danger that it will also target these communities receiving HUD housing assistance whether they are in mixed status families or fully-eligible families with U.S. citizens and noncitizens with eligible immigration status.

If finalized, the proposed rule will burden Black immigrant communities. Among mixed status families receiving HUD rental assistance, approximately 8 percent identify as Black.¹⁹¹ If these families are displaced from the HUD housing programs, they are certain to face significant barriers on the private rental market. About four in ten Black immigrants earn less than \$40,000 per year, and one in four Black immigrants report that their household had problems paying for their rent or mortgage in the past 12 months compared to about one in 10 White immigrants (13%) and Asian immigrants (11%).¹⁹² At the neighborhood level, Black immigrant communities also experience higher eviction filing and eviction rates than their Asian and Hispanic counterparts. In cities with small immigrant populations, evictions are more common in Black immigrant neighborhoods compared to neighborhoods comprised of other immigrants or Black U.S.-born citizens.¹⁹³ The differences in eviction filing and eviction rates is due in part to the fact that a number of Black immigrants have settled in cities with small immigrant populations (predominantly in the Midwest and South) and live in states with eviction laws that favor landlords over tenants.¹⁹⁴

B. Asian and Pacific Islanders Immigrants

Income inequality within the Asian American Pacific Islander (AAPI) community obscures that rental housing is increasingly unaffordable to a significant number of AAPI households.¹⁹⁵ Forty-five percent of AAPI households are cost-burdened.¹⁹⁶ In addition, the majority of AAPI households nationally live in the least affordable metropolitan areas.¹⁹⁷ Over 680,000 AAPI households participate in the public housing, Section 8 voucher, or project-based rental assistance programs.¹⁹⁸

AAPI tenants, especially those have low incomes and are immigrants, face additional barriers that impact their ability to access affordable and maintain housing. First, these households are more likely to be multigenerational, i.e., have parents and children living with

¹⁹⁰ *Country’s Largest Somali Community Shocked by Trump’s Contempt*, ASSOCIATED PRESS (Dec. 3, 2025), <https://apnews.com/article/trump-immigration-minneapolis-somalia-de1187fd703abbc9dc4dc1c5c6a243c5>.

¹⁹¹ See GARTLAND & ACOSTA *supra* note 3, at 3.

¹⁹² NAMBI NDUGGA ET AL., FIVE KEY FACTS ABOUT BLACK IMMIGRANTS’ EXPERIENCES IN THE UNITED STATES (Apr. 11, 2024), <https://www.kff.org/racial-equity-and-health-policy/five-key-facts-about-black-immigrants-experiences-in-the-united-states/>.

¹⁹³ REBECCA TESFAI, THE HIDDEN HOUSING CRISIS OF EVICTION IN IMMIGRANT NEIGHBORHOODS 4 (Mar. 20, 2023), <https://scholarshare.temple.edu/server/api/core/bitstreams/e64aeb03-1bf0-40d5-8ef8-ed233e9a1a71/content>

¹⁹⁴ *Id.*

¹⁹⁵ ALGERNON AUSTIN, CTR. FOR ECON. & POL’Y RES., MANY ASIAN AMERICAN RENTERS ARE STRUGGLING TO PAY FOR HOUSING (2024), <https://cepr.net/publications/many-asian-american-renters-are-struggling-to-pay-for-housing/>

¹⁹⁶ See JOINT CTR. FOR HOUS. STUD. OF HARVARD U, *supra* note 75, at 32.

¹⁹⁷ RYAN FUKUMORI ET AL., THE UNEVEN GEOGRAPHY FOR OPPORTUNITY FOR ASIAN AMERICANS AND PACIFIC ISLANDERS IN METRO AMERICA (2023), <https://www.nationalequityatlas.org/research/analyses/neighborhood-affordability-for-AAPI-renters>.

¹⁹⁸ AAPI DATA, BY THE NUMBERS: ECONOMIC HARDSHIP, Tbls. 7 & 8 <https://aapidata.com/featured/by-the-numbers-economic-hardship/>

grandparents and other relatives in the same unit. Multigenerational living situations may require households to stretch low incomes even further and to resort to overcrowding.¹⁹⁹ Second, these households are more likely to have limited English proficiency, which would limit their ability to access affordable housing and consequently their housing options.²⁰⁰ Finally, AAPI older adults face even worse challenges because many “live on fixed incomes in increasingly unaffordable rental markets while also facing linguistic and cultural barriers to navigating the rental market.”²⁰¹

Access to the federal housing programs is necessary to help these households achieve housing stability. If the proposed rule were to go into effect, the harm from both the prohibition on mixed status families and the new verification requirements would have a significant impact on AAPI households throughout the programs.

