



July 9, 2019

Office of the General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 Seventh Street SW, Room 10276
Washington, DC 20410-0001

Submitted via www.regulations.gov

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

Dear Rules Docket Clerk,

I am writing on behalf of Asian Americans Advancing Justice (“Advancing Justice”) in response to the Department of Housing and Urban Development’s (hereafter, “the Department” or “HUD”) Notice of Proposed Rulemaking (hereafter, “Proposed Rule”) to express our strong opposition to the changes regarding “verification of eligible [immigration] status” of all recipients of housing assistance under a covered program as published in the Federal Register on May 10, 2019. The Proposed Rule would devastate many immigrant families, many of whom live in households with mixed immigration status. We urge the Department to withdraw this Proposed Rule in its entirety, and maintain its long-standing housing regulations.

Advancing Justice is a national affiliation of five independent nonprofit organizations dedicated to serving our nation’s most rapidly growing racial minority community, Asian Americans and Pacific Islanders (AAPIs). The Advancing Justice affiliation is comprised of our nation’s oldest Asian American legal advocacy center located in San Francisco (Advancing Justice – Asian Law Caucus), our nation’s largest Asian American civil rights, legal services and advocacy organization located in Los Angeles (Advancing Justice – Los Angeles), the largest national Asian American policy advocacy organization located in Washington, D.C. (Advancing Justice | AAJC), the leading Midwest Asian American advocacy organization (Advancing Justice – Chicago), and the Atlanta-based Asian American advocacy organization that serves one of the largest and most rapidly growing Asian American communities in the South (Advancing Justice – Atlanta).

Together, Advancing Justice has been working to increase visibility for AAPI immigrants by expanding federal immigration policies that promote family unification, integration and naturalization, and ensuring an accurate reflection of AAPIs in the 2020 census. Further, Advancing Justice – Asian Law Caucus advocates on behalf of low-income residents through campaigns and litigation on different housing right issues, such as stopping post-foreclosure eviction, protecting tenants’ subsidized housing benefits, and preventing illegal rent increases. Advancing Justice – Los Angeles also helps combat the housing crisis for AAPIs by providing

advice to individuals facing foreclosure and improve immigrant access to public benefits, including health benefits such as Medicaid and other health programs to ensure the health and well-being of immigrants in the U.S.

As an affiliation dedicated to serving AAPI communities, we are deeply troubled by the impact the Proposed Rule will have on our communities. Asian Americans are the fastest growing population among all racial groups in the U.S.¹ Between 2000 and 2015, the population of Asian Americans in the United States grew by 72%.² In 2018, over a quarter of a million AAPIs received HUD subsidized housing.³ AAPIs are one of the fastest-growing populations in poverty since the Great Recession.⁴ Over 1.5 million Asian American immigrant households are housing cost burdened, spending 30% or more of their household income on housing costs.⁵ Further, AAPI households have the highest rates of participation in the labor force and rely on stable housing to maintain work.⁶ The Proposed Rule disrupts the vital need for affordable housing and leads to devastating effects for low income AAPI families.

The Proposed Rule will prohibit mixed status families from living together in HUD subsidized housing. Mixed status households consist of both members who are eligible for housing assistance and those who are not based on their immigration status. Currently, mixed status families are allowed to live together as long as rent is pro-rated to only benefit eligible members.⁷ However, the Proposed Rule will require all residents to have their immigration status verified. If at least one family member is found to be ineligible, the entire family will face eviction whether or not any other member is an eligible member or even a U.S. citizen.

Advancing Justice strongly objects to the proposed changes that will result in significant harm to the well-being of mixed immigration status families and communities, and we urge HUD to completely withdraw the Proposed Rule on verification of eligible status. The Proposed Rule is unjustified, contrary to available research—including the Department’s own

¹ *A Community of Contrasts: Asian Americans in the United States: 2011* at 3, ASIAN AMERICANS CENTER FOR ADVANCING JUSTICE (2011), https://www.advancingjustice-la.org/sites/default/files/ENTERED_Community_of_Contrasts_2011.pdf.

² Gustavo Lopez et al., *Key facts about Asian Americans, a diverse and growing population*, PEW RESEARCH CENTER (Sept. 8, 2017) <http://www.pewresearch.org/fact-tank/2017/09/08/key-facts-about-asian-americans/>.

³ US DEP’T OF HOUS. AND URBAN DEV., *Picture of Subsidized Households*, 2018, <https://www.huduser.gov/portal/datasets/assthsg.html>.

⁴ *Income and Poverty: Part of the “State of Asian Americans and Pacific Islanders” Series* at 6, CENTER FOR AMERICAN PROGRESS (July 21, 2014), <https://cdn.americanprogress.org/wp-content/uploads/2014/08/AAPI-IncomePoverty.pdf>.

