

May 28, 2019

Office of General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0001

RE: **Docket Number FR-6124-P-01: Housing and Community Development Act of 1980: Verification of Eligible Status**

Dear Rules Docket Clerk,

Santa Clara County Housing Authority (SCCHA) submits the following comments in response to the Department of Housing and Urban Development's (HUD) notice and request for comment dated May 10, 2019. The request for public comment was regarding the proposed rule that would require the verification of the eligible immigration status of all recipients of assistance under the age of 62.

SCCHA does not support this proposed rule and is deeply concerned that it will detrimentally affect the families who receive assistance through our assisted housing programs as well as the local community at large.

Comment 1: The proposed rule is unnecessary because the law already prohibits ineligible non-citizen members of the household from receiving housing assistance

The proposed rule claims to close a loophole to ensure that HUD's limited financial resources be used to aid families "lawfully present in the United States." Existing law, however, restricts federal housing assistance to U.S. citizens with narrow exceptions for certain immigrants legally residing in the U.S.¹ In a family where some members are eligible for housing assistance and others are not, often referred to as a mixed status family, a portion of the family's housing subsidy is deducted to account for the ineligible non-citizen. For example, if a family consisting of two parents and two children, receive a Section 8 Housing Choice Voucher, but the father and children are U.S. citizens while the mother has ineligible immigration status, that family of four's rent would be calculated to fully account for the incomes of both parents and then prorated to ensure that the parent that is ineligible for assistance does not receive any. Therefore, the family pays a larger share of their rent than they would if all four family members were eligible for housing assistance.

¹ 24 CFR Subpart E

Comment 2: The proposed rule would put at least 565 Santa Clara County residents at risk of eviction, homelessness, displacement and family separation.

Currently, SCCHA provides housing assistance to 123 mixed status families, meaning they have at least one ineligible non-citizen in the home while the remaining family members are eligible citizens. These families constitute 565 people, the majority of whom are minors.

These families will be forced to make a harsh choice between keeping the family together and staying in their home. How can a parent decide between keeping a roof over their child's head and living with their child? Santa Clara County is widely known for being one of the most expensive and competitive rental markets in the country. Most mixed status families that choose to stay together and voluntarily give up their housing assistance will not be able to pay the rent for their current unit and will find it extremely difficult to find an alternative unit in the area that they can afford. Therefore, many of these families will be forced into homelessness or will have to leave the communities they consider home in order to avoid homelessness.

Mixed status families that choose to have an ineligible family member move out to keep receiving housing assistance, will have to grapple with the trauma of not being able to live with their loved one for years to come. It is far more likely that the ineligible family member will remain in the home as an unapproved occupant, where their income would not be counted and included towards the rent.

Comment 3: The proposed rule will force some mixed status families to break their lease and thereby also burdening owners and landlords that rented to them

HUD has permitted mixed status families to live together in subsidized housing even if one or more of the family members is an ineligible non-citizen. In these cases, the Housing Authority prorates the subsidy for the household so any member of the family who declares themselves to be ineligible is excluded from the benefits calculation. These families have complied with all the rules currently in effect and the retroactive nature of the proposed rules provisions will not only destabilize these already vulnerable families but also threaten the entire infrastructure that PHA's have worked hard to build to house low-income families.

Often, landlords and property owners are hesitant to rent to a family that has a Housing Choice Voucher due to preexisting biases or past unpleasant experiences with excess paperwork or difficult tenants.² Therefore, PHA's must continually build partnerships

² <https://www.governing.com/topics/health-human-services/gov-section-8-housing-discrimination-income-source.html>

with local landlords and property owners in order to increase our families' access to housing.

This proposed rule, would likely force some mixed status families to break their lease because the family can no longer afford to live in the unit. Other mixed status families will remain in the unit but will be unable to pay the rent and the landlord will have to begin the eviction process. These occurrences will have a detrimental effect on the fragile relationship that PHA's have with many owners, especially those who are new to renting to Section 8 families, who will undoubtedly think twice before renting to a Section 8 family again.

This rule would destabilize not only mixed status families but the community that is trying to support them as well. It completely contradicts HUD's mission, "to create strong, sustainable, inclusive communities and quality affordable homes for all."³ As it makes it more difficult for families to have access to assistance for which they would otherwise be eligible. We ask the agency to withdraw this rule. Under no circumstances, should it be adopted in its current form.

Sincerely,



Katherine Harasz
Executive Director

³ <https://www.hud.gov/about/mission>

