

NEW YORK HOUSING CONFERENCE

July 8, 2019

Office of General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Submitted electronically via regulations.gov

Re: HUD Docket No. FR-6124-P-01, RIN 2501-AD89 Comments in Response to Proposed Rulemaking:
Housing and Community Development Act of 1980: Verification of Eligible Status

Dear Sir/Madam:

I am writing on behalf of New York Housing Conference (NYHC) in response to the Department of Housing and Urban Development's (HUD) proposed rule to express our strong opposition to the changes published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01). NYHC is a nonprofit affordable housing policy and advocacy organization. We represent a statewide coalition of affordable housing practitioners, advocates and experts in real estate, finance and community development.

As it is NYHC's mission is to advance local, state and federal policies to support the development and preservation of decent and affordable housing for *all* New Yorkers, we are deeply concerned that this proposed rule, if implemented, would cause deleterious and cruel family separations and increased housing instability and homelessness among vulnerable populations not just in New York but across the nation. We urge the rule to be withdrawn in its entirety, and that HUD's long-standing regulations remain in effect.

Although HUD claims that the proposed rule is a means of addressing the waitlist crisis faced by a majority of public housing authorities nationwide, HUD's own analysis of the proposed rule concludes that fewer, not more, families are likely to receive assistance as a result of the rule.^{1, 2} The real problem causing the waiting list backlog is America's affordable housing crisis. In no county across the country, can someone working minimum wage afford to rent a basic two bedroom home.³ In NY State, a person making minimum wage would have to work 95 hours a week to even afford a modest one-bedroom apartment.⁴ If HUD would like to truly solve its long waiting list crisis and ensure affordable housing for every family in need, NYHC recommends that HUD instead request a large increase in appropriated funding from Congress.

¹ Tracy Jan, *Trump Proposal Would Evict Undocumented Immigrants from Public Housing*, WASH. POST (Apr. 18, 2019), https://www.washingtonpost.com/business/2019/04/18/trump-proposal-would-evict-undocumented-immigrants-public-housing/?utm_term=.c6fd40565b83.

² HUD, Regulatory Impact Analysis, Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980, Docket No. FR-6124-P-01 (Apr. 15, 2019).

³ National Low Income Housing Coalition, Out of Reach 2019. https://reports.nlihc.org/sites/default/files/oor/OOR_2019.pdf

⁴ NLIHC. Out of Reach 2019: New York. <https://reports.nlihc.org/oor/new-york>

I. The Proposed Rule Will Hurt Over a Hundred Thousand Individuals in Mixed Status Families, of which Fifty-Five Thousand are Eligible Children

Nationwide, the proposed rule would directly target 108,000 individuals in mixed status families and jeopardize their family and housing stability, placing them at risk of homelessness. In New York, 11,400 members of mixed status families would be impacted. The rule would force mixed status families to make an impossible choice—either break up to allow eligible family members to continue receiving assistance or give up the subsidies so that the families can stay together.

Considering that 70% of HUD-assisted mixed status families are composed of eligible children and at least one ineligible parent, it is likely that these families will forgo the subsidies to avoid separation.⁵ This means the proposed rule would jeopardize not only the housing stability and well-being of the targeted ineligible immigrants, but also of HUD-assisted low-income U.S. citizens, and eligible residents. Thus, it would deprive as many as 55,000 eligible children in mixed status families of the ability to live in federally subsidized affordable housing due to a family's fearful evacuation of the subsidized unit or due to the fact that children lack the legal capacity to sign leases themselves. An adult head of household, including those who do not receive assistance must sign these contracts on behalf of the family's eligible minor children, so if these family members are removed, the legal minor children would lose their ability to live there as well.

These mass evictions, evacuations and separations will cause long-term harm to all the targeted families as numerous studies have shown that having safe and stable housing is the foundation for good health, economic opportunities, and overall a person's self-sufficiency, especially children.^{6, 7, 8, 9} HUD would be robbing these already vulnerable families of this vital stable footing and endangering their health.

II. The Proposed Rule Will Also Jeopardize the Housing Stability of Non-Mixed Status HUD-Assisted Families

While it is clear that the proposed rule is a direct attack on immigrants and citizens in mixed status households, these families are not the only group that will be harmed if the rule is finalized. Nine and a half million U.S. citizens, including over a million New Yorkers, could lose their housing assistance if they are unable to produce documents verifying their citizenship under the new rule. Currently, to establish eligibility for Section 214 housing assistance, U.S. citizens need to provide a declaration signed under penalty of perjury of their citizenship or nationality status. The proposed rule also places additional documentation burdens on 120,000 noncitizen seniors, of which over 21,000 are New Yorkers, by requiring noncitizens 62 years old or older to provide documentation of their immigration status. Providing this documentation proof can be extremely difficult for certain segments of the population, especially the elderly, and formerly homeless individuals.^{10, 11}

⁵ HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 6-8 (Apr. 15, 2019).

⁶ 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>.

⁷ Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, Center of Budget and Policy Priorities (October 7, 2015), <https://www.cbpp.org/research/research-shows-housing-vouchers-reduce-hardship-and-provide-platform-for-longterm-gains>

⁸ 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>

⁹ 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>

¹⁰ 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>.

¹¹ 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.

Those unable to produce the required documents within the required time period under the proposed HUD rule will lose their housing assistance, and many will be evicted from their homes. Adding more documentation requirements creates more barriers to housing for those who need it most, and could cause many people who have gained stability through rental assistance to return to homelessness. HUD has failed to take into account the additional costs and burdens associated with potential loss of housing for eligible households unable to provide the required documentation and must also complete an analysis of these costs before moving forward with this proposed rule.

III. The Proposed Rule Would Create an Unaccounted for and Unfunded Administrative Burden

In addition to harming families across the nation, the proposed rule will also negatively impact public housing authorities and subsidized private owners. If the proposed rule is implemented, public housing agencies and private property owners and managers would need to request and collect additional documentation from over nine and a half million assisted U.S. Citizen tenants and 120,000 elderly immigrants, in addition to future applicants. It also calls for public housing authorities to establish their own policies and criteria to determine whether a family should receive continued or temporary deferral of assistance. These onerous requirements will place a significant cost and staff time burden on housing authorities and other housing providers, which have not been accounted for by HUD. To fully understand the fiscal consequences of this rule, HUD also needs to complete an in-depth cost impact study on these issues.

By HUD's own assessment, adopting this proposed rule would negatively impact the welfare of HUD-assisted families and children, lead to a reduction in the amount of families HUD can assist, and increase homelessness across the country. In light of this, NYHC urges HUD to withdraw this dangerous, misguided, and unethical proposal in its entirety. Thank you for the opportunity to submit comments on the proposed rulemaking. For more information, please do not hesitate to contact me at Rachel.fee@thenyh.org or 646-923-8542 for further information.

Sincerely,

A handwritten signature in blue ink that reads "Rachel Fee". The signature is written in a cursive, flowing style.

Rachel Fee
Executive Director, New York Housing Conference