⁵ *Inside the Numbers: How Immigration Shapes Asian American and Pacific Islander Communities* at 16, 77, ASIAN AMERICAN ADVANCING JUSTICE (June 2019), <https://www.advancingjustice-la.org/sites/default/files/Inside-The-Numbers-High-Res-Spread.pdf> (defining low income as people who fall below 200% of the income-to-poverty ratio, or those with income in the past 12 months that was less than twice the poverty threshold).

⁶ Alicia Mazzara and Barbara Sard, *Chart Book: Employment and Earnings for Households Receiving Federal Rental Assistance*, CENTER ON BUDGET AND POLICY PRIORITIES (Feb. 5, 2018), <https://www.cbpp.org/research/housing/chart-book-employment-and-earnings-for-households-receiving-federal-rental#section1> (finding that in 2016, AAPI households had the highest rate of labor force attachment) (defining a household as attached to the labor force if any adult in the household had any wage earnings in 2016, received unemployment insurance in 2016, or had wage earnings in 2015 and did not work or receive unemployment insurance in 2016).

⁷ 42 U.S.C. § 1436(a).

impact analysis—and in conflict with statutory requirements and congressional intent. While individuals with certain immigrant status are not eligible for housing assistance, under current regulations, mixed status families have been able to live together in the same housing unit. Family unity is a core American value and the current HUD rules have helped families stay together to create the strong, vibrant, and diverse communities that make the United States the robust country that it is today. Rather than making it more difficult for families to stay together, we should celebrate our nation’s diverse immigrant heritage by expanding opportunities for American families to thrive together.

I. The Proposed Rule is yet another anti-immigrant policy under this current administration, and a radical departure from the long-standing and effective policies promoting family unity

a. The Proposed Rule is yet another attempt by this administration to further marginalize immigrant and low-income communities

The Proposed Rule is yet another anti-immigrant policy. Because the law already prohibits certain immigrants from receiving subsidies, the Proposed Rule is unnecessary and merely another bullet-point on this administration’s agenda to marginalize and instill fear in immigrant communities. The current administration has implemented and proposed a myriad of anti-immigrant and anti-poverty policies, such as the Muslim Ban, reduced refugee admissions, cancelling the Deferred Action for Childhood Arrivals (DACA) program, rescinding Temporary Protected Status (TPS) designation for certain countries, proposing drastic changes to the public charge rule, implementing a zero-tolerance policy at the border, and changing asylum law, to name a few.

This administration’s immigration policies have targeted low-income people in particular through the proposed “public charge” rule, which would make it much easier for the government to deny permanent resident status to people who are not wealthy.⁸ Additionally in 2018, President Trump issued an Executive Order titled “Reducing Poverty in America by Promoting Opportunity and Economic Mobility.”⁹ While the Executive Order purportedly aimed to reduce poverty “by promoting opportunity and economic mobility,” it actually has the opposite effect by making it harder for lower income Americans to be self-sufficient by denying them vital public benefits, such as food, housing, and medical assistance.¹⁰

Further, under the current administration, HUD has demonstrated its disregard towards housing discrimination by attempting to change the very essence of its mission statement. While HUD’s current mission statement on its website still includes anti-discrimination language, in March 2018, HUD announced that it would revise its mission statement to remove the anti-

⁸ See 8 USC § 1182 Inadmissibility and Deportability on Public Charge Grounds, 64 Fed. Reg. 28676, 28676-88 (May 26, 1999) (codified at 8 C.F.R. pts. 212 & 237), <https://www.gpo.gov/fdsys/pkg/FR-1999-05-26/pdf/99-13188.pdf>.

⁹ Exec. Order No. 13828, 83 Fed. Reg. 15941 (Apr. 13, 2018).

¹⁰ See *Trump Wants To Limit Aid For Low-Income Americans. A Look At His Proposals*, NPR (June 11, 2019), <https://www.npr.org/2019/06/11/730639328/trump-wants-to-limit-aid-for-low-income-americans-a-look-at-his-proposals>.

discrimination language—“build inclusive and sustainable communities free from discrimination.”¹¹ HUD offered that the reason for the change was to align its mission with the Secretary’s priorities and that of the administration.¹² HUD spokesman Raffi Williams stated that HUD officials were considering “modest changes” to the mission statement as a way to create a concise expression of the agency’s history.¹³ Given that discrimination still exists in housing, the decision to take out anti-discrimination language is hardly a modest change. Much like the Proposed Rule, the reason proffered is arbitrary. Numerous housing and immigrant rights advocates expressed alarm and opposed the proposed revision to the mission statement, which was yet another attempt by the current administration to dismantle policies that protect the civil rights of all residents and ignores the reality that discrimination is still prevalent in housing.¹⁴

b. The Proposed Rule is contrary to the intent of Section 214 to protect family unity and a stark departure from past practice

