



April 21, 2026

SUBMITTED VIA REGULATIONS.GOV

Office of the General Counsel
Regulations Division
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: Housing and Community Development Act of 1980: Verification of Eligible Status, Docket No. FR-6524-P-01 (RIN 2501-AE16)

To Whom It May Concern:

We write to you on behalf of the American Civil Liberties Union (“ACLU”) to express our strong opposition to the above-docketed notice (“Proposed Rule”) concerning changes to the eligibility requirements and verification processes of individuals for certain public and assisted housing programs, which was published in the Federal Register on February 20, 2026. HUD’s existing eligibility requirements and processes (“Current Rule”), codified at 24 C.F.R. §§ 5.500–5.528, strike the appropriate balance to ensure fairness and keep families together in public and assisted housing program. We strongly oppose the Proposed Rule and urge HUD to withdraw the Proposed Rule in its entirety and to preserve its existing regulations.

For over 100 years, the ACLU has been our nation’s guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and the law of the United States guarantee to everyone in the country. With more than seven million members, activists, and supporters, the ACLU is a nationwide organization that fights tirelessly in all 50 states, Puerto Rico, and Washington, D.C., for the right of every individual to access opportunity free of discrimination on the basis of race, color, religion, gender, sexual orientation, gender identity or expression, disability, national origin, familial or marital status, status as a recipient of public assistance, or record of arrest or conviction. We have advocated at the local, state, and federal levels for increased enforcement of civil rights in the housing context; elimination of barriers to housing for historically marginalized and otherwise vulnerable communities; greater choice in housing options for those who receive public assistance and benefits; and development of housing programs that promote residential integration, including among those with a disability that necessitates reasonable accommodation.

For decades, the ACLU has been at the forefront of almost every major legal struggle on behalf of immigrants’ rights, focusing on challenging laws that deny immigrants access to the courts, impose indefinite and mandatory detention, and discriminate based on nationality. In addition, we have challenged constitutional abuses that arise from immigration enforcement at the federal, state, and local levels, including anti-immigrant “show me your papers” laws at the state level and unconstitutional enforcement tactics by the federal government and local

agencies. Our work is animated by the principle that the fundamental constitutional protections of due process and equal protection embodied in our Constitution and Bill of Rights apply to every person, regardless of immigration status. Our work underscores the crucial importance of keeping mixed-status families together and eliminating unnecessary barriers to housing.

The Proposed Rule would require each household member to be a U.S. citizen or have eligible immigration status for the household to receive HUD assistance,¹ while effectively eliminating the availability of prorated assistance except while final verification of citizenship or immigration status is pending.² Section 214 of the Housing and Community Development Act of 1980 (“Section 214”) limits access to certain federally subsidized housing programs to U.S. citizens and other statutorily eligible noncitizens.³ Currently, mixed-status families can live in HUD-assisted housing as long as at least one household member is eligible under Section 214.⁴ The remaining household members have the right not to contend eligibility, which means they do not receive assistance and are not required to share their immigration status with housing providers or HUD.⁵ Mixed-status families also receive prorated rental assistance that covers only eligible members.⁶ The Proposed Rule’s new requirements would force mixed-status families to choose between separating or losing their housing assistance with far-reaching harms.

The Proposed Rule also creates new burdensome verification requirements that threaten housing security for millions of U.S. citizens and eligible noncitizens receiving assistance. Currently, to establish eligibility for Section 214 housing programs, U.S. citizens only need to provide a declaration signed under penalty of perjury of their citizenship or nationality status.⁷ The Proposed Rule would overhaul the existing process by requiring public housing authorities and owners to verify citizenship status through the Systematic Alien Verification for Entitlement (“SAVE”) system or require individuals to submit documentary proof of their citizenship status for manual review. The Proposed Rule’s new documentation requirements jeopardize access to housing assistance for all recipients, regardless of citizenship or immigration status, and disproportionately harm marginalized and otherwise vulnerable communities.

The Proposed Rule represents a coordinated attack on immigrant families, in contravention of federal statutes, congressional intent, and HUD’s prior rulemaking, while decreasing access to HUD-supported housing.⁸ The Proposed Rule would force mixed-status

¹ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed. Reg. 8151, 8154, 8165 (proposed Feb. 20, 2026) (to be codified at 24 C.F.R. § 5.506(b)(1)) [hereinafter, “Proposed Rule”].

² *Id.* at 8165 (to be codified at 24 C.F.R. § 5.506(b)(3)); *Id.* at 8161, 8170 (to be codified at 24 C.F.R. § 5.520(a)).

³ 42 U.S.C. § 1436a(a)(1)–(6).

⁴ *Id.* at § 1436a(b)(2); 24 C.F.R. § 5.508(e).

⁵ 42 U.S.C. § 1436a(b)(2); 24 C.F.R. § 5.508(a) (“If one or more family members do not have citizenship or eligible immigration status, the family members may exercise the election not to contend to have eligible immigration status”).

⁶ 42 U.S.C. § 1436a(b)(2); 24 C.F.R. § 5.520(a) (“An eligible mixed family who requests prorated assistance must be provided prorated assistance.”).

⁷ *Id.* § 5.508(b)(1). Public housing authorities have the discretion to request documents proving citizenship, but this policy must be formally included in the PHA Plan. *Id.*

⁸ We incorporate by reference the materials cited and arguments made in the ACLU’s comment submitted in response to HUD’s prior rulemakings related to the eligibility of mixed-status families for federal housing assistance. *See, e.g., Comment in Response to Proposed Rulemaking*, AMERICAN CIVIL LIBERTIES UNION (July 9,

families (families comprising U.S. citizens or immigrants with eligible immigration status as well as one or more family members who lack eligible immigration status) to make an impossible choice: keep their families together (and therefore face eviction), or separate so that those with eligible status can keep much-needed subsidized housing. The Proposed Rule also imposes new and burdensome requirements to prove citizenship or eligible immigration status, which will be difficult or nearly impossible to comply with for many citizens and Legal Permanent Residents (“LPRs”). The mass evictions and onerous documentation requirements required by the Proposed Rule will jeopardize housing for all recipients, while disproportionately harming Latine and Black families, survivors of domestic violence, elders, and people with disabilities. Given the national shortage of affordable housing options, many families displaced by this Proposed Rule will face severe housing precarity or homelessness. HUD’s own analysis confirms that the Proposed Rule will hurt mixed-status families by forcing them to move, and that its implementation will cost so much that fewer families overall will receive housing assistance as a result.⁹

More broadly, given the devastating DHS and ICE expansions, deployments, and deportation campaigns across the country in recent months, the Proposed Rule only stokes the fire of unfair and dangerous enforcement practices targeting immigrant communities. Deaths in immigration detention doubled in 2025, with 32 people dying, and at least 14 additional deaths so far in 2026.¹⁰ Families have been ripped apart, and immigrant and citizens alike have been subjected to ICE’s aggressive enforcement tactics, which have resulted in the deaths of at least two U.S. citizens.¹¹ Mass numbers of new ICE agents are receiving ineffective training, according to one whistleblower,¹² while also partnering with state and local law enforcement to create a national deportation policing force.¹³ The administration has been ignoring or actively circumventing court orders in immigration cases in particular, and has acted in bad faith or

2019), <https://www.aclu.org/press-releases/aclu-opposes-department-housing-and-urban-development-proposed-rule-mixed-status> [<https://perma.cc/HD89-P6W8>].

⁹ U.S. DEP’T OF HOUS. AND URB. DEV., REGULATORY IMPACT ANALYSIS, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1980: VERIFICATION OF ELIGIBILITY 5 (Sep. 30, 2025), <https://www.regulations.gov/document/HUD-2026-0199-0006> [<https://perma.cc/J452-MS7T>] [hereinafter, “Regulatory Impact Analysis”].

¹⁰ Maanvi Singh, Coral Murphy Marcos & Charlotte Simmonds, *2025 was ICE’s deadliest year in two decades. Here are the 32 people who died in custody*, THE GUARDIAN (Jan. 4, 2026), <https://www.theguardian.com/us-news/ng-interactive/2026/jan/04/ice-2025-deaths-timeline> [<https://perma.cc/6B5F-EFS8>]; Laura Strickler, Colleen Long & Daniella Silva, *14 ICE detainees have died so far in 2026*, NBC NEWS (Mar. 30, 2026), <https://www.nbcnews.com/politics/immigration/14-ice-detainees-died-far-2026-rcna265843> [<https://perma.cc/N4VB-TBMH?type=image>].

¹¹ Joshua Barajas, *A Second U.S. Citizen was Killed by Federal Forces in Minneapolis. Here’s What We know*, PBS NEWS (Jan. 26, 2026), <https://www.pbs.org/newshour/nation/a-second-u-s-citizen-was-killed-by-federal-forces-in-minneapolis-heres-what-we-know>.

