

July 9, 2019

Submitted via www.regulations.gov

Mr. Paul Compton
General Counsel
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 Comments in Response to Proposed Rulemaking:
Housing and Community Development Act of 1980: Verification of Eligible Status

Dear Mr. Compton:

The City of Seattle (“City”) submits this comment in response to the Department of Housing and Urban Development’s (HUD) proposed rule published in the Federal Register on May 10, 2019 (RIN 2501-AD89; HUD Docket No. FR-6124-P-01). **We strongly oppose the proposed changes regarding “Verification of Eligible Status” Rule.**

The Rule, if enacted unchanged, will result in over 55,000 children being evicted from their homes across the U.S., and it would be extremely harmful to children’s development and have implications for their well-being into adulthood. It would also increase the number of children living in poverty each year, and would thus also have far-reaching negative economic impacts to cities like Seattle.

The City of Seattle submitted a robust public comment in December 2018 strongly opposing the USCIS “public charge” rule, and we take no pleasure in strongly opposing this HUD rule that appears to be in the same fear-inducing spirit.

I. Introduction

The estimated total population of Seattle is 730,400 people,¹ and of those, the U.S. Census estimates that 18 percent, or around 131,472 individuals, are foreign-born.² These immigrants contribute to the city’s economy in a number of ways, whether by starting small and large businesses, paying taxes, or working in one of the many industries that support both the local and national economies. According to the non-partisan thinktank New American Economy, immigrant household incomes accounted for \$29 billion in household income and \$8 billion in taxes paid for the Seattle Metropolitan Area. Additionally, in 2018, the total operating budget of the City was \$6.01 billion, and the total capital budget was \$1.11 billion.³

Due in part to the above statistics, and because Seattle is a welcoming city, the City of Seattle has made great efforts to protect our immigrant and refugee workers and residents. Such efforts include executive

¹ See https://www.ofm.wa.gov/sites/default/files/public/dataresearch/pop/april1/ofm_april1_population_final.pdf

² See <https://www.census.gov/quickfacts/fact/table/seattlecitywashington,US/PST045217>

³ See <https://openbudget.seattle.gov/#!/year/default>

orders,⁴ resolutions,⁵ and ordinances⁶ to ensure immigrants feel welcome and safe in the city. The City has also funded social programs to help income-eligible residents with what we consider to be basic needs. Additionally, the City believes it is the responsibility of our government to assist all Seattleites, including taxpayers, residents, and workers, especially when an individual or family encounters an unforeseen crisis or catastrophic emergency situation. In this role, the City manifests its core value of providing infrastructure, goods, and services for all residents, but especially for vulnerable, disabled, and marginalized people who cannot individually provide for themselves.

To this end, the City created the Office of Immigrant and Refugee Affairs (OIRA) in 2012 to improve the lives of Seattle's immigrant and refugee families. In line with the City's values of social justice and equity, OIRA works to strengthen immigrant and refugee communities by engaging them in decisions about the City's future and improving the City's programs and services to meet the needs of all constituents. We believe supporting immigrants creates a stronger future for our nation. As with prior generations, today's immigrants are tomorrow's U.S. citizens, who will be fully engaged in the economic, cultural, and civic life of our society, both locally and nationally.

Although HUD contends that the proposed rule is a means of addressing the waitlist crisis faced by a majority of public housing authorities across the U.S.,⁷ the City of Seattle believes that the proposed rule is a part of the current administration's continued attacks on immigrant families.⁸ We all share the concern that millions of U.S. households struggle to find affordable housing in the ongoing nationwide housing crisis, but blaming immigrant families will not fix this problem.

In fact, HUD's own analysis of the proposed rule concludes that less, not more, families are likely to receive assistance as a result of the rule.⁹ The real issue seems to be the lack of sufficient federal funding to ensure that every family, regardless of immigration status, has access to a safe, healthy, affordable home.

II. The proposed HUD rule is bad policy because of harm to housed families, especially thousands of vulnerable children.

⁴ See http://murray.seattle.gov/wp-content/uploads/2016/11/Executive-Order-2016-08_Welcoming-City.pdf

⁵ See <http://clerk.seattle.gov/~scripts/nph-brs.exe?s1=&s3=&s2=&s4=Ordinance+121063&Sect4=AND&l=200&Sect2=THESON&Sect3=PLURON&Sect5=RESNY&Sect6=HITOFF&d=RESF&p=1&u=%2F~public%2Fresny.htm&r=7&f=G>

⁶ See <http://clerk.ci.seattle.wa.us/~scripts/nph-brs.exe?d=CBOR&s1=114436.cbn.&Sect6=HITOFF&l=20&p=1&u=~public/cbor2.htm&r=1&f=G>

⁷ Tracy Jan, Trump Proposal Would Evict Undocumented Immigrants from Public Housing, Wash. Post (Apr. 18, 2019), https://www.washingtonpost.com/business/2019/04/18/trump-proposal-would-evict-undocumented-immigrants-public-housing/?utm_term=.c6fd40565b83.

