

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

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YWCA USA

1020 19th Street, NW
Suite 750
Washington, DC 20036

P 202.467.0801

F 202.467.0802

ywca.org

Submitted electronically

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

Dear Sir/Madam:

YWCA USA submits these comments on the Proposed Rule published at 84 FR 20589 (May 10, 2019), RIN 2501-AD89, HUD Docket No. FR-6124-P-01, with the title, “Housing and Community Development Act of 1980: Verification of Eligible Status” (the “Proposed Rule” or “Rule”). **Based on our extensive subject matter expertise in the areas of child care, housing, and domestic and sexual violence, and informed by our extensive experience working with immigrant women and families, YWCA USA urges the Department of Housing and Urban Development (“HUD”) to withdraw the Rule in its entirety and to ensure that HUD’s long-standing regulations remain in effect.**

Founded 160 years ago, YWCA is one of the oldest and largest women’s organizations in the United States and is dedicated to eliminating racism, empowering women, and promoting peace, justice, freedom and dignity for all. Today, we serve over 2 million women, girls, and their families through a network of more than 200 local YWCA associations in over 1,300 communities across 45 states and the District of Columbia.

YWCA’s comments on proposed changes to HUD’s regulations are informed by our significant expertise in working with women, children, survivors of domestic and sexual violence, and immigrant communities. Each year, across our vibrant network, we are proud to provide:

- 535,000 women, children and families with gender-based violence support services that are trauma-informed, and which include domestic violence and sexual assault programs and services (e.g.,

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Suite 750
Washington, DC 20036

P 202.467.0801

F 202.467.0802

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emergency shelter, transitional housing, crisis hotlines, counseling and court assistance, and other community safety programs)

- 170,000+ children and parents with child care, teen and parenting programs, which include child care programs that specifically integrate trauma-informed practices to meet the needs of homeless children, and children who have witnessed and experienced domestic violence and other trauma
- 145,000 women, children and families with housing, food assistance and immigrant assistance programs

In particular, YWCA has a long history of providing support and services to immigrant women, children, and families, beginning with our work on Ellis Island, providing counseling, guidance, information, translation, and other services, as well as providing some of the very first English language courses.

Today:

- YWCA serves more than 40,000 immigrants and refugees across the U.S. annually in dedicated programs to serve the specific needs of the immigrant and refugee population in their community, including programs tailored to Latinx communities, Asian American communities, and Black communities.
- 37 YWCAs, or 18%, have dedicated immigrant and refugee service programs, while 55 YWCAs (more than a quarter of YWCAs) have dedicated immigrant and refugee services, a coordinated response to the community's need for immigrant and refugee services, or report serving a significant group of immigrants and refugees.
- YWCAs in 27 states report supporting programming and services for immigrants and refugees. These states are in all 4 Census Bureau-designated regions and all 10 standard federal regions, spanning the United States of America and serving diverse communities and populations across the country.
- YWCA provides affordable housing programming to immigrant and refugee communities. For instance, YWCA San Francisco's Affordable Housing Program provides housing to 111 residents who are 98% Chinese immigrants. The resident's living in this affordable housing building have 100% access to services and support in the language they speak. This affordable housing program extends lives, raising the

average lifespan of Chinese immigrants living in their building from 80 to 88.

- YWCA provides domestic violence and sexual assault services specifically tailored to the needs and vulnerabilities of immigrant and refugee survivors. For example, YWCA Greater Cincinnati's Immigrant Survivors of Partner Violence program (ISPV):
 - (i) provides specialized services, including shelter, short- and long-term housing for immigrant survivors;
 - (ii) works with over 20 partner agencies that work to develop prevention and intervention programming and to coordinate services for immigrant or Limited English Proficiency (LEP) victims;
 - (iii) provides training to a wide range of audiences, including service providers, law enforcement, court personnel, community-based organizations, health care professionals student groups, and many other groups that intersect with immigrant, refugees, limited English proficient individuals, and/or victims and survivors of domestic violence;
 - (iv) produces culturally and linguistically appropriate resource materials on domestic violence.

