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April 21, 2026

Regulations Division,
Office of General Counsel,
Department of Housing and Urban Development,
451 7th Street SW, Room 10276,
Washington, DC 20410-0500
Sent electronically *via* Regulations.gov.

RE: Docket No. FR-6524-P-01: Housing and Community Development Act of 1980: Verification of Eligible Status

Dear colleagues,

The Poverty & Race Research Action Council (PRRAC) is a national civil rights organization bridging law, policy, social science, and grassroots organizing to advance racial and economic justice. PRRAC brings deep expertise on housing justice and educational equity to grassroots movement organizations and coalitions, through legal analysis, policy design, and research translation. Our work is grounded in empirical research, legal analysis, and demonstrated solutions to ensure that federal housing programs advance equity, inclusion, and opportunity. From this perspective, we strongly oppose HUD's proposed rule "Housing and Community Development Act of 1980: Verification of Eligible Status (FR-6524)" as it presents serious risks to the civil rights obligations of the Department of Housing and Urban Development (HUD).

The proposed changes violate the Fair Housing Act (FHA), implicate the constitutional right to familial association, are contrary to congressional intent, do not reflect a proper weighing of costs and benefits, and would have unintended consequences for vulnerable citizens. Therefore, we urge HUD to maintain the status quo and rescind the proposed rule. The following summarizes our concerns:

1) The proposed rule has a harsh and grossly disproportionate disparate impact on Latine families and children, many of whom are citizens or legal residents. This discriminatory effect violates §§ 804(a) and 808(e)(5) of the FHA.

2) The proposed rule is contrary to the congressional intent to keep families together expressed in the 1987 Housing Act, which amended Section 214.

3) HUD has not properly considered all of the fiscal costs of the proposed rule.

4) HUD has not considered the privacy and security concerns of the proposed rule.

I. Disparate Impact

This proposed rule, if implemented, would have a devastating impact on mixed-status households, a term in this case used to describe families in which U.S. citizens and eligible permanent residents live alongside family members of immigration statuses that do not qualify for federal assistance. It is important to note that in the housing context, ineligibility for federal assistance is not limited to undocumented individuals, but includes many *documented* immigration statuses (such as Temporary Protected Status (TPS), Deferred Action for Childhood Arrivals (DACA), and certain time-determinate exclusions like immigration parolees).[1] Further, immigration statuses are not static, many ineligible members of otherwise eligible families are awaiting the ability to or in the process of adjusting their status to an eligible one, while others' legal statuses are caught in limbo with no pathway to citizenship. In reality, families often do not fit cleanly into the boxes of "eligible" and "ineligible." This is the reality for more than 20,000 families currently receiving assistance, including over 52,600 eligible U.S. Citizens who are legally entitled to equal access to benefits. The existence of mixed-status households is not a rare or new occurrence. It was considered when Congress passed the statute at issue and proration of benefits has long been the well reasoned and balanced solution.[2] In prior comments (July 2019), PRRAC argued that a substantially similar proposed rule violates the Fair Housing Act by disproportionately affecting Latine families and undermines constitutional rights to familial association. We adopt and incorporate the arguments made therein.[3]

This rule will predictably violate the FHA, 42 U.S.C. § 3604(a), because it will have a disparate impact on eligible Latine families and there is not legally sufficient justification. The FHA makes it unlawful to "refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person" on the basis of "race, color, religion, sex, familial status, or national origin."[4] In *Texas Department of Housing & Community Affairs v. Inclusive Communities Project*, the Supreme Court construed this provision to encompass not only intentional discrimination under a disparate treatment theory of liability, but also disparate impact discrimination claims. 576 U.S. at 545–46. Despite the Administration's recent political attempts to undermine the discriminatory effects framework, it remains binding law with legislative, regulatory, and judicial backing.[5]

The proposed rule's disparate impact on Latine households and families with children is not only measurable, but inevitable. A staggering 86 percent of people in mixed-status homes are Latine. Contrary to the rule's misleading framing, these households are not primarily composed of "ineligible" individuals. Instead, they largely consist of U.S. citizens and Lawful Permanent

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[1] Maggie McCarty and Abigail F. Kolker, Cong. Rsch. Serv., R46462, *Noncitizen Eligibility for Federal Housing Programs* (Jan. 23, 2023) https://www.congress.gov/crs_external_products/R/PDF/R46462/R46462.11.pdf

[2] The proposed rule is in direct contradiction with congressional intention to preserve families.When Congress passed the 1987 Housing Act, which amended Section 214, it included a provision for continued assistance for mixed-status families in order to "support the sanctity of the family" and "avoid division of [the] family." *See*, Restriction on Use of Assisted Housing by Aliens, 53 Fed. Reg. 41052 (proposed Oct. 19, 1988) (citing 133 Cong. Rec. S18615 (daily ed. Dec. 21, 1987) (statement of Sen. William Armstrong) (internal quotation marks omitted)).