¹² Nicholas Nehamas & Hamed Aleaziz, *Training for New ICE Agents is ‘Deficient’ and ‘Broken,’ Whistle-Blower Says*, N.Y. TIMES (Feb. 23, 2026) <https://www.nytimes.com/2026/02/23/us/politics/ice-training-whistle-blower.html> [<https://perma.cc/M5YX-AT86>].

¹³ *Deputized for Disaster: How President Trump’s 287(g) Deportation Force is a Powder Keg for our Communities*, AMERICAN CIVIL LIBERTIES UNION (Feb. 26, 2026), <https://www.aclu.org/publications/deputized-for-disaster> [<https://perma.cc/RQJ7-WGA3>].

misrepresented or misconstrued the law across cases.¹⁴ In this context, the cruelty of the Proposed Rule is unmistakable.

Blaming struggling immigrant families for the country’s ongoing nationwide housing affordability crisis is unfair and will only exacerbate the housing crisis by increasing housing instability and reducing the amount and availability of federally assisted housing. HUD should instead focus on securing funding to ensure that every family has access to one of the most basic of human rights—a safe, affordable place to call home.

I. The Proposed Rule Will Jeopardize Housing For U.S. Citizens And Other Eligible Immigrants Who Are Statutorily Eligible For Federal Housing Assistance.

If allowed to go into effect, the Proposed Rule will inflict significant and far-reaching harms, including against U.S. citizens and other statutorily eligible immigrants who live as part of a mixed-status household.¹⁵ Nearly 80,000 people are estimated to lose assistance due to the Proposed Rule, with children among the hardest hit.¹⁶ HUD’s own Regulatory Impact Analysis estimates that the Proposed Rule will jeopardize housing for about 36,000 children—many of whom are U.S. citizens, LPRs, and otherwise eligible for assistance under Section 214 of the Housing and Community Development Act of 1980 (“Section 214”).¹⁷ Indeed, HUD estimates that nearly three out of four mixed-status families include eligible children.¹⁸ Since these children lack the legal capacity to sign leases themselves, the adult heads of household, including those who do not receive assistance, must sign these contracts on behalf of their family. By eliminating the ability of mixed-status families to receive prorated assistance and to continue living in HUD-assisted housing, the Proposed Rule robs these eligible children of housing assistance for which they qualify solely because their parents or other caregivers lack eligible status—unlawfully discriminating against them based on their parentage.

The Proposed Rule also creates new burdensome verification requirements that threaten housing security for millions of U.S. citizens and eligible noncitizens receiving assistance. Currently, to establish eligibility for Section 214 housing programs, U.S. citizens only need to provide a declaration signed under penalty of perjury of their citizenship or nationality status.¹⁹

¹⁴ David J. Bier, *The Administration Misleads & Ignores Courts Most Often in Immigration Cases*, CATO INST. (Jan. 27, 2026), <https://www.cato.org/blog/admin-misleads-ignores-courts-most-often-immigration-cases> [<https://perma.cc/88AD-V2EF?type=image>]; see also *Fed. Educ. Ass’n v. Trump*, 795 F. Supp. 3d 74, 88–92 (D.D.C. 2025), *stay pending appeal denied*, No. 25-5303, 2025 WL 2738626 (D.C. Cir. Sep. 25, 2025) (citing multiple cases in which courts found the administration had acted in bad faith and in disregard for the rule of law, misrepresented the facts or the law in legal proceedings, and made unconstitutional arguments).

¹⁵ Erik Gartland & Sonya Acosta, *Administration Plan Targeting Immigrants Would Take Away Rental Assistance, Create New Barriers*, CTR. ON BUDGET AND POL’Y PRIORITIES (Dec. 12, 2025), <https://www.cbpp.org/research/housing/administration-plan-targeting-immigrants-would-take-away-rental-assistance-create>.

¹⁶ *Id.*

¹⁷ *Id.*; see also Regulatory Impact Analysis, *supra* note 9, at 46 n.71.

¹⁸ Regulatory Impact Analysis, *supra* note 9, at 46.

¹⁹ 24 C.F.R. § 5.508(b)(1). Public housing authorities have the discretion to request documents proving citizenship, but this policy must be formally included in the PHA Plan. *Id.*

The Proposed Rule would overhaul the existing process by requiring public housing authorities and owners to verify citizenship status through the Systematic Alien Verification for Entitlement (“SAVE”) system or require individuals to submit documentary proof of their citizenship status for manual review. As discussed in greater detail below, this new documentation requirement will be especially difficult for historically marginalized and otherwise vulnerable communities, including people of color,²⁰ people with disabilities,²¹ people who are elderly,²² people living in rural areas,²³ women,²⁴ and people with low incomes or who have experienced homelessness.²⁵ Indeed, tens of millions of U.S. citizens do not have proof of citizenship readily available for myriad reasons, including because such documents are in the possession of another family member or were lost, destroyed, or stolen.²⁶ The Proposed Rule’s new documentation requirements jeopardize access to housing assistance for all recipients, regardless of citizenship or immigration status.

Moreover, the Proposed Rule will likely reduce the total number of families who receive federal housing assistance overall. Based on HUD’s own Regulatory Impact Analysis, the Proposed Rule will result in the denial of housing assistance to over 55,000 U.S. citizens and otherwise eligible immigrants in mixed-status families.²⁷ HUD acknowledges that the Proposed Rule’s “immediate effect would be a reduction in the number of households and eligible persons assisted,” and that “[i]n some programs, it will be easier to respond by reducing the number of households assisted”²⁸ The Proposed Rule thus runs afoul of HUD’s stated mission to “create strong, sustainable, inclusive communities and quality affordable homes for all residents.”²⁹ As a result of these changes, the Proposed Rule will undermine the ability of families to access safe and stable housing and inflict devastating and far-reaching consequences,

²⁰ See Jillian Andres Rothschild, Samuel B. Novey & Michael J. Hanmer, *Who lacks ID in America Today? An Exploration of Voter ID Access, Barriers, and Knowledge*, CTR. FOR DEMOCRACY AND CIVIC ENGAGEMENT (June 2024), <https://cdce.umd.edu/sites/cdce.umd.edu/files/pubs/Voter%20ID%20survey%20Key%20Results%20June%202024.pdf> [https://perma.cc/BN6Y-3LS5?type=image]; *The ID Divide: How Barriers to ID Impact Different Communities and Affect Us All*, MOVEMENT ADVANCEMENT PROJECT, 4 (Nov. 2022), <https://www.mapresearch.org/file/MAP-Identity-Documents-report-2022.pdf> [https://perma.cc/WHK4-WR29].

²¹ *Identity Documents & People with Disabilities*, MOVEMENT ADVANCEMENT PROJECT (Apr. 2025), <https://www.mapresearch.org/file/ID-info-disability.pdf> [https://perma.cc/MV42-A54F].

²² MOVEMENT ADVANCEMENT PROJECT, *supra* note 20, at 4; see also Ina Jaffe, *For Older Voters, Getting The Right ID Can Be Especially Tough*, NPR (Sep. 7, 2018), <https://www.npr.org/2018/09/07/644648955/for-older-voters-getting-the-right-id-can-be-especially-tough> [https://perma.cc/KBG6-G2KD].

²³ MOVEMENT ADVANCEMENT PROJECT, *supra* note 20, at 4.

²⁴ *Id.* at 3–4.

²⁵ U.S. GOV’T ACCOUNTABILITY OFF., GAO-24-105435, HOMELESSNESS: BARRIERS TO OBTAINING ID AND ASSISTANCE PROVIDED TO HELP GAIN ACCESS (Feb. 2024), <https://www.gao.gov/assets/d24105435.pdf> [https://perma.cc/9M6R-W4VZ?type=image].

²⁶ Kevin Morris & Cora Henry, *Millions of Americans Don’t Have Documents Proving Their Citizenship Readily Available*, BRENNAN CTR. FOR JUST. (June 11, 2024), <https://www.brennancenter.org/our-work/analysis-opinion/millions-americans-dont-have-documents-proving-their-citizenship-readily#:~:text=Last%20year%2C%20the%20Brennan%20Center,lost%2C%20destroyed%2C%20or%20stolen> [https://perma.cc/XNP3-SNW9].

²⁷ Regulatory Impact Analysis, *supra* note 9, at 17.

²⁸ *Id.*

²⁹ U.S. DEP’T OF HOUS. & URB. DEV., MULTIFAMILY RESIDENTS, <https://www.hud.gov/hud-partners/multifamily-residents> [https://perma.cc/9L7L-6HZV] (last visited Apr. 20, 2026).

including negative impacts on the healthy development and school readiness of children, the ability of individuals to work, seek an education, and meet the basic needs of themselves and their families, and the well-being and stability of local and national economies.³⁰

II. The Proposed Rule Will Chill Immigrant And Citizen Communities From Accessing Housing Benefits.

In addition to denying housing to many eligible individuals and reducing the overall stock of available HUD-assisted housing, the Proposed Rule’s removal of eligibility for mixed-status families will chill both immigrant and citizen communities from accessing housing benefits. The Proposed Rule seems intended to send the message that immigrants, regardless of status, are not welcomed.