According to HUD, the new rule is intended to bring its regulations into greater alignment with the wording and purpose of Section 214 of the Housing and Community Development Act of 1980 (“Section 214”).¹⁵ HUD’s purported justification is that the new rule will decrease waiting times for other families seeking subsidized housing.¹⁶ Yet, the Proposed Rule affects more than 55,000 children who will face eviction despite being U.S. citizens or otherwise eligible to receive housing benefits.¹⁷ Prohibiting mixed status immigrant families from living together would create a chilling effect by forcing families to make impossible choices: break up their family in order to continue to receive housing assistance or face termination from HUD programs. The decrease in access to affordable housing will put thousands of immigrant families at risk of homelessness. Thus, evidence of this impact and our experience with policies of the current administration demonstrates that HUD’s stated reason is pretextual and that it is driven by anti-immigrant and anti-poverty motives.

The Proposed Rule takes away the previously established safety net for U.S. citizen, lawful permanent resident (LPR), or other eligible children who are entitled to seek federally subsidized housing. Section 214 lists the categories of non-citizens who are eligible for federally subsidized housing programs (along with U.S. Citizens).¹⁸ There are over 55,000 eligible

¹¹ US DEP’T OF HOUS. AND URBAN DEV., <https://www.hud.gov/about/mission> (last visited July 9, 2019); *see also Ben Carson Removes Anti-Discrimination Language From HUD Mission Statement*, HUFFINGTON POST (Mar. 07, 2018), https://www.huffpost.com/entry/hud-mission-statement_n_5a9f5db0e4b002df2c5ec617.

¹² *See id.*

¹³ *See id.* (the new mission statement had been developed with input from both Secretary Carson and his deputy).

¹⁴ *NCAPA and National CAPACD Oppose HUD’s Decision to Modify Mission Statement*, NATIONAL CAPACD, <https://www.nationalcapacd.org/tag/public-statements/> (last visited June 4, 2019) (stating “the proposed change to HUD’s mission is yet another attempt by this Administration to dismantle policies and initiatives created to protect the civil rights of all Americans”).

¹⁵ 42 U.S.C. §1436(a).

¹⁶ *See Regulatory Impact Analysis, Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980, Docket No. FR-6124-P-01* at 2-3, US DEP’T OF HOUS. AND URBAN DEV (Apr. 15, 2019).

¹⁷ *See id.* at 6-7.

¹⁸ 42 U.S.C. § 1436a(a)(1)-(7) (Noncitizens with the following immigrant status are eligible for Section 214 housing programs: Lawful Permanent Residents, VAWA Self-Petitioners, Asylees and Refugees, Parolees, Persons Granted Withholding of Removal/Deportation, Qualified Victims of Trafficking, Persons granted admission for emergent or

children who are in mixed status families that receive housing assistance under Section 214.¹⁹ By prohibiting ineligible family members from living together in subsidized housing, the Proposed Rule effectively bars U.S. citizen, LPR, and other children with eligible immigration status from their benefits as well.

Contrary to the Proposed Rule, Congress has expressly recognized its desire to provide housing assistance for mixed family households. In 1987, Congress amended the original provisions of the 1980 Act which denied ineligible members from living together with eligible members of their households.²⁰ From 1980 to 1987, implementation of the 1980 provisions was delayed because of recognition by Congress, the courts, HUD, owners of housing projects, and residents that the statutory provision would cause extraordinary hardships including excessive paperwork and financial difficulties.²¹ Specifically, Congress called the 1980 provisions an “injustice” because it would impose the mandatory eviction of thousands of families receiving federally-subsidized housing, the eviction of citizens and other eligible individuals because of their family member’s ineligibility, and documentation requirements which were either an undue burden or impossible to meet.²² To mitigate potential impacts on the elderly and families, Congress amended Section 214 to exempt individuals 62 years of age or older from the immigration status verification requirements.²³ Congress thus created this exemption to lessen the chances of a family member from being disqualified and to promote family unity.²⁴

In 1996, Section 214 was again amended to require HUD and local public housing authorities to provide prorated assistance to families in which at least one member has eligible immigration status.²⁵ Prorated benefits are calculated by reducing the benefits to the family by the proportion of nonqualified immigrants in the household.²⁶ Thus, this legislative history shows Congress’ intent that individuals with eligible immigration status would be able to receive assistance while simultaneously living within a mixed status household.

Section 214’s plain language is also unambiguous with respect to Congress’ intent: “If the eligibility for financial assistance of at least one member of a family has been affirmatively

public interest reasons, Persons granted lawful temporary residence amnesty under the Immigration Reform and Control Act of 1986, Immigrants eligible for registry who entered the U.S. before June 30, 1948, Lawful U.S. residents and individuals who entered the U.S. under the Compacts of Free Association with the Marshall Islands, Micronesia, Palau and Guam Immigrants admitted for lawful temporary residence prior to January 1, 1982).