[3] Poverty & Race Research Action Council, Letter to Office of General Counsel, Dep't of Hous. & Urban Dev. (July 9, 2019), https://www.prrac.org/pdf/prrac-mixed-status-comments-letter-07-09-19.pdf.

[4] 42 U.S.C. § 3604(a).

[5] 42 U.S.C. § 3604; "Reinstatement of HUD's Discriminatory Effects Standard" on March 31, 2023 ("the 2023 rule") at 88 FR 19450; Tex. Dep't of Hous. and Comm. Affairs v. Inclusive Communities Project, Inc., 135 S.Ct. 2507, 2517-18 (2015).

Residents (LPRs), who live with a family member of an ineligible immigration status. Citizens and LPRs make up about 70 percent of all people in mixed-status households and stand to lose their desperately needed housing benefits.

Federal courts have already recognized that overly aggressive immigration verification policies produce an actionable disparate impact on Latine households.[6] HUD must acknowledge that implementing these antagonistic mandates will disproportionately harm eligible Latine U.S. citizens and LPRs. Other courts have found similar policies act as a pretext for intentional discrimination against Latine communities.[7]

In addition to the racial and ethnic disparities, the proposed rule creates significant risk of discrimination based on familial status. Children are likely to be disproportionately harmed by this policy which can be demonstrated and supported by statistical data. According to HUD's own analysis in 2019, the proposed rule would have resulted in the eviction of 25,000 immigrant families, including 55,000 children eligible for housing assistance.[8] Today, that number has fallen[9] to 20,000 families affected, including 37,000 children who make up 46 percent of all those affected by the rule.[10] This is another area of potential liability.

HUD has also not considered the non-immigrant groups that will also be disproportionately affected by this proposed rule. There are many reasons a person may not have access to all of their original, certified identity documents. Low-income people, particularly those in rural areas, face financial and geographic barriers to replace documents that have been damaged, lost, or stolen. People experiencing homelessness often report losing their identity documents to encampment sweeps, thieves, or the elements.

People who have undergone a name change, like many married women, may also struggle to provide all of the necessary documentation with matching names which could lead to erroneous terminations and denials to otherwise eligible tenants. Similarly, the destabilization of mixed-status households poses a uniquely severe threat to LGBTQ+ family members,

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[6] *See Reyes v. Waples Mobile Home Park Ltd. P'ship*, 903 F.3d 415 (4th Cir. 2018) (holding that a housing policy requiring all adult tenants to provide proof of legal immigration status establishes a prima facie disparate impact claim under the Fair Housing Act by disproportionately ousting Latino families).

[7] See *Cent. Ala. Fair Hous. Ctr. v. Magee*, 835 F. Supp. 2d 1165 (M.D. Ala. 2011), *vacated as moot sub nom. Cent. Ala. Fair Hous. Ctr. v. Comm'r, Ala. Dep't of Revenue*, No. 11-16082, 2013 WL 2372302 (11th Cir. May 17, 2013) (granting a preliminary injunction and holding that an Alabama statute requiring proof of lawful immigration status to obtain mobile home registration tags likely violated the Fair Housing Act because it both intentionally discriminated against and imposed an unlawful disparate impact on Latinos).

[8] *Housing and Community Development Act of 1980: Verification of Eligible Status*, 84 Fed. Reg. 20,563 (proposed May 10, 2019)

[9] The decrease may be attributed to cuts in funding, aggressive immigration policies, and increased fear among immigrant communities.

[10] Erik Gartland & Sonya Acosta, *Administration Plan Targeting Immigrants Would Take Away Rental Assistance, Create New Barriers*, Ctr. on Budget & Pol'y Priorities (Dec. 12, 2025)

particularly transgender individuals, who already face profound baseline housing instability.[11] Transgender individuals also frequently undergo legal name changes that could lead to the same documentation issues faced by married women. By terminating assistance for entire households based on the status of one member, HUD risks severing the critical familial lifelines that keep vulnerable LGBTQ+ youth and adults stably housed.

Furthermore, abandoning the current proration policy, which successfully balances strict eligibility verification with family stability, does nothing to actually improve program integrity. Instead, it serves only to destabilize communities, reduce the total number of households served, and concentrate harm on legally protected groups. This is fundamentally an equity issue that undermines the agency's broader obligation to uphold racial equity and improve life outcomes for children in poverty. Ultimately, a rule that ejects thousands of families, uproots children from their local schools, and perpetuates residential segregation cannot be reconciled with these core federal duties.