This message is consistent with the current administration’s harsh and cruel policies to attack and punish immigrant families and individuals in the United States. The Proposed Rule will also have a significant chilling effect on otherwise eligible individuals’ willingness to access important housing benefits. Indeed, in its own analysis, HUD recognized that the number of mixed families in HUD-assisted housing has been declining over the years, despite eligibility and increased immigration to the U.S., and posits that eligible families are choosing to leave HUD-assisted housing on their own due to “other immigration enforcement actions being taken by the current administration,” including a March 2025 Memorandum of Understanding between HUD and the Department of Homeland Security which grants DHS access to HUD tenant data to enforce immigration law.³¹

As described *supra*, many eligible family members will voluntarily leave HUD-assisted housing rather than separate or stay and risk sharing information with the federal government that risks the safety and immigration status of loved ones. And it is easy to understand why. One factor contributing to this chill is the fact that the Proposed Rule provides families only 90 days³² from the effective date of the rule to submit their evidence of eligibility, a particularly harsh timeline considering that other residents can wait until their next annual recertification.³³

HUD notes that the Proposed Rule will require notification to individuals that “PHAs and owners must inform USCIS offices immediately” if they determine, in the course of the immigration status certification process, that any member of a household is in violation of the Immigration and Nationality Act.³⁴ HUD explains that they “expect that this could deter mixed families from receiving or applying for housing assistance to avoid ineligible family members

³⁰ See Will Fischer, Douglas Rice & Alicia Mazzara, *Research Shows Rental Assistance Reduces Hardship and Provides Platform to Expand Opportunity for Low-Income Families*, CTR ON BUDGET AND POL’Y PRIORITIES (Dec. 5, 2019), <https://www.cbpp.org/research/housing/research-shows-rental-assistance-reduces-hardship-and-provides-platform-to-expand>.

³¹ Regulatory Impact Analysis, *supra* note 9, at 10–11.

³² Individuals may request an extension of a maximum of 30 days. Proposed Rule, *supra* note 1, at 8166–67.

³³ *Id.* at 8156–57, 8166.

³⁴ Regulatory Impact Analysis, *supra* note 9, at 44–45.

being reported to their local immigration office.”³⁵ HUD thus appears to be comfortable with this concern, but we raise it nonetheless because of the devastating impact on families.

In the analogous context of immigration enforcement raids, interviews with parents and teachers show that communities are left in chaos when families are fragmented, leading to economic hardship. Quite often, the most greatly affected are children who are left “afraid, confused, and in informal caregiving arrangements because arrested parents often had little access to telephones or signed voluntary departure papers without contacting family or legal counsel.”³⁶ These situations cause many families to become “afraid to seek assistance from public agencies out of fear that additional exposure would increase the risk of deportation.”³⁷ By treating communities in this manner the “government provides a strong, not so subtle message that immigrants are not welcomed to participate in society like others in their community . . . punishments are visibly and directly traceable to government action . . . (and) there is a real incentive to avoid public institutions that could potentially share information with ICE.”³⁸

The Proposed Rule, and HUD’s *ultra vires* immigration enforcement agenda, fail to grasp the vital contributions immigrants make to their communities and how critical they are to the daily life of all people in this nation. The Proposed Rule is about scaring communities, scapegoating immigrants, discouraging people from accessing government subsidies they are entitled to, and encouraging self-deportation.

III. The Proposed Rule Will Disproportionately Harm Latine And Black People.

The Proposed Rule will disproportionately harm various historically marginalized and otherwise vulnerable populations, which HUD neither acknowledges nor justifies. Around 86 percent of mixed-status families are Latine, so the Latine community will bear the brunt of this Proposed Rule.³⁹ Black families make up the next highest percentage of mixed-status families, accounting for almost 8 percent of mixed-status families, compared to white families, which only make up 3 percent of mixed-status families.⁴⁰ These stark racial disparities cannot be ignored, particularly in this climate, where the administration has explicitly and unjustifiably targeted Hispanic, Haitian, and Somali communities.

For example, U.S. Immigration and Customs Enforcement (ICE) data reveals that, during the first six months of President Trump’s current administration, 9 in every 10 ICE arrests were of Latinos.⁴¹ And these ICE arrests occurred disproportionately in states with larger Latino

³⁵ *Id.* at 45.

³⁶ Raymond Zuniga, Paper Presentation at the Annual Conference of the Association for Education Finance and Policy in Portland, OR: The Chilling Effect of ICE: An Examination of Student Achievement Following a Large Worksite Raid (March 14–17, 2018).

³⁷ *Id.*

³⁸ *Id.*

³⁹ Gartland & Acosta, *supra* note 15, at 3.

⁴⁰ *Id.*

⁴¹ Jonathan Ong et al., *Latino ICE Arrests Surge Under Trump*, UCLA CTR. FOR NEIGHBORHOOD KNOWLEDGE, 3 (Oct. 2025), https://knowledge.luskin.ucla.edu/wp-content/uploads/2025/10/Unseen_Latino-Ice-Arrests-Surge-Under-Trump_20251027.pdf [<https://perma.cc/ZKW2-JYVS>].

noncitizen populations, rather than in states with higher crime levels, suggesting that racial and ethnic bias play more of a role than public safety.⁴² As for Somalis, the administration has taken steps to strip naturalized citizens of their citizenship, has called them “garbage,” and has moved to remove Somalis from Temporary Protected Status as refugees.⁴³ This administration is also attempting to remove Haitians from Temporary Protected Status, following President Trump’s disparaging remarks in 2024 claiming that Haitians ate their neighbors’ pets.⁴⁴ HUD’s efforts to remove access to housing for these communities only exacerbates the attacks on these communities.

Further, these harms are often compounded by the fact that many non-white mixed-status families also face additional housing barriers because of race discrimination and language access issues, which have worsened because of the Trump administration’s efforts to remove translated documents.⁴⁵ The culmination of these efforts will be the mass exclusion of immigrants and communities of color from necessary housing.

IV. The Proposed Rule Will Disproportionately Harm Elderly and Disabled People.

a. Harm to Aging Populations.

Older adults are significantly overrepresented in programs covered by Section 214. As housing costs rise and fixed incomes fail to keep pace with market rents, federal rental assistance programs increasingly serve aging renters.⁴⁶ National assisted housing data indicate that approximately 21 percent of individuals in federally assisted housing—about 2.86 million

⁴² *Id.*

⁴³ Jazmine Ulloa & Campbell Robertson, *Somalis Fled Civil War and Built a Community. Now They Are a Target*, N.Y. TIMES (Jan. 11, 2026), <https://www.nytimes.com/2026/01/11/us/somalis-fled-civil-war-and-built-a-community-now-they-are-a-target.html> [<https://perma.cc/8ZPT-MBGB>].

⁴⁴ Luis Andres Henao & Hannah Schoenbaum, *Judge blocks Trump administration from ending Temporary Protected Status for Haitians*, PBS NEWS (Feb. 3, 2026) <https://www.pbs.org/newshour/politics/judge-blocks-trump-administration-from-ending-temporary-protected-status-for-haitians> [<https://perma.cc/M234-R9HW>].

⁴⁵ *See, e.g.*, Exec. Order No. 14224, Designating English as the Official Language of the United States, 90 Fed. Reg. 11363 (Mar. 6, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-03-06/pdf/2025-03694.pdf> [<https://perma.cc/6J22-WQ27>]; OFF. OF THE ATT’Y GEN., U.S. DEP’T OF JUST., IMPLEMENTATION OF EXECUTIVE ORDER NO. 14,224: DESIGNATING ENGLISH AS THE OFFICIAL LANGUAGE OF THE UNITED STATES OF AMERICA (July 14, 2025), <https://www.justice.gov/ag/media/1407776/dl> [<https://perma.cc/US3C-HB2M>] (announcing suspension and rescission of prior limited English proficiency guidance and internal review to phase out “unnecessary multilingual offerings”).

⁴⁶ Olivia Fiol, Matthew Gerken & Susan J. Popkin, *The Future of Public Housing: Special Issues Facing Older Adults and People with Disabilities*, URB. INST. (July 2022), https://www.urban.org/sites/default/files/2022-07/The%20Future%20of%20Public%20Housing_Special%20Issues%20Facing%20Older%20Adults%20and%20People%20with%20Disabilities%20in%20Public%20Housing.pdf [<https://perma.cc/9YSN-6ALE>].

individuals—are age 62 or older.⁴⁷ And over 50 percent of public housing households are headed by seniors and/or disabled residents.⁴⁸

The elimination of longstanding regulatory exemptions for certain elderly residents under the Proposed Rule is likely to cause many to lose their homes. Many seniors entered assisted housing decades ago under different verification standards. Many will not have quick access to verifying documents, such as birth certificates or passports. And, because residents of HUD-assisted housing are, by definition, extremely low income,⁴⁹ few seniors will have the resources to obtain replacement records quickly.