¹⁹ See *Regulatory Impact Analysis*, *supra* note 16, at 6-8 (73% of eligible family members are children and there are a total of 76,141 eligible individuals in the covered programs, for a total of 55,582 eligible children; 70% of households are composed of eligible children with ineligible parents, for a total of 38,907 eligible children in households with ineligible parents).

²⁰ H.R. Rep. No. 100-122, pt.1, at 49 (1987).

²¹ See *id.*

²² See *id.* (explaining hardship that the implementation of the 1980 version of Sec. 214 would impose).

²³ See *id.*; 84 Fed. Reg. 20589 (May 10, 2019); see also Housing and Community Development Act of 1987, Pub. L. No. 100-242, sec. 164, 101 Stat. 1861 (1988) (codified as amended at 42 U.S.C. § 1436a(d)(2)).

²⁴ H.R. Rep. No. 100-122, pt.1, at 49-50 (stating other remedies including that no housing assistance may be denied or terminated until the individual has had the opportunity to appeal and have an impartial hearing).

²⁵ Housing and Community Development Act of 1980, Pub. L. No. 104-208, § 571, 110 Stat. 3009-684 (1996) (codified as amended at 42 U.S.C. § 1436a(b)).

²⁶ See *id.*

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. . . .”²⁷ Thus, by stripping away the ability for mixed status families to live together under a HUD program, the Proposed Rule directly contradicts codified law which mandates prorated assistance to mixed status families.

II. The Proposed Rule will have detrimental repercussions across all generations from the elderly to the young children

Currently, Section 214 allows individuals with ineligible immigration status to live with their eligible family members.²⁸ Assistance is prorated so that only those with eligible status will receive assistance.²⁹ Additionally, Section 214 allows individuals to elect not to claim eligibility.³⁰ Departing from this statutory scheme, the Proposed Rule would require that all members of a household have eligible immigration status in order to receive the housing assistance. It does so by requiring that all household members under age 62 to submit verification of their immigration status. Under this proposed change, prorated assistance will only be available pending verification of eligible status as opposed to indefinitely.³¹ If all members of a household are not found to be eligible, then the benefit will be withdrawn. Further, the Proposed Rule bans ineligible family members from being leaseholders despite being from a prorated household.³² However, this proposed change has no independent impact because it is preempted by the restriction that no household will receive housing assistance unless every person is of eligible immigration status.³³ Therefore, there is no purpose for this proposed change.

To prove eligibility, the Proposed Rule requires that individuals submit evidence of citizenship or eligible immigration status by providing documentary proof of citizenship or nationality, such as a birth certificate.³⁴ The documentation requirement creates a strain on eligible individuals who are unable to obtain the required documents. For example, one survey from 2006 showed that as many as seven percent of citizens did not have citizenship documentation readily available.³⁵ When Medicaid started to require proof of citizenship to apply for coverage, many states reported marked declines in enrollment.³⁶ This resulted in many otherwise eligible U.S.

²⁷ 42 U.S.C. § 1436a(b).

²⁸ 42 U.S.C. § 1436a(b)(2).

²⁹ *See id.*

³⁰ *See* 24 CFR § 5.508(e).

³¹ *See* 84 Fed. Reg. 20589.

³² *See id.*

³³ *See Regulatory Impact Analysis, supra* note 16, at 2.

³⁴ *See* 84 Fed. Reg. 20589 (stating other documents of proof include a naturalization certificate, a Consular Report of Birth Abroad (FS-240), a valid unexpired U.S. passport, a certificate of citizenship, or other appropriate documentation, as specified in HUD guidance).

³⁵ *Citizens Without Proof: A Survey of Americans' Possession of Documentary Proof of Citizenship and Photo Identification*, BRENNAN CENTER FOR JUSTICE (Nov. 2006), http://www.brennancenter.org/sites/default/files/legacy/d/download_file_39242.pdf.

³⁶ *See New Medicaid Citizenship Documentation Requirement is Taking a Toll: States Report Enrollment Is Down and Administrative Costs Are Up*, CENTER OF BUDGET AND POLICY PRIORITIES (Mar. 13, 2007) (stating evidence suggests those being adversely affected are U.S. citizens who are otherwise eligible for Medicaid because of the new

citizens, including children, not having health care coverage. Similarly, the new documentation requirement will create a chilling effect preventing an eligible member who may not be able to obtain documentation from applying for housing subsidies to which they are entitled.