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As detailed more fully below, the Proposed Rule would disproportionately harm already disadvantaged populations, including survivors of gender-based violence and people of color. Moreover, the Proposed Rule would cause major harm to immigrants, their families, and communities. Finally, the Proposed Rule would violate HUD's obligation to affirmatively further fair housing. For these reasons, YWCA USA urges the Department of Housing and Urban Development to withdraw the Proposed Rule.

I. The Proposed Rule Will Disproportionately Harm Already Vulnerable Disadvantaged Populations.

Survivors of Gender-Based Violence

As the largest provider of domestic and sexual violence services in the nation, YWCA is particularly concerned about the impact that the Proposed Rule would have on immigrant survivors and their children. Certain immigrant survivors of gender-based violence such as human trafficking, sexual assault, and domestic violence survivors will be severely and disproportionately harmed by HUD's Proposed Rule. Survivors often face numerous challenges to

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P 202.467.0801

F 202.467.0802

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their basic well-being. As a result, ready access to safe, affordable housing is a vital resource for survivors, giving them the security they need to leave abuse without having to fear that doing so will result in homelessness, as well as providing a safe environment to begin their recovery.

One of the greatest needs identified by survivors is affordable housing. In a single day, domestic violence programs across the United States received but were unable to meet nearly 7,500 requests for housing services.¹ The inability to find and maintain affordable housing puts survivors at extreme risk of homelessness. Between 22 and 57 percent of all homeless women report that domestic violence was the immediate cause of their homelessness,² and victim service providers, advocates, and allies across the United States report that survivors became homeless as a result of sexual violence. Sexual assault survivors may be forced to leave their housing and/or employment as a result of the violence and become even more at risk for sexual violence as a result. Without housing, sexual assault survivors report that other services to address the violence were not likely to be helpful. Housing assistance provides a pathway to safety.

If the Proposed Rule goes into effect, ineligible survivors and their eligible children who are trying to escape violent homes will be trapped in a false “choice”—homelessness or remaining with an abuser. Those already living in subsidized housing who are evicted and forced to return to a violent home will face an even greater risk to their safety. It is commonly known that the danger to a victim actually increases once she escapes, with one estimate noting a 75% increase in violence for at least two years following an escape.³ Financial security, and affordable housing in particular, are critical to increasing survivors’ chances of escape, recovery, and prevention of future abuse.⁴

¹ 2018 statistics show 72,245 victim requests for assistance per day; 11,441 requests are unmet, and of those, 7,416 are for housing. Available at <https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/>; See also National Alliance to End Sexual Violence, 2016 internet survey of rape crisis centers from all 50 states, Washington D.C. and two territories.

² Wilder Research Center, Homelessness in Minnesota, 2003 (2004); Center for Impact Research, Pathways to and from Homelessness: Women and Children in Chicago Shelters (2004); Nat’l Center on Family Homelessness & Health Care for the Homeless Clinicians’ Network, Social Supports for Homeless Mothers (2003); Institute for Children & Poverty, The Hidden Migration: Why New York City Shelters Are Overflowing with Families (2004); Homes for the Homeless & Institute for Children & Poverty, Ten Cities 1997-1998: A Snapshot of Family Homelessness Across America (1998); See also http://www.nsvrc.org/sites/default/files/NSVRC_Publications_Reports_Housing-and-sexual-violence-overviewof-national-survey.pdf

³ <http://stoprelationshipabuse.org/educated/barriers-to-leaving-an-abusive-relationship/>; See also <https://www.theguardian.com/society-professionals/2014/dec/10/domestic-abuse-risk-trying-leave-housing-community>; <https://www.clarionledger.com/story/news/2017/01/28/most-dangerous-time-for-battered-women-is-when-they-leave-jerry-mitchell/96955552/>, citing multiple sources.

⁴ <https://www.cdc.gov/violenceprevention/pdf/ipv-technicalpackages.pdf>. See also Breiding, M.J., Chen J., & Black, M.C. (2014). Intimate Partner Violence in the United States — 2010. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention.

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Violent perpetrators are well-aware of the link between a victim's financial independence and her access to safety. Abusers notoriously keep immigrant survivors in a state of isolation, poverty, and economic dependence, conditioning them to fear retaliation not only for trying to flee, but for seeking a work permit and/or employment. They prevent survivors from doing either by holding their immigration documents hostage, leaving them in a state of paralysis. Further, even survivors able to work outside the home endure such instability day to day that they face difficulty maintaining regular employment.⁵ As a result, even current and future survivors who are eligible for subsidized housing will be vulnerable to eviction under the Proposed Rule. The Rule requires proof of immigration status and submitting such evidence will be challenging for those whose abusers have destroyed or withheld their documents from them as a tool of abuse.