The following are a few of the obstacles seniors are likely to face in getting verifying documents, such as replacement birth certificates or passports:

1. Travel challenges — Older adults are more likely to face both mobility limitations and financial challenges in trying to travel to government offices to replace lost records. For those who rely on public transit, they may need to wait for a day when both the weather and their strength is good enough to brave public transportation. But, for the many who live in locations without accessible public transportation, travel to government offices will require saving enough money to pay for taxi or rideshare fares or finding and paying neighbors or relatives to provide a ride.
2. Mental and physical challenges — Older adults are more likely to have chronic illnesses and cognitive disabilities that make it difficult for them not only to understand new administrative requirements, but also to gather the paperwork needed to comply with them.
3. Financial challenges — In addition to travel costs, seniors on fixed incomes who live in public housing are unlikely to have the extra \$20 to \$30 to pay for a replacement birth certificate, or an extra \$165 to replace a passport—much less the extra processing fees to get a record quickly.

⁴⁷ *2020 Housing Impact Report: Seniors*, PUB. AND AFFORDABLE HOUS. RSCH. CORP. (Apr. 2020), https://www.pahrc.org/wp-content/uploads/2020/04/Spring2020HIR_Seniors-1.pdf [<https://perma.cc/6G79-XWV7>] (references HUD-Assisted Housing data).

⁴⁸ *Public Housing Facts*, COUNCIL OF LARGE PUB. HOUS. AUTHORITIES, <https://clpha.org/public-housing/facts> [<https://perma.cc/FPT2-FXQZ>] (last visited Apr. 20, 2026).

⁴⁹ Patti Prunhuber & Vivian Kwok, *Low-Income Older Adults Face Unaffordable Rents, Driving Housing Instability and Homelessness*, JUST. IN AGING (Feb. 2021), <https://justiceinaging.org/wp-content/uploads/2021/02/Older-Adults-Rental-Housing-Burdens.pdf> [<https://perma.cc/6QN3-ZJRQ>].

Finally, some seniors, born in rural communities, or naturalized from developing countries, may have never been issued a birth certificate in the first place.⁵⁰

b. The Rule Will Affect Millions Of People With Disabilities In HUD Housing.

HUD-assisted housing serves an exceptionally high proportion of people with disabilities. Across major assisted housing programs, elderly or disabled households comprise roughly half of Housing Choice Voucher recipients.⁵¹ Public housing demographics similarly indicate that more than half of households are headed by a person who is a senior, disabled, or both.⁵² In short, millions of people with disabilities live in housing that is affected by Section 214 verification requirements.

i. The Proposed Rule Will Create Verification Barriers For People With Disabilities.

People with disabilities face virtually all of the same obstacles to obtaining verification papers as seniors, discussed above. Disabled people face similar challenges with travel, with understanding new requirements, and with paying for the cost of replacement documents.

In addition, people with disabilities may also depend on others to manage administrative tasks and provide communications for them. For example, people who are blind or low vision in HUD housing are likely to depend on caretakers to alert them to the new verification requirements; and people who are deaf or have communication disabilities may depend on others to manage communications with HUD and other government agencies. The short timelines under the new Section 214 verification requirements will frustrate and complicate their lives, leading many people with disabilities who are fully eligible for HUD housing to be evicted.

ii. If Evicted, People With Disabilities Face Unique Barriers To Obtaining New Housing.

Once evicted, people with disabilities are unlikely to find alternate housing. The Technical Assistance Collaborative, a policy group focused on affordable and permanent supportive housing for very low-income people with disabilities, and the Consortium for Citizens with Disabilities Housing Task Force published a 2017 report entitled “Priced Out: The Housing Crisis for People with Disabilities.” The report concluded that in 2016, millions of adults with disabilities living solely on Supplemental Security Income (SSI) found that renting even a

⁵⁰ Ina Jafe, *For Older Voters, Getting the Right ID Can Be Especially Tough*, NPR (Sep. 7, 2018), <https://www.npr.org/2018/09/07/644648955/for-older-votersgetting-the-right-id-can-be-especially-tough> [<https://perma.cc/WP8Y-FN85>].

⁵¹ Christi Economy & Ryan Finnigan, *Who is Served by the Housing Choice Voucher Program? A State- and County-Level Look*, UC BERKELEY TERNER CTR. FOR HOUS. INNOVATION (July 17, 2025), <https://turnercenter.berkeley.edu/research-and-policy/who-is-served-by-the-housing-choice-voucher-program-a-state-and-county-level-look/> [<https://perma.cc/3GX6-UAN5>].

⁵² *CLPHA's 2024 Policy Priorities: Charting a Ten-Year Roadmap for Public Housing Sustainability*, COUNCIL OF LARGE PUB. HOUS. AUTHORITIES, 1 (2024), <https://clpha.org/sites/default/files/CLPHA-leg%20report%202024-v2%20%281%29.pdf> [<https://perma.cc/2JGP-3FT5>].

modest unit in their community would require nearly all of their monthly income. In hundreds of higher-cost housing markets, the average rent for such basic units is actually much greater than the entirety of an SSI monthly payment.⁵³

Further, many housing providers discriminate against people who rely on disability benefits and use rental subsidies.⁵⁴ And many covered entities attempt to bar supportive housing for people with disabilities, including through criminal activity or “chronic” nuisance ordinances and exclusionary zoning policies.⁵⁵

And finally, people with many types of disabilities, including people with mobility impairments, people who are blind, and people who are deaf or hard of hearing, face additional barriers securing affordable housing that is also accessible.⁵⁶

iii. Institutional Settings For Evicted People With Disabilities Will Cost Government Entities More Than HUD Housing.

Because people with disabilities who are evicted from HUD housing cannot afford even the most modest private market rents, many will end up homeless. Local governments will then have increased costs from shelter placements and emergency department visits.⁵⁷ But, people

⁵³ Gina Schaak et al., *Priced Out in the United States*, TECH. ASSISTANCE COLLABORATIVE (Dec. 2017), <https://www.tacinc.org/wp-content/uploads/2020/04/priced-out-in-2016.pdf>.

⁵⁴ Antonia K. Fasanelli & Philip Tegeler, *Your Money's No Good Here: Combating Source of Income Discrimination in Housing*, AM. BAR ASS'N HUM. RTS. MAG. (Nov. 30, 2019), <https://www.americanbar.org/groups/crsj/resources/human-rights/archive/combating-source-income-discrimination-housing/> [https://perma.cc/PXN7-6UPX].

⁵⁵ Alisha Jarwala & Sejal Singh, *When Disability Is a “Nuisance”: How Chronic Nuisance Ordinances Push Residents with Disabilities Out of Their Homes*, 54 HARV. C.R.-C.L. L. REV. 875, 883–88 (2019), <https://journals.law.harvard.edu/crcl/wp-content/uploads/sites/80/2019/07/54.2-Jarwala-Singh.pdf>; Joseph Mead et al., *Who is a Nuisance? Criminal Activity Nuisance Ordinances in Ohio*, URB. PUBL'NS (Nov. 8, 2017), https://www.occd.org/upload/spring_2021/who_is_a_nuisance__criminal_activity_nuisance_ordinances_in_ohio.pdf [https://perma.cc/AEK4-VL67].

⁵⁶ Susan J. Popkin et al., *People with Disabilities Living in the US Face Urgent Barriers to Housing*, URB. INST. (Oct. 21, 2022), <https://www.urban.org/research/publication/people-disabilities-living-us-face-urgent-barriers-housing> [https://perma.cc/TS9Q-NP9G]; see also Keisha Greaves, *Housing: The Overlooked Crisis for Disabled People*, NORTHEAST ARC (Apr. 25, 2025), <https://ne-arc.org/2025/04/25/housing-the-overlooked-crisis-for-disabled-people/> [https://perma.cc/ZF2N-XUUN].