C. People with Disabilities

HUD housing assistance plays a critical role in expanding access to integrated community living for people with disabilities. However, this proposed rule would threaten the housing of 5,400 people with disabilities of all ages (including citizens and non-citizens) in mixed-status HUD-assisted households. It would also impact over 2 million disabled citizens of all ages who would be subject to new verification requirements and could lose their housing due to red tape.²⁰²

People with disabilities already face numerous housing barriers. The major lack of accessible, affordable housing makes it difficult for people with disabilities to move from segregated facilities into the community, and puts many at risk of unnecessary institutionalization or homelessness. People with disabilities remain among the country’s lowest-income households and are twice as likely to live in poverty than non-disabled people.²⁰³ At the same time, people with disabilities all too often face discrimination when trying to secure or maintain housing. Each year, the majority of fair housing complaints involve discrimination based on disability.²⁰⁴

Termination of assistance under the proposed rule would leave people with disabilities at risk of becoming homeless, entering institutions, or living in unstable and unsafe living arrangements. Housing instability can lead to increased hospital visits and loss of employment. It can also increase the likelihood of mental health problems in children and exacerbate behavioral health conditions, such as substance use disorder, in adults.²⁰⁵ Safe and stable

¹⁹⁹ See Fukumori, *supra* note 197.

²⁰⁰ *Id.*

²⁰¹ *Id.*

²⁰² See GARTLAND & ACOSTA *supra* note 3, at 5.

²⁰³ Urban Inst., *Embedding Disability Equity into Efforts to Advance Upward Mobility*, URBANWIRE (Dec. 2024), <https://www.urban.org/urban-wire/embedding-disability-equity-efforts-advance-upward-mobility>.

²⁰⁴ Jennifer Kye, et al., FEDERAL HOUSING PROTECTIONS FOR PEOPLE WITH DISABILITIES (2025), https://nlihc.org/sites/default/files/AG-2025/6-88_Federal-Housing-Protections-for-People-with-Disabilities.pdf.

²⁰⁵ THE NETWORK FOR PUBLIC HEALTH LAW, THE PUBLIC HEALTH IMPLICATIONS OF HOUSING INSTABILITY, EVICTION, AND HOMELESSNESS (2025), <https://www.networkforphl.org/wp-content/uploads/2025/01/The-Public-Health-Implications-of-Housing-Instability-Eviction-and-Homelessness.pdf>.

housing is crucial for enabling people with disabilities to maintain their health, employment, and independence.

The new red tape from this proposed rule would also impose significant burdens on people with disabilities. 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 one national survey, 20% of adults who identified as having a disability did not have a current driver's license, compared to 6% of non-disabled adults.²⁰⁶

D. Survivors of Gender-Based Violence

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. NHP incorporates by reference the joint comment submitted by the Alliance of Immigrant Survivors and other organizations, including NHP, on April 21, 2026. This joint comment highlights the barriers that the proposed rule would create for survivors of domestic violence, sexual assault, human trafficking, and other crimes. It also explains how the proposed rule undermines pathways to safety and stability.

E. LGBTQ people

This proposed rule is likely to have a profound impact on the LGBTQ community, including thousands of bi-national same-sex couples. In the United States, there are approximately 1.3 million LGBTQ+ adult immigrants.²⁰⁷ As nearly one in ten LGBTQ adults are immigrants,²⁰⁸ it is likely that same-sex couples are bi-national at rates similar to the general population. An estimated 289,000 LGBTQ immigrants are undocumented,²⁰⁹ indicating that a significant number of LGBTQ bi-national couples could be impacted by this proposed rule.²¹⁰

While specific data on the use of public housing assistance by LGBTQ immigrants is lacking, their need for housing support is known. Approximately twelve percent of households receiving federal rental assistance nationally include at least one or more LGBTQ individuals.²¹¹ 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

²⁰⁶ CTR. FOR DEMOCRACY & CIVIC ENGAGEMENT, WHO LACKS ID IN AMERICA TODAY? AN EXPLORATION OF VOTER ID ACCESS, BARRIERS, AND KNOWLEDGE (Jan. 2024), <https://cdce.umd.edu/sites/cdce.umd.edu/files/pubs/Voter%20ID%202023%20survey%20Key%20Results%20Jan%202024%20%281%29.pdf>.

²⁰⁷ Kate Sosin, *Immigrating While Queer: America Has a Complex History of Exclusion*, THE 19TH (Nov.24, 2025), <https://19thnews.org/2025/11/history-immigration-lgbtq-people-exclusion/>.