II. Family Integrity

In addition to raising serious legal and regulatory concerns, the proposed rule is contrary to clear congressional intent to preserve families. When Congress passed the 1987 Housing Act, which amended Section 214, it included a provision for continued assistance for mixed-status families in order to "support the sanctity of the family" and "avoid division of [the] family."[12] Thus, the 1988 proposed rule interpreting Section 214, which formed the basis for the 1995 rule,[13] proposed prorated assistance for mixed-status families. Historically, family unity has been explicitly and implicitly valued by the federal government and a proration benefits strategy perfectly balances this value with necessary eligibility standards.[14]

One of the most troubling aspects of this proposal is the false choice it forces on mixed-status families: separate or divorce in order to remain housed, or stay together and face

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[11] *See* Transgender Women Experiencing Homelessness — National HIV Behavioral Surveillance, Ctrs. for Disease Control & Prevention, 73 MMWR 35, 36 (Jan. 25, 2024) (reporting that 31% of transgender women in surveyed urban areas experienced prolonged homelessness of 30–365 nights within a single year, with housing instability directly linked to cascading public health failures); *see also* Homelessness and Housing Instability Among LGBTQ Youth, The Trevor Project, at 1, 5 (2022) (finding that nearly 40% of transgender and nonbinary youth experience homelessness or severe housing instability, with displaced individuals facing three to six times greater odds of severe mental health crises, physical abuse, and involvement in the foster system compared to stably housed peers).

[12] Restriction on Use of Assisted Housing by Aliens, 53 Fed. Reg. 41052 (proposed Oct. 19, 1988) (citing 133 Cong. Rec. S18615 (daily ed. Dec. 21, 1987) (statement of Sen. William Armstrong) (internal quotation marks omitted)).

[13] Restrictions on Assistance to Noncitizens, 59 Fed. Reg. 43900 (proposed Aug. 25, 1994).

[14] See Immigration and Nationality Act, 8 U.S.C. § 1151(b)(2)(A)(i) (establishing immigration preference for immediate relatives of U.S. citizens); Immigration Act of 1990, Pub. L. No. 101-649, 104 Stat. 4978 (codified as amended in scattered sections of 8 U.S.C.) (expanding family-based immigration categories); 24 C.F.R. §§ 5.520 (establishing prorated assistance for mixed-status families in HUD programs to preserve family unity); Eligibility of Noncitizens for Assistance Under the Housing and Community Development Act of 1980, 60 Fed. Reg. 14,892 (Mar. 20, 1995) (codified at 24 C.F.R. §§ 5, 912, 913, 914, 915, 966) (recognizing the need to avoid splitting families in administering eligibility rules); INS v. Errico, 385 U.S. at 220 (1966) ("Congress felt that, in many circumstances, it was more important to unite families and preserve family ties than it was to enforce strictly the quota limitations or even the many restrictive sections that are designed to keep undesirable or harmful aliens out of the country."); Moore v. City of East Cleveland, 431 U.S. 494, 503 (1977) (plurality opinion) (noting that "the Constitution protects the sanctity of the family"); Restrictions on Assistance to Noncitizens, 59 Fed. Reg. 43900, 43904 (Aug. 25, 1994) (noting that aggressively restricting assistance without a final rule would "thwart the pro-family intent of the Congress").

eviction. By abandoning the long-standing proration policy and banning mixed-status families from federal housing assistance, HUD is forcing families into crisis and separation. According to HUD's own 2019 analysis, we can predict that a "significant" portion of households will choose to separate to preserve their children's security.[15] For many families the choice will not be hypothetical. A single involuntary move triggers a cycle of instability that is difficult to escape and has ramifications that span years or even decades. Families with little time or resources to make intentional moves are often forced into poorer quality housing and neighborhoods, frequently at higher rents, which in turn significantly increases the likelihood of future evictions, housing insecurity, and homelessness.[16]

This wrongfully discourages otherwise eligible households from applying for assistance. A 2023 Urban Institute survey found that one in four immigrant families (25 percent) reported avoiding public benefit programs due to fears about immigration consequences. The consequences of forcing eviction on these families are severe and multigenerational.[17] The explicit and collateral consequences of undermining mixed-status family eligibility will launch these children, already living at the margins, into housing instability which demonstrably stifles lifelong economic, educational, and health outcomes.[18] Forced separation to retain housing subsidies acts as a severe trauma for children.[19]