Securing non-subsidized housing is also extremely difficult for survivors. They are susceptible to manipulation by landlords who charge them high rents for single rooms in unsafe conditions. Undocumented survivors suffer in silence, deterred from seeking recourse by the looming threat of immigration, incarceration, or deportation. Overcrowding at shelters, or rules prohibiting children with disabilities from residing there, drive many back onto the streets. Others face discrimination such that either no one will rent to them, or they cannot have their name on a lease or utility bills.⁶

Finally, without adequate housing, survivors will have tremendous difficulty maintaining regular, meaningful communication with service providers. Notifications of critical appointments and court hearings may never reach them, and they may struggle to access evidence needed for legal matters involving immigration, child custody, or protection orders. If a survivor is homeless and cannot effectively participate in her immigration case, the consequence could be permanent loss of child custody and return to her home country to face dangerous circumstances. Legal access can also be instrumental in helping victims find long term safety.⁷

Communities of Color

Asian American Pacific Islanders

The Asian American Pacific Islander (AAPI) community is the fastest growing racial group in the United States. Further, AAPIs are one of the fastest growing

⁵ Ibid.

⁶ <http://www.tahirih.org/wp-content/uploads/2018/01/Tahirih-Justice-Center-Survey-Report-1.31.18-1.pdf>

⁷ Reckdenwald, A., & Parker, K.K. (2010). Understanding gender-specific intimate partner homicide: A theoretical and domestic service-oriented approach. *Journal of Criminal Justice*, 38, 951-958.

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poverty populations. AAPIs are already at significant risk of displacement, especially recently emigrated AAPIs who have limited proficiency with English. In fact, poor AAPIs are at twice the risk of displacement relative to the general U.S. poverty population.⁸ Further compounding this issue is the fact that many AAPI families live in multigenerational households that include a mix of immigrants and U.S. citizens.

The impact of HUD's Proposed Rule, if implemented, would be devastating: the presence of a single ineligible member of a household could lead to disqualification of the entire household, including citizens, children, and the elderly who are eligible for public housing and Section 8 programs. In 2018, over a quarter of a million AAPIs received HUD subsidized housing assistance.⁹ Further, nearly 10% of AAPI households live in multi-generational homes,¹⁰ a figure that is likely much lower than the actual proportion, reported anecdotally from the field as being closer to 20%.

Latinxs

The proposal to take away critical public or other subsidized housing support from families of mixed immigration status would harm our nation's Latinx community. Today, the U.S. Latinx population stands at more than 55 million, comprising 18% of the total U.S. population, and approximately one in five Latinxs are non-citizens.¹¹ By 2050, it is projected that nearly one-third of the U.S. workforce will be Latinx.¹² Among Latinx children, who account for a quarter of all U.S. children, the majority (52%) have at least one immigrant parent,¹³ and more than half of children of immigrants are Latinx.¹⁴ Despite hard work and many contributions by Latinxs to the economy, Latinxs continue to face prejudice and discrimination throughout the United States, and many continue to struggle to meet basic needs, including finding a home they can afford. This is not surprising, as there is not a single part of the country where a minimum wage worker working full-time year-round can afford a two-bedroom rental home.¹⁵ In 2017, 4.4 million (55 percent) of

⁸ National CAPACD analysis of U.S. Census data (5-Year ACS, 2016)

⁹ U.S. Department of Housing and Urban Development, *Picture of Subsidized Households*, 2018

¹⁰ U.S. Census, 2010 Decennial Census, SF2

¹¹ U.S. Census Bureau, American FactFinder: Selected Population Profile in the United States: 2017 American Community Survey 1-Year Estimates.

¹² J. S. Passel & D. Cohn, "U.S. Population Projections: 2005-2050," Pew Research Center (February 2008) <https://www.pewhispanic.org/2008/02/11/us-population-projections-2005-2050/>.