⁵⁷ See, e.g., Hannah Chimowitz & Adam Ruege, *The Costs and Harms of Homelessness*, CMTY SOLUTIONS (Sep. 25, 2023), <https://community.solutions/research-posts/the-costs-and-harms-of-homelessness/> [https://perma.cc/T396-VWDP]; *Fact Sheet: Cost of Homelessness*, NAT'L PREVENTION SCI. COAL. (Apr. 14, 2025), <https://www.npscoalition.org/post/fact-sheet-cost-of-homelessness> [https://perma.cc/ZNF9-L9RB]; *Housing and Homelessness as a Public Health Issue*, AM. PUB. HEALTH ASS'N (Nov. 7, 2017), <https://www.apha.org/policy-and-advocacy/public-health-policy-briefs/policy-database/2018/01/18/housing-and-homelessness-as-a-public-health-issue> [https://perma.cc/XH78-K3EN].

with significant disabilities will also be funneled into “segregated, restrictive, and costly institutional settings such as psychiatric hospitals, adult care homes, nursing homes, or jails.”⁵⁸

These institutional settings cost state, local, and federal governments significantly more than HUD funded housing. Nursing homes cost an average of \$114,975 per *individual* per year;⁵⁹ by contrast, HUD federal housing assistance for mixed-income families costs only an estimated \$11,000 per *household* per year.⁶⁰ In short, institutional placements cost easily 10 times as much as HUD housing subsidies. HUD has not considered these costs.

iv. This Rule Will Harm Children With Disabilities In Mixed-Status Households.

Perhaps the most vulnerable people affected by this proposed rule are children with disabilities who live in HUD housing in mixed-status families. These children are largely United States citizens—children born in the U.S. with every legal right to remain in their homes and in their communities—who have disabilities and depend on ineligible family members for their daily care. For these children, the proposed rule does not merely threaten housing. It threatens the entire architecture of their lives: the stable home that makes their care routines possible, the family caregivers who know their needs, medical histories, and languages, and the community integration that federal disability law guarantees them as a matter of right.

An estimated 36,000 US citizen children live in HUD assisted mixed-status households;⁶¹ an estimated 2,600 to 6,300 of these children are likely to have disabilities with sufficient severity to require ongoing caregiving support. For many of them, their ineligible parent, grandparent or other family caregiver is not merely a source of emotional comfort, but a skilled, irreplaceable care provider that makes it possible for them to live at home. They know the child’s medical history, communication style, behavioral triggers, and needs.

Further, parents who cannot maintain stable housing for their children—especially a child with disabilities—will most likely be referred to child protective services, and the child will be separated from their family of origin. Once separated, the child will either be placed in a foster home, or an institution. Children with disabilities are 2.4 to 2.5 times more likely than nondisabled children to be placed in group homes, residential treatment facilities, and medical

⁵⁸ Gina Schaak, et al., *supra* note 53, at 8.

⁵⁹ David De Vries, *Home Care vs Nursing Home Cost: What Families Actually Pay in 2026*, SONDERCARE (Mar. 10, 2026), <https://www.sondercare.com/learn/senior-caregiving/home-care-vs-nursing-home-cost/> (summarizing CareScout 2025 Cost of Care Survey Data).

⁶⁰ Regulatory Impact Analysis, *supra* note 9, at 50.

⁶¹ Gartland & Acosta, *supra* note 15.

institutions.⁶² For children with complex medical needs or significant developmental disabilities, institutional placement is often permanent.

HUD’s regulatory impact analysis does not mention these children with disabilities. It does not estimate their number, assess their needs, or consider what will happen to them when their families are evicted. This is a failure to address a foreseeable harm to U.S. citizens.

v. The Proposed Rule Will Cost The Federal Government More Than It Saves.

HUD frames its Proposed Rule as a measure to direct scarce housing resources to eligible households.⁶³ But, evicting disabled children from stable housing and pushing them into institutions will not save scarce resources. As with the analysis above for adults with disabilities, the federal cost to HUD for mixed-status families is approximately \$11,000 per year per household. Group homes, residential treatment facilities, or pediatric nursing facilities for a child with significant disabilities cost significantly more. The proposed rule will essentially guarantee increased costs, shifting those costs from HUD to Medicaid, state child welfare systems, and local emergency services. Again, HUD has considered none of these costs.

HUD should thus withdraw the proposed rule, as it has not undertaken a rigorous analysis of the impact on children and adults with disabilities. Further, under any version of this rule, HUD must give notice to residents with disabilities of their right to request a reasonable accommodation in obtaining documentation. Such accommodations may range from additional time to obtain the documentation, assistance from HUD in getting the documentation, or waiver of the requirement to provide the documentation.

V. The Proposed Rule Will Disproportionately Harm Survivors Of Gender-Based Violence

Safe and stable housing is fundamental to the ability of individuals and families to thrive.⁶⁴ This is especially true for survivors of domestic violence, sexual assault, and other forms of gender-based violence, the vast majority of whom are women. Indeed, domestic violence and sexual assault “are significant contributors to family homelessness and serve as

⁶² Elspeth Slayter, *Youth with disabilities in the United States Child Welfare System*, 64 CHILD. AND YOUTH SERVS. REV. 155, 163 (Mar. 2016), https://texascasa.org/wp-content/uploads/2023/06/Youth_with_Disabilities_in_the_United_St_2016.pdf [<https://perma.cc/3HDK-2ALU>]; see also U.S. DEP’T OF HEALTH AND HUM. SERVS., CHILDREN’S BUREAU, CHILD WELFARE OUTCOMES 2021: REPORT TO CONGRESS (June 2025), <https://acf.gov/sites/default/files/documents/cb/cwo-report-to-congress-2021.pdf> [<https://perma.cc/SCK5-KHYB>].

⁶³ Proposed Rule, *supra* note 1, at 8152.

⁶⁴ Office of the United Nations High Commissioner for Human Rights, *The Human Right to Adequate Housing: Fact Sheet 21/Rev.1* (Nov. 2009), https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf [<https://perma.cc/7EHD-925K>].

both a cause and an outcome of housing instability.”⁶⁵ Currently, survivors who are ineligible for the federal housing assistance at issue in the Proposed Rule—such as survivors with U nonimmigrant status—may nonetheless reside in subsidized housing if they live together with eligible family members in a mixed-status household, which helps to prevent further violence and to ensure the immediate and long-term security for these families. The Proposed Rule removes this critical safety net and jeopardizes the safety and well-being of survivors and their families fleeing abuse.

The Proposed Rule will inflict devastating harms on domestic violence survivors and their families. Domestic violence is a leading cause of homelessness for women in the United States.⁶⁶ Over 90 percent of women experiencing homelessness report having experienced domestic abuse or sexual violence in their lives, while over 50 percent of women experiencing homelessness report that domestic violence was the immediate cause of their loss of housing.⁶⁷ Access to HUD housing assistance is absolutely critical for survivors, as lack of safe and affordable housing options is regularly reported as a primary barrier to escaping abuse⁶⁸ and places them and their families at high risk of future violence.⁶⁹ Moreover, securing non-subsidized housing is especially difficult for survivors who often experience financial abuse and coercion, resulting in negative impacts on their employment, credit, and rental histories and financial assets.⁷⁰ The Proposed Rule would force domestic violence survivors in mixed-status households to choose between separating from their families to allow eligible members to continue to receive assistance or foregoing housing assistance altogether so that families can remain together. In doing so, the Proposed Rule threatens the ability of survivors to escape abusive relationships, obtain economic security and stability, and keep themselves and their families safe. By effectively denying Section 214 housing assistance to survivors in mixed-status

⁶⁵ *Housing Policy: Issue Overview*, NAT’L NETWORK TO END DOMESTIC VIOLENCE, <https://nnedv.org/content/housing-policy/> [<https://perma.cc/Y4LE-UP5Y>] (last visited Apr. 20, 2026).

⁶⁶ See ACLU Women’s Rights Project, *Domestic Violence and Homelessness*, AMERICAN CIVIL LIBERTIES UNION (Mar. 21, 2006), <https://www.aclu.org/sites/default/files/pdfs/dvhomelessness032106.pdf> [<https://perma.cc/75LZ-AJXG>]; see also *A Status Report on Hunger and Homelessness in America’s Cities: A 25-City Survey*, U.S. CONF. OF MAYORS (Dec. 2014), <https://www2.cortland.edu/dotAsset/655b9350-995e-4aae-acd3-298325093c34.pdf> [<https://perma.cc/2868-AETR>]; Charlene K. Baker et al., *Domestic violence, housing instability, and homelessness: A review of housing policies and program practices for meeting the needs of survivors*, 15 *AGGRESSION & VIOLENT BEHAV.* 430 (2010), <https://www.sciencedirect.com/science/article/abs/pii/S1359178910000480?via%3Dihub> [<https://perma.cc/2UDN-7UXC>].

⁶⁷ Monica McLaughlin & Debbie Fox, *Housing Needs of Victims of Domestic Violence, Sexual Assault, Dating Violence, and Stalking*, NAT’L NETWORK TO END DOMESTIC VIOLENCE (June 2, 2019), https://nlihc.org/sites/default/files/AG-2019/06-02_Housing-Needs-Domestic-Violence.pdf [<https://perma.cc/D3B2-6299>].

⁶⁸ See Baker et al., *supra* note 65, at 430–39.