Under the current proration policy, families can remain intact. Eligible members receive the assistance they qualify for, and no one is forced out solely because of the immigration status of another household member. The proposed rule removes that option. A household that contains even one ineligible member would face eviction unless that person leaves the home. This means

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[15] *See* U.S. Dep't of Hous. & Urban Dev., *Regulatory Impact Analysis: Amendments to Further Implement Provisions of Title VI of the Civil Rights Act of 1964* at 7–8 (Apr. 15, 2019) (projecting that prohibiting proration would result in the displacement of approximately 25,000 mixed-status families, including 55,000 legally eligible children). In response to the 2019 proposed rule, civil rights advocates widely condemned this dynamic as forcing a "ruthless" and impossible choice upon families: face collective eviction or voluntarily separate so citizen children can retain housing.

[16] *See* Matthew Desmond & Tracey Shollenberger, *Forced Relocation and Residential Instability among Urban Renters*, 89 Soc. Serv. Rev. 227 (2015) (finding that forced displacement significantly increases subsequent unforced mobility and leads to "downward moves" into substandard housing and less resourced neighborhoods).

[17] *See* The Public Health Implications of Housing Instability, Eviction, and Homelessness, Network for Pub. Health L., at 2 (2025) (demonstrating that early-age transience and eviction induce a "spiral of financial instability" where children fall behind academically and experience higher rates of material hardship and depression for years afterward); *see also* Trajectories of Childhood Housing Insecurity and Links to Emerging Adulthood Depression, 34 J. Rsch. on Adolescence 12 (2026) (finding via repeated measures latent class analysis that severe housing insecurity in early childhood threatens long-term mental health and significantly elevates the risk for depression during the transition to adulthood).

[18] Id.; Simrun Singh, How Housing Instability Affects Children's Health and Development, Housing Matters (Dec. 11, 2024) https://housingmatters.urban.org/articles/how-housing-instability-affects-childrens-health-and-development; See also, Raj Chetty, et al., The Effects of Exposure to Better Neighborhoods on Children: New Evidence from the Moving to Opportunity Experiment, American Economic Review, 106(4): 855–902 (April 2016) https://scholar.harvard.edu/files/lkatz/files/chk_aer_mto_0416.pdf

[19] *See The Impacts of Family Separation and Deportation on Children*, Child.'s Equity Project, Ariz. State Univ., at 4–9 (2025) (classifying forced separation from a caregiver as an Adverse Childhood Experience (ACE) that introduces toxic stress, limits healthy development, and significantly increases risks for anxiety, PTSD, and developmental regression); *accord* "Special Report: U.S. Immigration Policy and the Mental Health of Children and Families," Psychiatric News (2025) (noting that both the threat and reality of caregiver separation erode emotional security and lead to acute psychological distress, sleep disturbances, and suicidal ideation in older children).

parents deciding whether to live apart from their children, spouses being split up, or elderly relatives being sent away — all for the sake of a rule that does not expand assistance, improve program integrity, or serve any compelling housing policy goal. Federal housing policy should not hinge on tearing families apart.

III. Fiscal Concerns

From a purely fiscal perspective, this proposed rule is counterproductive. While proponents may frame the rule as a cost-saving measure that prioritizes resources for citizens, the mathematical reality is the exact opposite. Currently, mixed-status families receive *prorated* assistance (e.g., if a family has four members and only three are eligible, HUD only pays 75 percent of the standard subsidy). If that family is evicted and replaced by a fully eligible household of the same size, HUD must pay 100 percent of the subsidy for that unit. The rule would therefore significantly *increase* HUD's baseline per-unit expenditure. HUD is currently able to house 35,400 U.S. citizen children in mixed-status homes at about 70 percent discount off the full subsidy rate. If implemented, *all* of these children would either lose their housing subsidy and become housing insecure or be forced to be separated from a parent/guardian. The replacement cost of households being subsidized at 100 percent would inevitably result in *fewer* eligible Americans being served at the same cost.

Operationally, this rule would strain housing authorities. The additional verification steps would trigger additional administrative and financial burdens for housing authorities, serving essentially as an unfunded mandate on local entities. Precious staff time will be diverted away from core functions to be spent on inessential, duplicative administrative work. HUD's 2019 analysis estimated that it would increase federal housing costs by hundreds of millions of dollars in the first years and would noticeably strain housing authorities' already tight budgets. To implement this rule, housing authorities and landlords of subsidized tenants must request, authenticate, analyze, and accept or reject the immigration documents of 8,819,500 current residents who would be subject to the new documentation requirements. Then they can expect to process mass terminations, including litigation, conduct additional eligibility verification, and attempt to re-lease units all while managing the disruptions and costs caused by forced moves, like advertising and maintenance. These are costs that will come out of already tight operating budgets, reducing capacity to address existing waitlists and to manage current caseloads effectively. Maintaining the current proration system avoids these inefficiencies and keeps more households stably housed at a lower overall cost.