Even immigrant families who do not have any ineligible members may not apply for housing subsidies out of fear of being separated, even if the fear is unfounded. This is similar to the public charge rule where it has been documented that many immigrants and their family members have stopped accessing public benefits even though they are not themselves impacted by the proposed rule because of its chilling effect.³⁷ Similarly, the Proposed Rule will have the effect of disqualifying a drastic amount of current residents from HUD-subsidized programs and subsequently lead to the discouragement of other immigrants and people of color in their communities from seeking those programs. Being forced to either forego assistance or become separated from their families, eligible people and their families will continue to live in fear and chaos. Thus, the Proposed Rule creates an impossible and false choice for families. In fact, the Department itself “expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified.”³⁸

Under the Proposed Rule, mixed status families are at risk of losing all their housing aid, including vouchers and public housing. According to HUD’s own impact analysis, over 108,000 people would be affected; 70% of these people are citizens or legal residents and 55,000 are children.³⁹ This would lead to immigrants and their family members at risk of homelessness. Since the law already prohibits immigrants without eligible status from receiving housing subsidies (as subsidies are prorated to benefit certain residents with eligible status only), the Proposed Rule seeks to punish mixed status families or in some cases force families to live separately, having harmful impacts on children in particular.

Moreover, requirements of the Proposed Rule will have a disparate impact on people of certain national origins, such as those from Asian and certain Pacific Islander countries with large undocumented populations, along with Latin American and African nationalities with significant undocumented populations.⁴⁰ Though the Proposed Rule is race-neutral on its face, the discriminatory effect is apparent because of the strict rules, which create special burdens on

documentation requirement) <https://www.cbpp.org/research/new-medicaid-citizenship-documentation-requirement-is-taking-a-toll-states-report>.

³⁷ See *Its Impact on Legal Immigrant Families’ Public Benefits Use*, MIGRATION POLICY INSTITUTE (June 2018) <https://www.migrationpolicy.org/research/chilling-effects-expected-public-charge-rule-impact-legal-immigrant-families>; see also *With Public Charge Rule Looming, One in Seven Adults in Immigrant Families Reported Avoiding Public Benefit Programs in 2018*, Urban Institute (May 21, 2019), <https://www.urban.org/urban-wire/public-charge-rule-looming-one-seven-adults-immigrant-families-reported-avoiding-public-benefit-programs-2018>.

³⁸ See *Regulatory Impact Analysis*, *supra* note 16, at 7.

³⁹ See *id.* at 6-7.

⁴⁰ *Inside the Numbers: How Immigration Shapes AAPI and Pacific Islander Communities* at 12, ASIAN AMERICANS ADVANCING JUSTICE (June 2019), <https://www.advancingjustice-la.org/sites/default/files/Inside-The-Numbers-High-Res-Spread.pdf>. (stating of the nearly 10.7 million undocumented immigrants in the U.S, almost 1.7 million are Asian Americans); see also *State-Level Unauthorized Population and Eligible-to-Naturalize Estimates*, CENTER FOR MIGRATION STUDIES <http://data.cmsny.org/> (stating over 7.7 million undocumented immigrants are Hispanic and over 300,000 undocumented immigrants were from the Africa).

undocumented immigrants, the elderly, and limited-English proficient (LEP) individuals that are not burdens on other groups.

- a. *The proposed changes to the documentary evidence requirements for those over 62 will effectively gut Section 214's protections for the elderly*

Currently, individuals 62 years or older who claim eligible status are exempted from immigration status verification requirements and only need to provide a signed declaration of eligible immigration status and proof of age document.⁴¹ However, the Proposed Rule will impose specific documentary evidence requirements for proof of eligibility.⁴² Noncitizens over the age of 62 seeking assistance must provide evidence that consists of a proof of age document plus one other form of documentation, such as a Form I-551, Permanent Resident Card.⁴³

The new documentation requirement will be burdensome for older adults because of difficulties recovering lost records or finding solutions for instances where no documents were ever issued to them.⁴⁴ The consequences of losing housing will be detrimental for the elderly Asian American population which is faring worse economically compared with older Americans overall.⁴⁵ Further, Asian American seniors are more likely to move to cultural hubs, which are often located in cities with expensive real-estate markets, for community support, making access to affordable housing more critical.⁴⁶

Thus, by imposing hardships on all generations ranging from the elderly population all the way down to young children, the Proposed Rule will create detrimental risks for multigenerational households. AAPI immigrants will see harmful results as AAPIs are the most likely group to live in multi-generational households.⁴⁷ The multi-generational characteristic of AAPI households is significant because under the Proposed Rule, the presence of any single ineligible member in a household would lead to the disqualification of the entire household, including U.S. citizens, LPRs, and other eligible members. The disruption of multi-generational households ignores the roles that many grandparents play in caring for younger generations and adult children caring for

⁴¹ See 42 U.S.C. § 1436a(d)(2) (indicating exemption for individuals 62 or older).

⁴² See 84 Fed. Reg. 20589 (May 10, 2019).

⁴³ See *id.* (stating other documents noncitizens of 62 are to submit as evidence of eligibility include Form I-94, Arrival/Departure Record, a notice of approval of status or action from DHS or other appropriate documentation specified by HUD).