⁶⁹ Liz Pride & Sarah Peterson, *How Housing Barriers Affect Survivors of Domestic Violence*, CITY OF PHILADELPHIA OFF. OF DOMESTIC VIOLENCE STRATEGIES (Sep. 29, 2022), <https://www.phila.gov/2022-09-29-how-housing-barriers-affect-survivors-of-domestic-violence/> [<https://perma.cc/PNW7-E2SR>].

⁷⁰ *About Financial Abuse*, NAT’L NETWORK TO END DOMESTIC VIOLENCE, <https://nnedv.org/content/about-financial-abuse/> [<https://perma.cc/9GXJ-486G>] (last visited Apr. 20, 2026); see also Susan L. Pollet, *Economic Abuse: The Unseen Side of Domestic Violence*, NYSBA J. (Feb. 2011), https://ww2.nycourts.gov/sites/default/files/document/files/2018-09/economicabusenysbjournal2011_1_1.pdf; *Helping Survivors Address Credit and Rental History*, NAT’L HOUS. LAW PROJECT (Mar. 2010), https://www.nhlp.org/files/Mar%202010%20Newsletter%20FINAL_0.pdf [<https://perma.cc/LX4H-XN8E>].

families, the Proposed Rule will inflict significant harms, costs, and burdens on survivors and their families, advocates and service providers, and broader communities.

VI. The Proposed Rule Will Cause Housing Instability And Homelessness, And Will Harm Individuals Who Have Experienced Homelessness.

a. The Proposed Rule Causes Housing Instability And Homelessness.

By threatening access to stable, affordable housing, the Proposed Rule will undermine the well-being of low-income U.S. citizens, eligible immigrants, and their families. The Proposed Rule would force mixed-status families to make an impossible decision—either break up to allow eligible family members to continue receiving assistance or forgo the subsidies so that the families can stay together. Family separations undermine family stability, and lead to toxic stress, trauma, and attachment issues in children. Even a temporary separation has an enormous negative impact on the health and educational attainment of these children later in life, and many parents struggle to restore the parent-child bond once it has been disrupted by a separation.⁷¹

Because 73% of mixed-status families currently receiving HUD assistance are composed of eligible children and at least one ineligible parent, it is likely that most mixed-status families will forego the subsidies to avoid separation and, therefore, face the risk of homelessness. HUD predicts this outcome in its regulatory impact analysis.⁷² The Proposed Rule would therefore effectively evict as many as 79,300 individuals in mixed-status families from HUD-supported housing.⁷³

Involuntary displacement carries significant short-term and long-term consequences for families' economic well-being.⁷⁴ Research has consistently shown that involuntary displacement—including through eviction—often leads to or exacerbates existing economic instability. The turmoil caused by forced eviction may lead to termination of employment, either due to effects on work performance or absenteeism.⁷⁵ One study, for example, found that “the likelihood of being laid off to be 11 to 15 percentage points higher for workers who experienced an eviction or other involuntary move, compared to matched workers who did not.”⁷⁶ Involuntary displacement may also lead to other types of material hardship, such as the loss of valuables and possessions, or burdensome costs and expenses related to moving homes.⁷⁷ HUD's own analysis of the Proposed Rule indicates that that affected families who would have to search for a new home, make a deposit, and then move would be estimated to bear upfront moving costs

⁷¹ 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 PEDIATRICS OPEN* (Aug. 2018), <https://bmjpaedsopen.bmj.com/content/bmjpo/2/1/e000338.full.pdf>.

⁷² Regulatory Impact Analysis, *supra* note 9, at 13, 46.

⁷³ *Id.* at 14.

⁷⁴ Matthew Desmond & Rachel Tolbert Kimbro, *Eviction's Fallout: Housing, Hardship, and Health*, 94 *Soc. FORCES* 295, 299 (Feb. 24, 2015),

https://nlihc.org/sites/default/files/DesmondKimbro_Evictions_Fallout_SF2015.pdf [<https://perma.cc/DF49-A4KE>] (“[E]viction can prolong families’ residential instability, which begets economic instability.”).

⁷⁵ *Id.* at 299.

⁷⁶ *Id.*

⁷⁷ *Id.* at 300.

between \$14 million and \$18 million.⁷⁸ However, this is likely a vast underestimate, as the analysis assumes only about \$900 in moving costs per household by assuming that all moves would be “local and completed without hiring a moving company”⁷⁹—an assumption that ignores the practical reality of the many elderly and disabled individuals impacted by the proposal who are likely to require assistance moving. But even at this low estimate, such costs are often debilitating for low-income households, such as those affected by the Proposed Rule.

In addition to the short-term harm caused by involuntary displacement, the Proposed Rule may lead to longer-lasting effects on the economic stability of affected families. Studies have found that “evicted households have significantly higher rates of material hardship years after they were forced to move,” suggesting that forced displacement “may itself be a cause, not simply a condition, of poverty.”⁸⁰ Involuntary displacement is also associated with prolonged periods of homelessness,⁸¹ as well as “relocation to a disadvantaged neighborhood and/or substandard housing.”⁸² HUD’s analysis also indicates that HUD may, in some cases, be forced to pursue enforcement of the Proposed Rule through formal eviction,⁸³ which would only exacerbate the economic burdens on affected families. The mark of an eviction record remains on an individual’s record for years and functions as a barrier to housing access due to strict tenant screening policies.⁸⁴ The Proposed Rule’s effect of involuntary displacement of families, therefore, will likely cause or contribute to increased rates of poverty and economic hardship.

These outcomes may also lead to reduced opportunities and increased health problems for these families in the long term.⁸⁵ Having safe and stable housing is crucial to a person’s good health, sustaining employment, and overall self-sufficiency. Unstable housing situations can cause increased hospital visits and loss of employment; are associated with increased likelihood of mental health problems in children;⁸⁶ and can dramatically increase the risk of an acute episode of a behavioral health condition, including relapse of addiction in adults.⁸⁷ These effects

⁷⁸ Regulatory Impact Analysis, *supra* note 9, at 32.

⁷⁹ *Id.*

⁸⁰ Desmond & Kimbro, *supra* note 74, at 317.

⁸¹ Matthew Desmond, *Eviction and the Reproduction of Urban Poverty*, 118 AM. J. SOCIO. 88, 91 (July 2012), <https://scispace.com/pdf/eviction-and-the-reproduction-of-urban-poverty-1rz6yiww80.pdf>.

⁸² *Id.* at 119.

⁸³ Regulatory Impact Analysis, *supra* note 9, at 33.

⁸⁴ Josefina Navar, *How Eviction Brands Renters With a Scarlet Letter*, ACLU NEWS & COMMENT. (July 25, 2023), <https://www.aclu.org/news/racial-justice/how-eviction-brands-renters-with-a-scarlet-letter> [<https://perma.cc/GP4H-5V47>].

⁸⁵ Megan Sandel et al., *Unstable Housing and Caregiver and Child Health in Renter Families*, 141 PEDIATRICS 1 (Feb. 1, 2018), <http://pediatrics.aappublications.org/content/141/2/e20172199>.

⁸⁶ See Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, CTR. ON BUDGET AND POL’Y PRIORITIES (Oct. 7, 2015), <https://www.cbpp.org/research/research-shows-housing-vouchers-reduce-hardship-and-provideplatform-for-longterm-gains>; Linda Giannarelli et al., *Reducing Child Poverty in the US: Costs and Impacts of Policies Proposed by the Children’s Defense Fund*, CHILDREN’S DEF. FUND (Jan. 2015), <https://www.childrensdefense.org/wp-content/uploads/2023/08/ReducingChildPovertyintheUSCostsandImpactsofPoliciesProposedbytheChildrensDefenseFund.pdf> [<https://perma.cc/TL2C-APKK>].

⁸⁷ *Substance Use and Housing National Leadership Forum*, NAT’L COUNCIL FOR BEHAV. HEALTH, 8–9 (Oct. 2014), <https://archive.org/details/suhlf-convening-report-final-1/page/9/mode/2up> [<https://perma.cc/F6V9-UELN>].

will be particularly prominent in the children of the families that will be harmed by the Proposed Rule. Economic and housing instability impedes children’s cognitive development, leading to poorer life outcomes as adults.⁸⁸ Housing instability is directly correlated to decreases in student retention rates and contributes to homeless students’ high suspension rates, school turnover, truancy, and expulsions, limiting students’ opportunity to obtain the education they need to succeed later in life.⁸⁹

Those facing homelessness also face a heightened risk of criminalization and other unjust laws that make it harder for individuals and families to secure and maintain necessary housing, vote, obtain employment, and access other benefits. Again, the agency has failed to conduct an adequate analysis of these costs of the Proposed Rule. An appropriate analysis would lead to the conclusion that the Proposed Rule will cause substantially greater and longer-lasting harms than any benefit HUD purports to achieve.

b. Harms To Individuals Who Have Experienced Homelessness.