²⁰⁸ GARY J. GATES, LGBT ADULT IMMIGRANTS IN THE UNITED STATES (March 2013), <http://williamsinstitute.law.ucla.edu/research/census-lgbt-demographics-studies/us-lgbt-immigrants-mar-2013/>

²⁰⁹ OLUCHI OMEGA, BLACK LGBTQUI MIGRANT PROJECT (Oct. 12., 2023), <https://www.pbs.org/wnet/chasing-the-dream/2023/10/oluchi-omega-black-lgbtqia-migrant-project/>

²¹⁰ *Id.*

²¹¹ Erik Gartland, *High Hardship Among Black and Latinx LBGTQ Renters*, OFF THE CHARTS: POLICY INSIGHTS BEYOND THE NUMBERS (Oct. 17, 2022) <https://www.cbpp.org/blog/high-hardship-among-black-and-latinx-lgbtq-renters-underscores-need-for-more-housing-vouchers>

especially acute for transgender people, LGBTQ people with disabilities, and LGBTQ people of color.²¹²

XII. The Proposed Rule Raises Additional Issues.

A. HUD's provisions about reporting by public housing authorities and owners lack statutory authority under PRWORA.

The Proposed Rule seeks to add misleading language to the Section 214 notice that PHAs and owners must give to tenants.²¹³ Specifically, the Proposed Rule says:

[T]he PHA or owner, as applicable, must inform DHS immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act. The PHA or owner may meet the reporting requirement by conforming with applicable *Federal Register* notices, including Interagency Notices, providing guidance for compliance with PRWORA section 404.²¹⁴

The proposed language misrepresents the reporting requirement imposed by PRWORA, *i.e.*, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, in two ways.

First, PRWORA's reporting requirement only applies to HUD and PHAs, not owners.²¹⁵ There is no statutory basis for HUD to include owners in this provision; therefore, HUD should remove "owners" from this provision.

Second, PRWORA does not require PHAs to inform DHS "immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act."²¹⁶ PRWORA's reporting requirement is narrower than HUD's proposed language suggests. In fact, HUD previously specified that "[a] Systematic Alien Verification for Entitlements (SAVE) response showing no Service record on an individual or an

²¹² CAITLIN ROONEY, CHARLIE WHITTINGTON, & LAURA E. DURSO, PROTECTING BASIC LIVING STANDARDS FOR LGBTQ PEOPLE (2018), <https://www.americanprogress.org/issues/lgbt/reports/2018/08/13/454592/protecting-basic-living-standards-lgbtq-people/>.

²¹³ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed.Reg. at 8156, 8166 (proposed 24 CFR § 5.508(e)(1)(ii)).

²¹⁴ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed.Reg. at 8156, 8166 (proposed 24 CFR § 5.508(e)(2)(vi)).

²¹⁵ 42 U.S.C. § 1437y.

²¹⁶ Section 404 of PRWORA requires HUD to provide information of any individual that the HUD Secretary "knows" is not lawfully present in the United States at least four times annually. 42 U.S.C. § 1437y. The HUD Secretary must also "ensure that each contract for assistance entered into under Section 1437d or 1437f of this title with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency *knows* is not lawfully present in the United States. *Id.* (emphasis added). Because PRWORA does not define "knows," multiple federal agencies, including HUD, issued a joint agency notice defining "knows" for purposes of this reporting requirement. Responsibility of Certain Entities to Notify the Immigration and Naturalization Service of Any Alien Who the Entity "Knows" Is Not Lawfully Present in the United States, 65 Fed. Reg. 58301, 58302 (Sept. 28, 2000). This notice provides that "an entity will 'know' that an alien is not lawfully present in the United States only when the unlawful presence is a finding of fact or conclusion of law that is made by the entity as part of a formal determination that is subject to administrative review on an alien's claim for any of the statutorily specified programs set out above," specifically HUD's public and assisted housing programs. *Id.* In addition, the "finding or conclusion of unlawful presence must be supported by a determination by [USCIS] or the Executive Office of Immigration Review, such as a Final Order of Deportation." *Id.*

immigration status making the individual ineligible for a benefit is **not** a finding of fact or conclusion of law that the individual is not lawfully present."²¹⁷

In addition to the absence of statutory authority, the proposed language should also be stricken because HUD is impermissibly trying to turn its housing providers into immigrant enforcement agents. Housing providers, especially front-line staff who interact the most with residents, lack any training whatsoever with immigration law and therefore are not equipped to make a reliable determination of violations of the Immigration and Nationality Act. Such a determination is nearly impossible given the administration's aggressive campaign to strip legal status from sweeping categories of immigrants in ways not before seen. In the first year of President Trump's second term in office, more than 1.6 million immigrants lost their legal status through no fault of their own.²¹⁸ In some cases, courts have returned status to individuals where the administration canceled status unlawfully. Housing staff cannot reasonably stay up to date on unprecedented changes in immigration law that even experienced immigration lawyers find difficult to navigate.