⁴⁴ Ina Jafe, *For Older Voters, Getting the Right ID Can Be Especially Tough*, NPR (Sept. 7, 2018), <https://www.npr.org/2018/09/07/644648955/for-older-voters-getting-the-right-id-can-be-especially-tough>.

⁴⁵ *Poverty, Vulnerability, and the Safety Net*, URBAN INSTITUTE (May 30, 2017), <https://www.urban.org/urban-wire/asian-american-seniors-are-often-left-out-national-conversation-poverty> (stating in 2015, the poverty rate for those 65 years and older for was 12.7 percent Asian Americans, while the rate for older Americans overall was 9 percent).

⁴⁶ See *id.*

⁴⁷ *In Post-Recession Era, Young Adults Drive Continuing Rise in Multi-Generational Living*, PEW RESEARCH CENTER (July 27, 2014), <https://www.pewsocialtrends.org/2014/07/17/in-post-recession-era-young-adults-drive-continuing-rise-in-multi-generational-living/> (explaining that racial and ethnic minorities generally have been more likely to live in multi-generational family arrangements and their numbers have grown with increased immigration since the 1970s).

aging parents. Thus, multigenerational AAPI households will face not just one but multiple burdens for each generation from the elderly to young children.

b. LEP communities will especially be burdened by the new documentary requirements.

The documentary requirements in the Proposed Rule also pose additional burdens to LEP individuals, regardless of eligibility. This will disproportionately burden AAPI mixed status families, as approximately one out of every six undocumented immigrants in the U.S. are from Asia.⁴⁸ For immigrants with limited resources who may not speak English well, obtaining additional documentation can be daunting. A majority (52%) of AAPI immigrants are LEP and LEP rates are significantly higher among some ethnic groups.⁴⁹ Among AAPI immigrants, 79% of Burmese Americans are LEP, as are 72% of Vietnamese Americans, 67% of Cambodian Americans, 66% of Chinese (except Taiwanese) Americans, and 64% of Korean Americans.⁵⁰ With respect to the elderly population, 71% of AAPI immigrant seniors are LEP. Additionally, 95% of Hmong, 92% of Cambodian, 90% of Vietnamese, 88% of Laotian, 86% of Nepalese, 85% of Korean, and 84% of Chinese American immigrant seniors are LEP.⁵¹ Further, about one in five AAPI households are linguistically isolated, meaning no one in the household who is 14 years or older speaks English exclusively or “very well.”⁵² Thus, the Proposed Rule’s requirement of having every member of each household validate their eligibility with documentation will create a huge strain on these LEP and linguistically isolated households.⁵³

The documentary evidence requirements under the Proposed Rule are also particularly onerous to those with limited digital access. HUD utilizes the Systematic Alien Verification for Entitlements Program (SAVE), operated by the Department of Homeland Security (DHS), to verify eligible immigration status. Current regulations allow individuals to elect not to claim eligible immigration status.⁵⁴ The Proposed Rule would require all individuals seeking assistance under the age of 62 to have their immigration status screened through SAVE, which is primarily completed online.⁵⁵ The U.S. Citizenship and Immigration Services (USCIS) discourages

⁴⁸ Karthick Ramakrishnan and Sono Shah, *One out of Every Seven Asian Immigrants Is Undocumented*, AAPI DATA, CENTER FOR MIGRATION STUDIES, STATE-LEVEL UNAUTHORIZED POPULATION AND ELIGIBLE-TO-NATURALIZE ESTIMATES (September 8, 2017), <http://data.cmsny.org/> (showing India (37%) and China (17.9%) accounted for the largest share of the Asian undocumented population in 2017).

⁴⁹ *Inside the Numbers: How Immigration Shapes AAPI and Pacific Islander Communities*, *supra* note 40, at 14.

⁵⁰ *See id.*

⁵¹ *See id.*

⁵² *See State of Asian Americans and Pacific Islanders Series: A Multifaceted Portrait of a Growing Population*, at 4 CENTER FOR AMERICAN PROGRESS (Sept. 2014), <http://aapidata.com/wp-content/uploads/2017/09/AAPIDReport-comp.pdf> (stating Vietnamese American households have the highest rate of linguistic isolation at 34% followed by Chinese, Korean, and Bangladeshi Americans).

⁵³ *See Computer and Internet Use in the United States: 2015*, AMERICAN COMMUNITY SURVEY REPORTS (Sept. 2017) (stating only 55.8% of linguistically isolated households have an Internet subscription compared to 78.3% of non-linguistically isolated households with a subscription).

⁵⁴ *See* 84 Fed. Reg. 20589 (May 10, 2019).