⁸ See, e.g., Nat'l Immigration L. Ctr., Understanding Trump's Muslim Bans (updated Mar. 8, 2019), <https://www.nilc.org/issues/immigration-enforcement/understanding-the-muslim-bans/>; Michael D. Shear & Emily Baumgaertner, Trump Administration Aims to Sharply Restrict New Green Cards for Those on Public Aid, N.Y. Times (Sept. 22, 2018), <https://www.nytimes.com/2018/09/22/us/politics/immigrants-green-card-public-aid.html>; Dan Lamothe, Pentagon Will Shift an Additional \$1.5 Billion to Help Fund Trump's Border Wall, Wash. Post (May 10, 2019), https://www.washingtonpost.com/national-security/2019/05/10/pentagon-will-shift-an-additional-billion-help-fund-trumps-border-wall/?utm_term=.37360e7cda10; Reuters, Exclusive: Trump Administration Proposal Would Make It Easier to Deport Immigrants Who Use Public Benefits, N.Y. Times (May 3, 2019), <https://www.nytimes.com/reuters/2019/05/03/us/politics/03reuters-usa-immigration-benefits-exclusive.html>.

⁹ HUD, Regulatory Impact Analysis, Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980, Docket No. FR-6124-P-01 (Apr. 15, 2019).

First, the proposed rule will bar U.S. citizens or lawful permanent resident (LPR) children from maintaining and seeking federally subsidized housing. By eliminating the ability of “mixed-status families” or households with family members who have different citizenship status¹⁰ to receive prorated assistance on a permanent basis, the proposed rule robs eligible citizen children of housing subsidies because they have parents with ineligible noncitizen status. Section 214 of the Housing and Community Development Act of 1980 (Section 214) limits access to federally subsidized housing programs to U.S. citizens and a specific list of noncitizen categories.¹¹ However, nearly all of the children in mixed-status families who are receiving HUD assistance covered by Section 214 are actually U.S. citizens and LPRs themselves who live with parents or other adults who do not have eligible immigration status.

HUD’s own statistics show that 70% 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.¹² Since these children lack the legal capacity to sign leases themselves, the adult heads of household, including those who do not receive assistance, must sign these contracts on behalf of their family. However, by prohibiting the ineligible adults from living in subsidized units, the proposed rule forecloses the possibility of these U.S. citizens and LPR children from receiving any housing assistance under the covered housing programs.

In the proposed rule, HUD claims to be revising its regulations “into greater alignment with the wording and purpose of Section 214,” namely by barring mixed-status families from receiving assistance. To support its claim, HUD goes on to say that Section 214 prohibits the indefinite receipt of prorated assistance by mixed-status families, but it cannot point to any statutory language containing such an assertion. In fact, Section 214 clearly conveys that Congress intended to ensure that individuals with eligible immigration status would receive assistance while keeping mixed-status families together in the same home. The plain language of the statute conveys this intent. For example, 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...” (emphasis added). The law explicitly allows housing authorities to choose not to affirmatively establish ineligibility.¹³ Indeed, Congress did not obfuscate their intent: “shall be prorated” does not mean “may be prorated for some period of time.” In mixed-status families, HUD must provide prorated assistance.

¹⁰ A common scenario found in cities like Seattle, include families whereby one or both parents or guardians may be undocumented or a lawful permanent resident (LPR) and their U.S.-born children are U.S. citizens.

¹¹ 42 U.S.C.A. § 1436a(a)(1)-(6) (West 2019) (Noncitizens 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 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).

¹² See 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 6-8 (Apr. 15, 2019) (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).

¹³ 42 U.S.C. § 1436a(i)(2)(A).

Legislative history supports the straightforward reading of this statute. Section 214 was passed in 1980. Then, in 1988, Congress included a provision by which mixed-status families who had been receiving full subsidy prior to the statute's passage could avoid family breakup.¹⁴ In its proposed rule, HUD distorts that provision providing for temporarily grandfathered assistance by claiming that Congress only intended for prorated assistance to be provided for a limited time. However, Congress added the proration provisions later in 1996,¹⁵ and Congress has been consistent in attempting to guarantee that scarce federal subsidy would be provided for eligible immigrants and citizens while preserving the integrity of mixed-immigration status families. HUD's interpretation requires ignoring the plain language and the history of the statute. HUD should withdraw its rule because it is in direct conflict with the congressional mandate of Section 214 to provide prorated assistance to mixed-status families.