In addition to *causing* housing instability and homelessness, the Proposed Rule exacerbates the harms of homelessness by inflicting unnecessary obstacles to those seeking HUD-supported housing opportunities. The proposed documentation requirements will be particularly burdensome for recipients of rental assistance who were formerly homeless, as well as people experiencing homelessness who could be assisted by Section 214 programs in the future. People experiencing homelessness often lose important documents such as photo identification, birth certificates, and social security cards because they have no safe places to store them.⁹⁰ Adding more documentation requirements creates additional barriers to housing for those who need it most. Many people who have gained stability through rental assistance could return to homelessness if they cannot satisfy the Proposed Rule’s new requirements. HUD has failed to consider the added costs and burdens of these new documentation requirements, which far outweigh any benefit the agency purports to achieve through this harmful Proposed Rule.

The Proposed Rule thus directly contradicts the National Affordable Housing Act⁹¹, which was intended to ensure that “every American family be able to afford a decent home in a suitable environment;” that all U.S. residents have “access to decent shelter or assistance in avoiding homelessness;” to “improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;” and to retain

⁸⁸ Heather Sandstrom & Sandra Huerta, *The Negative Effects of Instability on Child Development: A Research Synthesis*, URB. INST. (Sep. 2013), <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>.

⁸⁹ See Mai Abdul Rahman, *The Demographic Profile of Black Homeless High School Students Residing in the District of Columbia Shelters and the Factors that Influence their Education*, 63 (Mar. 2014) (Ph.D. dissertation, Howard University), <https://www.proquest.com/openview/56127deecf7305f761d645aac34b9eac/1?pq-origsite=gscholar&cbl=18750> [<https://perma.cc/3MPH-JQK9>] (citations omitted).

⁹⁰ MOVEMENT ADVANCEMENT PROJECT, *supra* note 20, at 22.

⁹¹ 42 U.S.C. §§ 12701–12703.

dwelling units produced for such purposes with Federal assistance as affordable to low-income families.⁹²

The Proposed Rule also violates HUD’s statutory obligation to affirmatively further fair housing, 42 U.S.C. § 3608(e)(5), which requires that the HUD Secretary “administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of” the Fair Housing Act. In its 2015 regulation, HUD defined “Affirmatively further fair housing” to mean “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.” The affirmatively furthering fair housing obligation also includes “fostering and maintaining compliance with civil rights and fair housing laws.”

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.

VII. The Proposed Rule Conflicts With Section 214, Congressional Intent, And HUD’s Prior Rulemaking

The Proposed Rule claims that it brings HUD regulations “into greater alignment with the wording and purpose of Section 214” by barring mixed-status families from receiving assistance. This rationale is flatly contradicted by the statutory language, Congressional intent, and HUD’s prior rulemaking.

Critically, the plain language of Section 214 establishes that housing assistance must be made available to mixed-status families on a prorated basis as long as one member of the family is eligible:

*If the eligibility for financial assistance of at least one member of a family has been affirmatively established under the program of financial assistance and under this section, and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.*⁹³

This subsection was added to Section 214 by Section 572 of the Use of Assisted Housing by Aliens Act of 1996, which was entitled “Sec. 572 Prorating of Financial Assistance,” and directly authorizes prorated financial assistance to mixed-status families.⁹⁴ The subsection permits any

⁹² *Id.*

⁹³ 42 U.S.C. § 1436a(b)(2) (emphasis added).

⁹⁴ See Use of Assisted Housing by Aliens Act, Pub. L. No. 104-208, § 572, 110 Stat. 3009-684, 685 (1996).

“one member of a family” to possess eligible status and does not require that eligible family member to be the head of the household.

That Section 214 clearly authorizes proration of financial assistance to mixed-status families is also supported by its provisions protecting such families from penalties: the presence of ineligible individuals within a public or assisted housing unit will not disqualify the eligible individuals and members of the household “if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family.”⁹⁵

Congress enacted the express proration provision in 42 U.S.C. § 1436a(b)(2) in 1996 specifically to ratify HUD’s existing policy—reflected in the agency’s regulations pre-dating the 1996 amendment—to allow financial assistance for eligible members of mixed-status families.⁹⁶ HUD promulgated those regulations in 1994 after Congress enacted certain amendments to Section 214 concerning financial assistance to mixed-status families in the Housing and Community Development Act of 1987 (“HCDA”).⁹⁷ Section 214(b) of the HCDA, entitled “Preservation of Families,” permitted “continued” financial assistance to mixed-status families in which the head of household or spouse was a U.S. citizen or national or possessed eligible immigration status.⁹⁸ Congress provided for continued financial assistance to mixed-status families to protect “the sanctity of the family.”⁹⁹

HUD proposed rules in 1994 to implement those amendments made by the HCDA.¹⁰⁰ In the 1994 Proposed Rule, HUD emphasized that “the statutory language does not prohibit proration of assistance,” and thus proposed regulations providing financial assistance for both “*applicant* and *tenant* families containing family members with eligible and ineligible immigration status (‘mixed families’).”¹⁰¹ Under the rule, a mixed-status family that was receiving financial assistance at the time the final rule was issued would be eligible for: (1) continued (full) financial assistance if the head of household possessed eligible immigration status; (2) prorated financial assistance if the family member possessing eligible immigration status was *not* the head of household; or (3) temporary deferral of assistance termination.¹⁰² The rule provided that a mixed-status family applying for financial assistance, in which certain family members “elect not to contend that they have eligible immigration status” and “other members of the family establish their citizenship or eligible immigration status,” would be eligible for *prorated* financial assistance.¹⁰³

⁹⁵ 42 U.S.C. § 1436a(d)(6).

⁹⁶ See, e.g., Housing and Community Development Act, Pub. L. No. 96-399, 94 Stat. 1614 (1980); see also Omnibus Consolidated Appropriations Act, Pub. L. No. 104-208, 110 Stat. 3009 (1996).

⁹⁷ See Restrictions on Assistance to Noncitizens, 59 Fed. Reg. 43900 (Aug. 25, 1994); Housing and Community Development Act, Pub. L. No. 100-242, 101 Stat. 1815 (1988).

⁹⁸ *Id.* § 214(b) (adding 42 U.S.C. § 1436a(c)).

⁹⁹ Restrictions on Assistance to Noncitizens, 59 Fed. Reg. at 43901 (citing remarks of Sen. William Armstrong, 133 Cong. Rec. S18615, Dec. 21, 1987).

¹⁰⁰ See Restrictions on Assistance to Noncitizens, 59 Fed. Reg. at 43900 (Aug. 25, 1994).

¹⁰¹ *Id.* at 43904 (emphasis added).

¹⁰² *Id.* at 43922–23 (then-proposed 24 C.F.R. §§ 200.187, 200.188).

¹⁰³ *Id.* at 43919 (then-proposed 24 C.F.R. § 200.183(e)); see also *id.* at 43922–23 (then-proposed 24 C.F.R. §§ 200.187(a)(2), 200.188(a)).

In the final rules, published in 1995, HUD clarified that proration of assistance is “not discretionary” and “*must* be offered to eligible mixed families.”¹⁰⁴ HUD also reiterated that a “mixed family with eligible children and two ineligible adults . . . may be eligible for prorated assistance,” and that only the provision of continued (full) financial assistance required the “head of household” to possess eligible immigration status.¹⁰⁵

Congress’s 1996 amendment to Section 214 incorporated the proration provisions. *See* Use of Assisted Housing by Aliens Act, Pub. L. No. 104-208, §§ 571–72, 110 Stat. 3009-684, 685 (adding 42 U.S.C. §§ 1436a(b)(2), (d)(6)). Congress thus ratified HUD’s rules permitting proration. Congress has been consistent in attempting to guarantee that scarce federal assistance would be provided to eligible immigrants and citizens while avoiding separation and preserving the integrity of mixed-status families. The Proposed Rule cherry-picks language to present an incomplete and misleading version of the statute. The Proposed Rule should be withdrawn given its conflict with Section 214, HUD’s own longstanding policy, and the relevant legislative and regulatory history.

VIII. The SAVE System Should Not Be Used To Check Or Verify Citizenship Status.

The Proposed Rule vastly expands HUD’s requirements for PHAs and property owners to use the Systematic Alien Verification for Entitlements program (SAVE). SAVE is a database that has been used for forty years primarily to verify the immigration status of non-citizens. However, in 2025, U.S. Citizenship and Immigration Services (USCIS) began systematically adding U.S. citizens’ Social Security numbers to SAVE, with plans to further expand SAVE to include passport information and state drivers’ license data. HUD’s proposal would subject all people—U.S. citizens, non-citizens with status, and those without status—to verification through SAVE, which it would accomplish through a two-step process.