⁵⁵ *See id.*

verification by paper mail and only allows for paper submissions in extraordinary situations.⁵⁶ However, there is no exception for HUD-assisted households, which face heightened barriers to digital access. Only 43% of HUD-assisted households have high-speed Internet subscriptions, compared to 75% of all households.⁵⁷ Further, just 44% of HUD-assisted households own a desktop or laptop computer, while 78% of all households own such a device.⁵⁸ Thus, the verification of eligibility requirements performed primarily online is another barrier which hurts HUD-assisted households, leading to a higher chance of losing assistance.

III. Proposed Rule will have broader consequences for the health of our society

a. Mental and Physical Impact

Housing is a basic and essential human need. Lack of housing can lead to devastating life-long consequences. For young children, the looming risk of homelessness has especially harmful effects on their mental and physical functioning.⁵⁹ The stress of homelessness can lead to chronic diseases later in life.⁶⁰ Children of those who are frequent movers or homeless experience increased chance of developmental risk.⁶¹ Both youth and school liaisons identify safe, stable housing as imperative to students' success in school.⁶² Homelessness is associated with an 87% greater likelihood of a child or youth dropping out of school.⁶³ Housing instability is by far the greatest predictor of a students' chronic absenteeism from school.⁶⁴ Furthermore, homeless students have below average standardized test scores compared to housed students who may be of any income.⁶⁵

⁵⁶ *SAVE Program Guide*, DEP'T. OF HOMELAND SECURITY, UNITED STATES CITIZENSHIP AND IMMIG. SERV'S., SYSTEMATIC ALIEN VERIFICATION FOR ENTITLEMENTS (SAVE) PROGRAM (Mar. 2019), <https://save.uscis.gov/web/media/resourcescontents/saveprogramguide.pdf> ("SAVE provides a paper-based verification method that may only be appropriate for agencies in extraordinary situations as determined by the SAVE Program"); see also *Save Goes Completely Paperless*, U.S. Citizenship and Immigr. Serv's. (June 4, 2018), <https://www.uscis.gov/news/save-goes-completely-paperless> (explaining the reason for going paperless is to increase efficiencies by reducing mailroom workloads and save time reviewing documents).

⁵⁷ *Digital Inequality and Low-Income Households, Table 1*, HUD USER OFFICE OF POLICY AND DEVELOPMENT (2016) <https://www.huduser.gov/portal/periodicals/em/fall16/highlight2.html>.

⁵⁸ See *id.* (suggesting that HUD-assisted renters are among the nation's most disconnected households).

⁵⁹ *Health Effects of Unsafe, Unstable, and Unaffordable Housing* at 4, CHANGLAB SOLUTIONS, https://www.changelabsolutions.org/sites/default/files/HealthHousingStarterKit-HealthEffects-FINAL-20180531_0.pdf.

⁶⁰ See *id.* at 2.

⁶¹ *Id.*

⁶² Erin S. Ingram, John M. Bridgeland, Bruce Reed, and Matthew Atwell, *Hidden in Plain Sight: Homeless Students in America's Public Schools* at 7, 29, WASHINGTON, DC: CIVIC ENTERPRISES AND HART RESEARCH ASSOCIATES (2016), <http://www.americaspromise.org/report/hidden-plainsight>.

⁶³ *Id.* at 24.

⁶⁴ *New Study Finds Housing Instability is the Greatest Predictor of Students' Chronic Absenteeism from School*, NATIONAL LOW INCOME HOUSING COALITION (Feb. 25, 2019), <https://nlihc.org/resource/new-study-finds-housing-instability-greatest-predictor-students-chronic-absenteeism-school>.

⁶⁵ *Homelessness and Housing Instability: The Impact on Education Outcomes* at 3, URBAN INSTITUTE (Dec. 2014), https://tacomahousing.net/sites/default/files/print_pdf/Education/Urban%20Institute%20THA%20Homelessness%20and%20Education%202014-12-22.pdf.

Children who might accept assistance and separate from some members of their family will still experience emotional trauma. Prolonged separation from immediate family members has harsh effects—even a year in the life of a child spent forcefully separated from parents has long-term negative health and well-being implications.⁶⁶ Even if families eventually reunite, these effects may last a lifetime.⁶⁷

b. Economic Impact

The Proposed Rule will also be a hindrance to the economy because immigrants are a vital part of the U.S. workforce. Immigrants increase both economic output and economic growth rates.⁶⁸ Second generation immigrants are among the strongest fiscal and economic contributors to the U.S., contributing about \$1,700 per person per year.⁶⁹ Moreover, AAPI immigrants make meaningful contributions to the U.S. economy as both taxpayers and consumers.⁷⁰ Nearly three-quarters of AAPI businesses are immigrant owned, numbering over 1.1 million businesses in the country.⁷¹ Stable housing makes it possible for individuals to find and maintain work. By imposing housing barriers, the Proposed Rule will hinder the ability of many immigrant families to reach financial stability and ultimately contribute to the economy. Thus, taking away crucial subsidies will have detrimental effects on the economy.