Moreover, to carry out this reporting requirement, housing providers will have to divert their limited time and resources away from their mission of providing affordable housing, which ultimately worsens the affordable housing crisis for everyone. In addition, even the mere appearance of a reporting requirement by PHAs and owners will erode the trust relationship between these housing providers and their residents. It appears that HUD's overall purpose of this proposed language is to break the trust between HUD housing providers and mixed status families, to deter families from exercising the limited rights they may have if the proposed rule is finalized, and to push them toward self-eviction.²¹⁹ HUD's concerted effort to chill families from exercising their legal rights works actively against its overall mission to provide affordable housing.

B. HUD must conduct a regulatory flexibility analysis.

The Regulatory Flexibility Act provides that "[w]henver an agency is required ... to publish general notice of proposed rulemaking for any proposed rule, ... the agency shall prepare and make available for public comment an initial regulatory flexibility analysis [describing] the impact of the proposed rule on small entities."²²⁰ Small entities include small nonprofits and governmental jurisdictions with populations of less than 50,000.²²¹ The requirement is waived "if the head of the agency certifies that the rule will not, if promulgated,

²¹⁷ *Id.*

²¹⁸ Ximena Bustillo & Sergio Martinez-Beltran, *Immigrants Now Have Fewer Options to Stay in the U.S. Under Trump*, NPR (Dec. 23, 2025), <https://www.npr.org/2025/12/23/g-s1-103001/trump-immigration-deportation-migration-legal-status>.

²¹⁹ For example, even if the Proposed Rule eliminates ongoing prorated assistance, approximately 130 mixed status families could qualify to receive prorated "continued assistance." Section 214 only makes "continued assistance" available to existing families who were receiving assistance on June 19, 1995. HUD acknowledges this right but at the same time suggests that the reporting provision will keep families from exercising this right: "HUD notes that while this limited set of mixed families may continue to receive prorated assistance under the existing preservation assistance provision, under other elements of this proposed rule family members who cannot provide documentation of any eligible status may be subject to reporting by PHAs, in compliance with PRWORA, and owners ..."

²²⁰ 5 U.S.C. § 603(a).

²²¹ 5 U.S.C. § 601(6).

have a significant economic impact on a substantial number of small entities.”²²² HUD has invoked this waiver provision.²²³

The proposed rule significantly impacts numerous small entities, including: (i) small public housing agencies that have or may have mixed status families or must carry out additional verification procedures for program participants; (ii) landlords who lease to mixed status families with Housing Choice Vouchers; (iii) homeless shelters and other programs and services that can be expected to serve the needs of displaced mixed families; (iv) nonprofit owners of housing that receive project-based Section 8 or other funding covered by Section 214. Indeed, the Housing Authority of the City of Los Angeles estimates that an increase of at least \$25 million in administrative costs to carry out the new requirements in its public housing and Housing Choice Voucher programs.²²⁴ Some small nonprofits could suffer significantly – they operate on small budgets, and the eviction costs alone could be financially infeasible.

The proposed rule also claims, “[t]he requirements of the proposed rule could be satisfied using existing procedures.” HUD, however, is expanding the use of SAVE by public housing authorities and owners to verify citizenship status for all U.S. citizens and to verify immigration status for residents over the age of 62. This will require small public housing authorities to, at minimum, change forms and instructions and train staff on the new procedures.

C. HUD must conduct a federalism impact statement pursuant to Executive Order 13132.

The proposed rule would impose direct compliance costs on public housing agencies, which are state and local governmental entities, by requiring them to screen and verify the eligibility of additional non-citizens in HUD-assisted housing, evict residents who become ineligible, and turn over units. Section 6 of Executive Order 13132²²⁵ provides that “no agency shall promulgate any regulation ... that imposes substantial direct compliance costs on State and local governments, and that is not required by statute” unless either the federal government provides funds for compliance or publishes a “federalism impact statement” that describes “the extent of the agency’s prior consultation with State and local officials, a summary of the nature of their concerns and the agency’s position supporting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met; and (C) makes available to the Director of the Office of Management and Budget any written communications submitted to the agency by State and local officials.”²²⁶

²²² 5 U.S.C. § 605(b).

²²³ See Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed. Reg. at 8162-63.

²²⁴ Housing Authority of the City of Los Angeles, Comment to Housing and Community Development Act of 1980: Verification of Eligible Status Proposed Rule (Apr. 16, 2026).