Aside from vulnerable children, the proposed rule places tens of thousands of entire families across the nation at risk of homelessness, jeopardizing their housing stability and their well-being, which are both essential supports on the pathway to self-sufficiency and improved life outcomes. The proposed rule threatens to undermine the well-being of low-income U.S. citizens, immigrants, and their families, especially the over 8,000 households in Washington State who currently have a member who is a non-citizen. The rule would force these 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, the cornerstone of American values. Breaking up families leads to toxic stress, trauma, and attachment issues in children. Even a temporary separation has significant and far-reaching negative impacts on the health and educational attainment of these children later in life.¹⁶ And many parents struggle to restore the parent-child bond once it has been disrupted by a separation.¹⁷

Since 70% of mixed-status families currently receiving HUD assistance are composed of eligible children and at least one ineligible parent, it is very likely that these families will forgo the subsidies to avoid separation. In fact, it appears that HUD is purposefully relying on this, noting in their regulatory impact analysis that "HUD expects that fear of the family being separated would lead to prompt evacuation by most mixed households, whether that fear is justified."¹⁸ Thus, this rule if enacted would effectively evict as many as 108,000 individuals in mixed-status families, (in which nearly 75 % are eligible for assistance) from public housing, Section 8, and other programs covered by the proposed rule.¹⁹ These mass evictions and departures from housing assistance will cause increased rates of homelessness and unstable housing among an already vulnerable population.²⁰

These damaging 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

¹⁴ Housing and Community Development Act of 1987, Pub. L. No. 100-242, § 164, 101 Stat. 1815.

¹⁵ Use of Assisted Housing by Aliens Act of 1996, Pub. L. No. 104-208, § 572, 110 Stat. 3009.

¹⁶ 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/>.

¹⁷ *Id.* at 11.

¹⁸ 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).

¹⁹ *Id.* at 8.

²⁰ 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>.

long term.²¹ Numerous studies over decades of research have shown that unstable housing situations can cause individuals to experience increased hospital visits, loss of employment, and are associated with increased likelihood of mental health problems in children.²² Additionally, unstable housing can dramatically increase the risk of an acute episode of a behavioral health condition, including depression and anxiety. Having safe and stable housing is crucial to a person's 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.²³ 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.²⁴

The federal government itself recognizes that unstable housing has more pernicious and enduring impacts to children, as both HUD and the U.S. Department of Education both have specialized definitions for homelessness unaccompanied youth and homeless families with children. Given this, why would HUD change a rule that would specifically damage immigrant children given the expanded recognition that young people need more supports rather than less to thrive?²⁵ This is why local governments across the country, including Seattle, have developed free and reduced cost preschool programs for its residents.²⁶ Investing in children early on yields tremendous economic and public safety benefits later on.²⁷ And instead, the proposed rule's impacts would hence incur damage both in the present and in the future.

III. The proposed HUD rule would create a chilling effect for all immigrants who can legally access public benefits, resulting in decreased utilization of primary and preventive health care services as well as substantive disenrollment from government benefits causing significant, widespread, and permanent harm to children, families, and communities.

The proposed rule will effectively evict over 55,000 children across the U.S. who are eligible for the covered housing programs. The changes proposed are specifically designed to force families to make choices that will harm their child's well-being. Mixed-status families will have to make the excruciating decision to either face eviction or separate as a family in order to retain housing stability. Both options

²¹ 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>.

²² 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 US: Costs and Impacts of Policies Proposed by the Children's Defense Fund (Jan. 2015), <http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPoliciesProposedbytheChildrensDefenseFund.pdf>.

²³ 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>.

²⁴ 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).

²⁵ <https://www.cbpp.org/research/poverty-and-inequality/economic-security-programs-help-low-income-children-succeed-over>

²⁶ <https://www.seattle.gov/education/for-parents/child-care-and-preschool/seattle-preschool-program>

²⁷ See Maia Szalavitz, How to Cut Crime, Alcoholism and Addiction? It's Not Elementary, But Preschool, *Time Magazine* (2011), <http://healthland.time.com/2011/06/09/how-to-cut-crime-alcoholism-and-addiction-its-not-elementary-but-preschool/>.