The Proposed Rule will also have a direct negative impact on the economy, and will worsen the quality and quantity of housing. According to HUD’s own impact study, households replacing mixed status households would require a higher subsidy than mixed households because on average, these replacement households will have less income and receive higher per household subsidies.⁷² To make up these costs, HUD would have to reduce the quantity and quality of housing, which creates a detrimental effect on currently assisted households.⁷³ The aggregate increase in HUD’s budget to provide subsidies to the replacement households would range from \$193 million to \$227 million annually.⁷⁴ In addition, HUD would bear eviction costs between

⁶⁶ See *US Immigration Policy and the Case for Family Unity* at 423, JOURNAL ON MIGRATION AND HUMAN SECURITY (2017), <https://journals.sagepub.com/doi/pdf/10.1177/233150241700500210>.

⁶⁷ See *id.*

⁶⁸ See *More Research Finds That Immigrants Increase Economic Growth*, PACIFIC STANDARD (Oct. 9, 2018), <https://psmag.com/social-justice/more-research-finds-that-immigrants-increase-economic-growth>.

⁶⁹ See *The Economic and Fiscal Consequences of Immigration, Consensus Study Report* at 12, NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE (2017), <https://www.nap.edu/catalog/23550/the-economic-and-fiscal-consequences-of-immigration>; see also *4 myths about how immigrants affect the U.S. economy*, PBS (Nov. 2, 2018) <https://www.pbs.org/newshour/economy/making-sense/4-myths-about-how-immigrants-affect-the-u-s-economy> (stating other native-born Americans, including third-generation immigrants, contribute \$1,300 per year on average).

⁷⁰ See *Power of the Purse: How AAPIs and Pacific Islanders Contribute to the U.S. Economy* at 2, NEW AMERICAN ECONOMY (Oct. 2017) <http://research.newamericaneconomy.org/wp-content/uploads/2017/10/NAE-AAPI-v14.pdf>. (AAPI immigrants paid \$97.5 billion in federal taxes and \$38.2 billion in state and local taxes, leaving them with \$335.8 billion in disposable income or “spending power”).

⁷¹ *Inside the Numbers: How Immigration Shapes AAPI and Pacific Islander Communities*, *supra* note 40, at 4 (stating there over 600,000 AAPI and 12,000 Pacific Islander immigrant workers in the restaurant industry).

⁷² See *Regulatory Impact Analysis*, *supra* note 16, at 3.

⁷³ See *id.* at 3 (public housing can see a decrease in the quality of services such as maintenance of units).

⁷⁴ See *id.*

\$3.3 million to \$4.4 million for households needing more rigorous enforcement of the rule.⁷⁵ The decreased quality could lead to vacancy, which clearly undermines HUD's asserted purpose that the Proposed Rule would decrease waiting times for HUD-assisted housing.⁷⁶ Thus, the Proposed Rule creates only harm and wipes away any legitimate benefits.

IV. Conclusion

The Proposed Rule wrongly targets and harms low-income immigrant communities. The Proposed Rule will directly harm eligible household members and further create a chilling effect, forcing families make an impossible choice of breaking up their families of foregoing assistance.

Our predominantly family-based immigration system carries net economic benefits.⁷⁷ Stable family units also have positive effects on the integration of immigrant communities and intergenerational mobility.⁷⁸ However, many immigrants face challenges to finding adequate and affordable housing.⁷⁹ A lack of secure, stable housing is detrimental to helping immigrants feel more settled and established in the U.S. This is especially true now as a result of the current administration's harsh immigration policies leaving immigrants rattled with fear.

Family unity is important for the social and economic well-being of immigrant communities. Ensuring immigrants are able to build strong families will improve the U.S. overall as functioning families are able to contribute to the economy, diversity, and well-being of the country. Instead of finding ways to dismantle family units or threaten to take away HUD-assisted housing, HUD should be finding ways to help immigrant families stabilize their homes.

We appreciate your consideration of these comments. Due to the impact and consequences detailed in these comments, we urge HUD to immediately withdraw the Proposed Rule. Furthermore, we ask that HUD please review and consider all citations included in this comment letter. Please contact Megan Essaheb, Director of Immigration Advocacy (messaheb@advancingjustice-aajc.org) with any questions.

Sincerely,

Megan Essaheb
Director of Immigration Advocacy
Asian Americans Advancing Justice-AAJC

⁷⁵ See *id.* at 4.

⁷⁶ See *id.*

⁷⁷ See *US Immigration Policy and the Case for Family Unity*, *supra* note 66, at 423.

⁷⁸ See *id.* at 418.

⁷⁹ *Key housing Issues Facing Immigrant Communities in the Twin Cities* at 3, MINNESOTA HOUSING PROJECT (Nov. 2017), <https://www.mhponline.org/images/Immigrant-research-final.pdf>.