²²⁵ Federalism, Executive Order 13132, 64 Fed. Reg. 43255 (Aug. 4, 1999).

²²⁶ *Id.* at 43257-58.

HUD claims the proposed rule “does not impose substantial direct compliance costs on State and local governments”²²⁷ and, thus, Executive Order 13132 is not applicable. It is unknown what the actual direct costs to public housing agencies of complying with these requirements would be and whether those costs would be “substantial” within the meaning of the Executive Order. However, those eviction costs would likely be borne by public housing agencies in addition to their other costs, such as complying with the prohibition against mixed status families, implementing the new verification process for millions of residents, and training staff and educating the resident community about the changes. It is apparent that a federalism impact statement is required in connection with this proposed rule but none has been issued.

D. HUD must conduct an unfunded mandate analysis.

The Unfunded Mandates Reform Act requires an agency to perform a cost analysis before promulgating any rule that imposes a federal mandate which “may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year[.]”²²⁸ The UMRA defines “federal mandate” as to include “any provision in a statute or regulation that imposes an enforceable duty upon State, local, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.”²²⁹ This easily encompasses the proposed rule.²³⁰ HUD’s own cost-benefit analysis shows that compliance with the proposed rule may result in State, local, tribal, and private expenditures well over \$100,000,000. In addition to moving costs (estimated between \$12.8 and \$17.4 million), HUD notes the cost of homelessness will be between \$20,000 and \$50,000 per person per year. Considering that about 80,000 individuals will be displaced from housing by the rule, anticipated homelessness costs alone could easily exceed \$100,000,000 within any one year. Therefore, a cost analysis is required.

The cost benefit analysis HUD did prepare is insufficient under the UMRA. Among other things, the analysis does not contain a description of the extent of HUD’s prior consultation with elected representatives of affected State, local, and tribal governments, a summary of the comments and concerns raised by such state, local, or tribal officials, or a summary of the agency’s evaluation of those comments and concerns.²³¹

E. HUD must disclose any use of artificial intelligence in the development of the final mixed status rule.

If HUD publishes a final version of this rule, NHLP requests HUD disclose in the final published rule whether artificial intelligence was used to draft the rule. Specifically, HUD should disclose: 1) whether artificial intelligence was used to draft or write the proposed rule; 2) whether artificial intelligence was used to read, sort, categorize, or evaluate the public comments on the proposed rule; and 3) whether artificial intelligence was used to draft or write

²²⁷ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed. Reg. at 8163.

²²⁸ 2 U.S.C. § 1532(a).

²²⁹ 2 U.S.C. § 1555.

²³⁰ 2 U.S.C. § 1555.

²³¹ See 2 U.S.C. § 1532(a)(5).

the final published rule. If HUD did use artificial intelligence in any of these tasks, HUD should then also disclose: 1) what procedures it followed to comply with appropriate guidance on the use of artificial intelligence; 2) what AI models it used in these tasks; and 3) what data and input it provided to the AI models it used. These disclosures will serve to further transparency for the public in the rule making and commenting processes.²³²

XIII. Conclusion

For the aforementioned reasons, the National Housing Law Project strongly opposes the proposed rule as cruel, unlawful, and contrary to HUD's mission of providing affordable housing. We wholly reject the idea that some families are more deserving than others of having a safe place to live, and we condemn this proposal's scapegoating of low-income immigrant families as a contributing factor to the nation's affordable housing crisis. Not only is this patently untrue, but the proposed rule will actually exacerbate this issue. No family should have to choose between staying together and having a roof over their head.

We are all better off as a country if we ensure that all families can access programs that ensure their health and well-being. 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 and citizens 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.

Sincerely,

/s/ Marie Claire Tran-Leung
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National Housing Law Project
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ATTACHMENTS:

1. HUD, Regulatory Impact Analysis, Housing and Community Development Act of 1980: Verification of Eligibility Status (draft; Sept. 8, 2025).
2. Electronic Privacy Information Center, Comment on the U.S. Dep't of Homeland Security, Systems of Records Notice, Department of Homeland Security/U.S. Citizenship and Immigration Services (USCIS)-004 Systematic Alien Verification for Entitlement Programs (SAVE) (Dec. 1, 2025).

²³² 5 U.S.C. § 553; Exec. Order No. 13960, 85 Fed. Reg. 78939, Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government (Dec. 3, 2020); OMB Memorandum M-25-21, Accelerating Federal Use of AI through Innovation, Governance, and Public Trust (Apr. 3, 2025); HUD 2025 AI Compliance Plan (Sept. 2025).