¹³ Richard Fry and Jeffrey S. Passel "Latino Children: A Majority Are U.S.-Born Offspring of Immigrants" (Washington, DC: Pew Research Center, 2009) <https://www.pewhispanic.org/2009/05/28/latino-children-a-majority-are-us-born-offspring-of-immigrants/>.

¹⁴ Urban Institute "Part of Us: A Data-Driven Look at Children of Immigrants" (Washington, DC: The Urban Institute, March 2019) <https://www.urban.org/features/part-us-data-driven-look-children-immigrants>.

¹⁵ National Low Income Housing Coalition "Out of Reach the High Cost of Housing" (Washington, DC: NLIHC, 2018) https://reports.nlihc.org/sites/default/files/oor/OOR_2018.pdf.

Latinxs who rented their home were cost-burdened – meaning they devoted 30 percent or more of their income towards rent.¹⁶

However, access to federal housing assistance has allowed hundreds of thousands of Latinxs to lift themselves out of poverty. According to an analysis conducted by UnidosUS, federal housing assistance – including public and other subsidized housing – lifted approximately 800,000 Latinxs out of poverty in 2017, including more than 280,000 Latinx children.¹⁷ While research suggests that Latinxs remain underrepresented in these programs,¹⁸ the Proposed Rule would deter many eligible Latinxs from participating in public or subsidized housing programs, and increase housing insecurity for Latinx families.

II. The Proposed Rule Will Hurt Tens of Thousands of Immigrant Families Including Many Citizen Children.

The Proposed Rule places tens of thousands of immigrant families at risk of homelessness, jeopardizing their family and housing stability, both of which are critical to getting families on a pathway to self-sufficiency and better life outcomes.

The Proposed Rule threatens to undermine the well-being of low-income U.S. citizens, immigrants, and their families. The Rule would force mixed status families to make an impossible decision—either break up to allow eligible family members to continue receiving assistance or forgo the subsidies 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.¹⁹

Seventy-percent of mixed status families currently receiving HUD assistance are composed of eligible children and at least one ineligible parent, and it is likely that these families will forgo the subsidies to avoid separation. In fact, HUD is anticipating this, noting in their regulatory impact analysis that “HUD expects that fear of the family being separated would lead to prompt

¹⁶ UnidosUS “Latinos and the Great Recession: 10 Years of Economic Loss and Recovery” (Washington, DC: UnidosUS, March 2019) <http://publications.unidosus.org/handle/123456789/1932>.

¹⁷ UnidosUS, “Federal Programs Lift Millions of Latinos Out of Poverty” (Washington, DC: UnidosUS, October 2018) <http://publications.unidosus.org/handle/123456789/1894>.

¹⁸ UnidosUS “Latinos and the Great Recession: 10 Years of Economic Loss and Recovery” (Washington, DC: UnidosUS, March 2019) <http://publications.unidosus.org/handle/123456789/1932>.

¹⁹ Laura C. N. Wood, *Impact of Punitive Immigration Policies, Parent-Child Separation and Child Detention on the Mental Health and Development of Children*, 2 BMJ PAEDIATRICS OPEN (2018), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6173255/>.



YWCA USA

1020 19th Street, NW
Suite 750
Washington, DC 20036

P 202.467.0801

F 202.467.0802

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evacuation by most mixed households, whether that fear is justified.”²⁰ 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 Proposed Rule.²¹ These mass evictions and departures from housing assistance will cause increased rates of homelessness and unstable housing among an already vulnerable population.²²

These outcomes will not only hurt families while they struggle to find housing in the short term, but will also lead to reduced opportunities and increased health problems for these families in the long term.²³ Studies have shown that unstable housing situations can cause individuals to experience increased hospital visits, loss of employment, are associated with increased likelihood of mental health problems in children,²⁴ and can dramatically increase the risk of an acute episode of a behavioral health condition, including relapse of addiction in adults. Having safe and stable housing is crucial to a person’s good health, sustaining employment, and overall self-sufficiency. These effects will be particularly prominent in the children, nearly all of whom are U.S. citizens, in these mixed status families. Research has shown that economic and housing instability impedes children’s cognitive development, leading to poorer life outcomes as adults.²⁵ 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.²⁶

One hundred and twelve YWCAs across the country provide childcare services for infants, toddlers, or school-aged children; and/or provide court-based childcare, childcare for sheltered mothers, or after-hours childcare, and nearly

²⁰ HUD, Regulatory Impact Analysis, *Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980*, Docket No. FR-6124-P-01, at 7 (Apr. 15, 2019).