First, PHAs and property owners would be required to use SAVE as the “primary verification” method for U.S. citizenship or eligible immigration status.¹⁰⁶ “Primary verification” would entail submission of both citizens’ and noncitizens’ information to immigration authorities through SAVE, even if U.S. citizens present a U.S. birth certificate, a naturalization certificate, a valid unexpired U.S. passport, or a certificate of citizenship.¹⁰⁷ Second, if SAVE is unable to confirm the applicant’s citizenship, HUD’s proposal would permit PHAs and property owners to use documentation of citizenship status only for “secondary verification.”¹⁰⁸ Depending on the

¹⁰⁴ Restrictions on Assistance to Noncitizens, 60 Fed. Reg. 14816, 14829 (Mar. 20, 1995) (final 24 C.F.R. § 200.187(a)(1)(iii)) (emphasis added).

¹⁰⁵ *Id.* at 14817. HUD issued a final rule in 1996 that “eliminate[s] the redundancy of these duplicative regulations by consolidating noncitizens requirements and relocating them to a single location in 24 C.F.R. part 5.” *See* Consolidation and Streamlining of the Restrictions on Assistance to Noncitizens, 61 Fed. Reg. 13614 (Mar. 27, 1996). The consolidated regulations did not alter the substance of the prior regulations issued on March 20, 1995. *Id.*

¹⁰⁶ Proposed Rule, *supra* note 1, at 8157.

¹⁰⁷ *Id.* at 8158.

¹⁰⁸ *Id.*

documentation presented, secondary verification would entail either resubmission to SAVE, or manual verification.

However, the proposed rule fails at this time to identify which documents will suffice for secondary verification. And this is because USCIS is incorporating U.S. citizens' data into SAVE on the fly. Because of its ad hoc development, "SAVE has limitations on the types of documents and information it can review," and some documentary evidence of citizenship such as U.S. birth certificates or valid, unexpired U.S. passports "are not currently usable in SAVE."¹⁰⁹ Consequently, HUD's proposed rule does not, and cannot, state which documents *must* be submitted to SAVE as part of secondary verification or which must be subjected to "manual record searches, which may take significant time."¹¹⁰ Instead, that determination will be made by forthcoming "guidance."

HUD's proposed changes will not only harm citizens and noncitizens as described above, but the new uses of SAVE will also violate the law, for three reasons.

First, use of SAVE violates HUD's obligations under the Privacy Act to ensure the "accuracy, relevance, timeliness, and completeness" of individuals' records used in benefits determinations.¹¹¹ Social Security data, which USCIS has incorporated into SAVE, was never meant to track citizenship status. Although the Social Security Administration maintains some citizenship data, it "merely represents a snapshot of the individual's citizenship status at the time of their interaction with SSA" and does not "provide definitive information about an individual's citizenship status."¹¹² Consequently, SSA has disclaimed relying on its records as measures of citizenship, stating, "SSA is not the agency responsible for making citizenship determinations" and "SSA is not the custodian of U.S. citizenship records."¹¹³ In its then-capacity enforcing immigration laws, the DOJ similarly recognized that "[t]he SAVE system is not suitable for verifying U.S. nationality."¹¹⁴ Nonetheless, HUD now intends to rely on Social Security data and SAVE to verify U.S. citizenship.

Second, the use of SAVE to verify citizenship and its panopticon incorporation of all citizens' personal information is without statutory authority and contrary to law. SAVE's authorizing statute is abundantly clear: Congress did not authorize SAVE to systematically incorporate U.S. citizens' data. As its primary authority for expanding of SAVE, USCIS points to

¹⁰⁹ *Id.* at 8159.

¹¹⁰ *Id.*

¹¹¹ 5 U.S.C. § 552a(e)(5).

¹¹² OFF. OF GEN. COUNS., SOC. SEC. ADMIN., LETTER TO FAIR ELECTIONS CENTER 2 (July 13, 2023), <https://fairelectionscenter.org/wp-content/uploads/2025/07/SSA-Touhy-Decision-letter.July-13-2023-signed.pdf> [<https://perma.cc/SHV6-C29B>].

¹¹³ *Id.*

¹¹⁴ Verification of Eligibility for Public Benefits, 63 Fed. Reg. 41662, 41669 (Aug. 4, 1998).

section 121 of the Immigration Reform and Control Act of 1986 (IRCA).¹¹⁵ Section 121 instructs immigration agencies to “implement a system for the verification of immigration status” available to states no later than October 1, 1987.¹¹⁶

The plain language of IRCA, referring to “immigration status” suggests that SAVE, the “system” referenced in the law, was never meant to include U.S. citizens. In fact, the Immigration and Nationality Act (INA),¹¹⁷ which IRCA amended,¹¹⁸ uses the terms “immigration status” and “status” almost exclusively to apply to noncitizens. For example, section 204 of the INA,¹¹⁹ pertaining to granting “immigration status,” uses the term “status” nearly forty times; in almost every instance, the term refers to a noncitizen. In the limited instances where the section is referring to citizens (or former citizens), it does so explicitly, using the term “citizenship status.”¹²⁰ Similarly, INA section 341 addresses both citizens and noncitizens;¹²¹ the term “status” is used only in provisions addressing noncitizens. This pattern persists throughout the text of the INA.¹²² Nowhere in IRCA, the INA, or any other statute did Congress authorize SAVE for verifying the “status” of U.S. citizens.

Third, HUD’s proposal to rely on forthcoming guidance to dictate when SAVE must be used—and with which documentation—violates the Administrative Procedure Act’s requirement for notice-and-comment rulemaking.¹²³ Under the APA, notice-and-comment rulemaking is required for any “legislative rule”; legislative rules are those that “impose legally binding obligations or prohibitions on regulated parties—and that would be the basis for an enforcement action for violations of those obligations or requirements.”¹²⁴ “When agencies create new rules that bear on private individuals’ and entities’ legal rights and obligations, therefore, they are exercising a power that is unquestionably legislative by nature.”¹²⁵

HUD’s requirements are legislative. They impose obligations on PHAs and property owners to now submit data on U.S. citizens to SAVE and potentially conduct secondary

¹¹⁵ Privacy Act of 1974; System of Records, 90 Fed. Reg. 48948, 48952 (Oct. 31, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-10-31/pdf/2025-19735.pdf> [<https://perma.cc/C6HE-96AT>] (citing Immigration Reform and Control Act of 1986, Pub. L. No. 99-603, § 121, 100 Stat. 3384 (1986)).

¹¹⁶ Immigration Reform and Control Act, Pub. L. No. 99-603, § 121, 100 Stat. 3384 (1986), <https://www.congress.gov/bill/99th-congress/senate-bill/1200/text>.

¹¹⁷ Immigration and Nationality Act, Pub. L. No. 82-414, 66 Stat. 163 (1952), <https://www.govinfo.gov/content/pkg/STATUTE-66/pdf/STATUTE-66-Pg163.pdf> [<https://perma.cc/7U8L-H4R5>].

¹¹⁸ See *Pulsifer v. United States*, 601 U.S. 124, 149 (2024) (“In a given statute, the same term usually has the same meaning and different terms usually have different meanings.”).

¹¹⁹ Immigration and Nationality Act § 204 (codified as amended at 8 U.S.C. § 1154).

¹²⁰ 8 U.S.C. §§ 1154(a)(1)(A)(iii)(II)(CC)(bbb), (iv), (vi), (vii)(I).

¹²¹ Immigration and Nationality Act § 341 (codified as amended at 8 U.S.C. § 1452).

¹²² See, e.g., Immigration and Nationality Act § 245 (codified as amended at 8 U.S.C. § 1255).

¹²³ 5 U.S.C § 553.

¹²⁴ *Nat’l Min. Ass’n v. McCarthy*, 758 F.3d 243, 251 (D.C. Cir. 2014).

¹²⁵ *State of Tennessee v. Dep’t of Educ.*, 104 F.4th 577, 613 n.33 (6th Cir. 2024).

verification, which may involve either additional submissions to SAVE or manual review—all previously unprecedented requirements. The imposition of such obligations is “plainly a legislative rule.”¹²⁶ HUD’s efforts to impose and define those obligations through mere guidance violate the APA’s notice-and-comment requirements.

IX. Conclusion

For the reasons stated above, and many more not stated here, HUD cannot move forward with this Proposed Rule. We urge HUD to withdraw its Proposed Rule and preserve HUD’s existing regulations. If you have any questions regarding these comments, please contact Alexis Alvarez at AlexisA@aclu.org.

Sincerely,

Alexis Alvarez, Staff Attorney,
Racial Justice Program
Linda Morris, Senior Staff Attorney,
Women’s Rights Project
Cody Venzke, Senior Staff Attorney,
Speech, Privacy, & Technology Project
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

Susan Mizner, Director Emeritus,
Disability Rights Program
American Civil Liberties Union Foundation
425 California Street
San Francisco, CA 94111

¹²⁶ *City of Billings v. Transportation Sec. Admin.*, 153 F.4th 46, 52 (D.C. Cir. 2025) (TSA rule requiring airports to physically screen personnel was legislative).