



July 9, 2019

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

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

Dear HUD Rules Docket Clerk:

The National Association of County Human Services Directors (NACHSA), an affiliate of the National Association of Counties (NACo), is providing the following comments on the May 10, 2019 Department of Housing and Urban Development (HUD) proposal to change the manner in which eligibility for federally-subsidized housing is determined for households containing persons with different immigration statuses. NACHSA represents county directors of human services programs nationwide.

NACHSA opposes the proposed rule and urges HUD to withdraw the notice of proposed rulemaking (NPRM). By HUD's own analysis, implementing the NPRM would increase housing instability and homelessness among some mixed immigration status households receiving federally-subsidized housing and shift federal costs and administrative burdens to counties.

The NPRM would prohibit "mixed immigration status families" from living in public housing and Section 8 programs. Long-standing federal law under Section 214 of the Housing and Community Development Act of 1980 and accompanying regulations provide that individuals in mixed-status families may live together in subsidized housing so long as the housing subsidy is decreased to prohibit ineligible members from receiving assistance. The statute is clear. 42 U.S.C. § 1436a(b)(2) states, "If the eligibility for financial assistance *of at least one member* of a family has been affirmatively established 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..."

The NPRM proposes that families with members who are deemed "ineligible" be evicted from subsidized housing within 18 months. Most of these families will likely forgo the

subsidies to avoid separation. In fact, HUD notes that it “expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified.” Therefore, this rule would effectively evict as many as 108,000 individuals in mixed-status families (in which nearly 3 out of 4 are eligible for assistance) from public housing, Section 8, and other programs covered by the NPRM. HUD’s statistics show that 70 percent of mixed status families are composed of eligible children and ineligible parents. There are over 38,000 U.S. citizen and otherwise eligible children in these families, and over 55,000 eligible children in mixed status families overall who would be affected.

Older adults will also be affected. According to the Center on Budget and Policy Priorities’ analysis of HUD data, nearly two million older adults receive federal housing assistance. Housing providers will need to collect status documentation from 120,000 older immigrants. The NPRM proposes to require all U.S. citizens to provide proof of citizenship under penalty of perjury, and will also require noncitizens 62 years old or over to provide additional documentation of their immigration status or risk losing their housing. County agencies are well aware that older individuals often encounter challenges obtaining and submitting documentation, including difficulties in traveling to county or state offices to replace and pay for lost records.

The proposed HUD policy combined with the ‘chilling effect’ and actual impact of other proposals on ‘public charge’ will shift social services and housing costs to counties. In addition to the impact on the individuals and families counties serve, the rule will also increase the administrative burdens and costs of our public housing agencies and private landlords. Those entities will be tasked with collecting documents “proving” the citizenship of over nine million assisted residents receiving HUD assistance who have attested to that fact under penalty of perjury previously, as well as the citizenship of future applicants for assistance. The housing provider will bear the costs of these new procedures and the legal and other associated costs of evicting individuals and families unable to meet the paperwork requirements.

For the above reasons, NACHSA urges HUD to withdraw or otherwise rescind the proposed rule.

Thank you for your attention to our comments. Please contact Tom Joseph, NACHSA Washington Representative at tj@paragonlobbying.com or 202.898.1446 should you have questions about our views.

Sincerely,

A handwritten signature in black ink that reads "Cathy Senderling McDonald". The signature is written in a cursive style and is contained within a thin black rectangular border.

Cathy Senderling McDonald
President, NACHSA