²¹ *Id.* at 8.

²² PRATT CTR. FOR CMTY. DEV., *CONFRONTING THE HOUSING SQUEEZE: CHALLENGES FACING IMMIGRANT TENANTS, AND WHAT NEW YORK CAN DO* (2018), <https://prattcenter.net/research/confronting-housing-squeeze-challenges-facing-immigrant-tenants-and-what-new-york-can-do>.

²³ Megan Sandel et al., *Unstable Housing and Caregiver and Child Health in Renter Families*, 141 PEDIATRICS 1 (2018), <http://pediatrics.aappublications.org/content/141/2/e20172199>.

²⁴ See Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, CENTER ON BUDGET AND POLICY PRIORITIES (October 7, 2015), <https://www.cbpp.org/research/research-shows-housing-vouchers-reduce-hardship-and-provide-platform-for-longterm-gains>; see also Linda Giannarelli et al., *Reducing Child Poverty in the U.S.: Costs and Impacts of Policies Proposed by the Children’s Defense Fund* (Jan. 2015), <http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPoliciesProposedbytheChildrensDefenseFund.pdf>.

²⁵ HEATHER SANDSTROM & SANDRA HUERTA, *THE NEGATIVE EFFECTS OF INSTABILITY ON CHILD DEVELOPMENT: A RESEARCH SYNTHESIS* (2013), <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>.

²⁶ 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* 55 (Mar. 2014) (Ph.D. dissertation, Howard University), available at <http://gradworks.umi.com/3639463.pdf> (citations omitted).

half of these YWCAs provide trauma-informed care to children. As one of the nation’s largest nonprofit providers of childcare and trauma-informed childcare services, YWCAs are intimately aware of the negative impact that traumatic experiences such as family separation and housing instability can have on children’s well-being.

III. The Rule Would Violate HUD’s Obligation to Affirmatively Further Fair Housing.

Adoption of HUD’s Proposed Rule directly violates the agency’s statutory obligation to affirmatively further fair housing. The federal Fair Housing Act (FHA) mandates that the HUD Secretary shall “administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of” the FHA.²⁷ 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.”²⁸ 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 opposite by denying housing opportunities to thousands of immigrant families, using eligible immigration status as a pretext for discriminating against individuals based on their race and national origin. Furthermore, according to HUD’s own analysis, 70% of the households negatively impacted by this Proposed Rule *are families with eligible children*.²⁹ Since minor children comprise the vast majority of eligible occupants of mixed status households,³⁰ the Proposed Rule would also have a disproportionate and devastating impact on families with children. This clearly discriminatory policy is wholly inconsistent with HUD’s obligation to combat housing discrimination and segregation.

YWCA’s concerns for the survivors of domestic and sexual violence, as well as the women, children, and families of immigrant communities who would be directly impacted by the Proposed Rule reflect our long history in providing safety and support to survivors of domestic and sexual violence, and our deep expertise in providing housing services and care to women, children, and families. Because the risk of significant physical, emotional, and mental harm

²⁷ 42 U.S.C.A. § 3608(e)(5) (West 2019).

²⁸ 24 C.F.R. § 5.152 (definition of “Affirmatively furthering fair housing”).

²⁹ RIA at 8.

³⁰ *Id.* At 6 (noting that in mixed status households, 73 percent of eligible occupants are children between 0 and 17 years old).

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1020 19th Street, NW
Suite 750
Washington, DC 20036

P 202.467.0801

F 202.467.0802

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is so great, we urge the Department of Housing and Urban Development to withdraw the Proposed Rule in its entirety.

YWCA appreciates the opportunity to share our views with you. If you have any questions, please contact YWCA USA Vice President of Public Policy and Advocacy, Catherine Beane, at cbeane@ywca.org or 202-835-2354.

Sincerely,

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YWCA USA

1020 19th Street, NW

Suite 750

Washington, DC 20036

P 202.467.0801

F 202.467.0802

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Alejandra Y. Castillo, CEO YWCA USA