It is also likely that housing authorities and assisted landlords can expect an increase in due process demands, denial hearings, and litigation. The proposed rule essentially deputizes local authorities and landlords to enforce federal immigration laws, without providing training or funding to navigate its complex system. This approach is legally fraught.[20] If implemented, HUD should expect administrative delays, erroneous evictions, and staff mistakes that result in due process violations which could open agencies up to liability.

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[20] *Villas at Parkside Partners v. City of Farmers Branch*, 726 F.3d 524 (5th Cir. 2013) (en banc), *cert. denied*, 572 U.S. 1133 (2014) (holding that a municipal ordinance requiring all prospective renters to obtain an occupancy license conditioned on lawful immigration status, and criminalizing the renting of housing to undocumented immigrants, was unconstitutional because it was conflict-preempted by the federal government's exclusive authority over immigration).

The federal government may claim that it has "saved" units, but the human cost does not disappear; it shifts entirely to local and state housing authorities and private landlords. There are also less visible collateral financial burdens this rule will place on local jurisdictions. The affordable housing crisis is already a top concern for many constituents of localities, and policies that increase housing insecurity and homelessness will put additional strain on their budget earmarked for solutions. For example, public school districts are federally mandated to provide transportation and resources to unhoused students.[21] Forcing thousands of citizen children into homelessness will drastically spike these costs for local school districts.

In short, the proposal does not conserve scarce housing resources, it depletes them. By increasing per-unit costs and adding significant administrative burden, the rule would reduce the total number of families assisted, all while diverting staff time and funding away from core program functions, housing families. Maintaining the current proration system avoids these inefficiencies and keeps more households stably housed at a lower overall cost.

IV. Privacy and Security

Another consequence HUD has failed to consider involves the privacy and security concerns which arise when tenant-facing landlords or their agents are essentially transformed into frontline immigration enforcement, and expected to impose stringent status verification. The proposed mandate would effectively compel local housing authorities and federally funded private landlords to gather, archive, and transmit sensitive personal documentation, including birth certificates, passports, and DHS identification numbers.[22] This shift establishes thousands of decentralized, vulnerable repositories of Personally Identifiable Information. Such a requirement poses significant vulnerability to potential data breaches and lacks the necessary federal appropriations to secure these mandated data silos against foreseeable security threats.[23]

V. Conclusion

Based on the data it is clear that the proposed rule will make housing subsidies unavailable to eligible minorities, the majority of whom are U.S. citizens. It unjustifiably discriminates against Latine Americans, families with children, and other protected classes and will predictably force children into housing insecurity and homelessness causing lifelong economic, health, and educational setbacks. For these reasons, we urge HUD to maintain the status quo by preserving the current proration mixed-status policy, as it promotes equal,

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[21] 42 U.S.C. § 11432(g)(1)(J)(iii).

[22] The forced collection of these specific documents directly conflicts with the data minimization and security mandates of federal privacy law. Under the Privacy Act of 1974, 5 U.S.C. § 552a(e)(1), agencies must maintain only such information about an individual as is "relevant and necessary" to accomplish a statutory purpose. Furthermore, under HUD's own regulatory framework, government-issued identification numbers (e.g., passports, SSNs, and DHS Alien Registration Numbers) are classified as "Sensitive Personally Identifiable Information" (SPII). *See* U.S. Dep't of Hous. & Urban Dev., *HUD Privacy Handbook*, at § 2.1 (outlining that SPII requires elevated administrative, technical, and physical safeguards because its compromise causes substantial harm). By forcing thousands of decentralized, private landlords and local housing staff to collect and archive SPII without federal oversight, the proposed rule functionally abandons HUD's obligation to strictly limit access to and secure sensitive data.

[23] *See* Office of Inspector Gen., U.S. Dep't of Hous. & Urban Dev., *Priority Open Recommendations* (Jan. 2026) (identifying cybersecurity and IT modernization as top management challenges, noting that "knowing more specifics about the data is essential in the ability to protect and recover from attempted exfiltration attempts").

non-discriminatory access to housing benefits and upholds the original congressional intent. The current system is the only fiscally responsible path that ensures housing stability, protects the integrity of local budgets, and avoids the collateral consequences of a thinly veiled ideological agenda disguised as regulatory rulemaking.

Sincerely,

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