will have lasting impacts on child and family health. Research shows that families who are evicted are more likely to experience homelessness, move into substandard or overcrowded housing, and have a sequence of adverse physical and mental health outcomes.²⁸ The alternative, family separation, is a stressful and traumatizing experience for children, which can alter the architecture of a child's developing brain and have lifelong consequences.²⁹

This HUD strategy appears to follow an anti-immigrant template that the federal administration has employed throughout various departments since February 2017. The City of Seattle is struck by how similar the likely consequences of this rule change would be to recent past rule changes. For example, on October 10, 2018, the U.S. Department of Homeland Security (DHS) published a change to the "public charge" rule, proposing that when considering an immigrant's application for a visa or lawful permanent residency,³⁰ DHS may consider an applicant's use, or likely use at any time in the future, of anti-poverty safety net programs that improve access to health care, nutrition, and housing security, as a factor for denying legal status to an immigrant.

That both the USCIS notice of proposed rule-making (NPRM) and this HUD NPRM have the cumulative effect of deterring immigrant families, many of which include U.S. citizen children, from seeking the help they need to lead a healthy and productive life. The City believes that investing in nutrition, health care, and other essential needs keeps children learning, parents working, families strong, and allows all of us to contribute fully to our Seattle communities. The policies articulated in the proposed Rule will terrify immigrant families, discourage or prevent hard-working people from immigrating, and deter immigrant families, including U.S. citizen children, from seeking the help they need to lead a healthy and productive life.

Approximately 18 million children in the U.S. live in a family with at least one immigrant parent,³¹ and an estimated 5 million children (of whom more than 80 percent are U.S. citizens) live in homes with at least one undocumented parent.³² While the majority of children in these households are citizens, the fact that they have at least one member of their household who has limited or no eligibility for public assistance based on their immigration status means that children in immigrant families have higher rates of poverty than children in U.S.-born families.³³

Access to housing assistance already remains limited for families as only one in four families who are eligible for rental assistance in the U.S. receive it. Nearly 40% of the of households currently receiving rental assistance include children.³⁴ Research shows that rental assistance for households with children results in significant positive effects for future child outcomes and family economic security. Housing

²⁸ Bovell-Ammon A & Sandel M., The Hidden Health Crisis of Eviction, *Bos. U. Sch. of Pub. Health* (2018), <http://www.bu.edu/sph/2018/10/05/the-hidden-health-crisis-of-eviction/>; Desmond M. & Tolbert Kimbro R., *Evictions Fallout: Housing, Hardship, and Health*, 94 *Social Forces* 295 (2015).

²⁹ Simha S., *The Impact of Family Separation on Immigrant and Refugee Families*, 80 *N C Med J.* 95, 96 (2019).

³⁰ Inadmissibility on Public Charge Grounds, Notice of Proposed Rulemaking, 83 Fed. Reg. 51114, DHS Docket No. USCIS-2010-0012, <https://www.federalregister.gov/documents/2018/10/10/2018-21106/inadmissibility-on-public-charge-grounds>

³¹ Databank Indicator: Immigrant Children, *Child Trends* (Oct. 2014), www.childtrends.org/?indicators=immigrant-children.

³² Randy Capps, Michael Fix, and Jie Zong, *A profile of U.S. Children with Unauthorized Immigrant Parents* (Washington, DC: Migration Policy Institute, 2016), www.migrationpolicy.org/research/profile-us-children-unauthorized-immigrant-parents.

³³ *Ibid.* 1. Page 140.

³⁴ "National and State Housing Fact Sheets & Data." Center on Budget and Policy Priorities, August 2017, <https://www.cbpp.org/research/housing/national-and-state-housing-fact-sheets-data>.

assistance lifts about a million children out of poverty each year,³⁵ and can improve a child's chances for long-term economic mobility as one study found that children in households receiving Housing Choice vouchers have higher adult earnings and a lower chance of incarceration.³⁶

Housing assistance also improves child health as children of families receiving housing assistance had a 35 percent higher chance of being labeled a "well child," a 28 percent lower risk of being seriously underweight, and a 19 percent lower risk of food insecurity.³⁷ Access to affordable housing provides stability for families and frees up income for other necessities. Low-income households with children that pay more than half of their monthly income on rent spend considerably less on other basic necessities. They spend \$200 less per month on food, nearly \$100 less on transportation, and about \$80 less on health care.³⁸

This rule would add insult to injury by further limiting access to housing assistance for families with children. HUD estimates that 55,000 children will be displaced and at-risk of homelessness as a result of implementation of this rule. Child and youth homelessness continues to skyrocket in the United States: the U.S. Department of Education identified 1.3 million homeless children in the 2016-2017, which is a 70 percent increase since the 2007-2008 school year.³⁹

The proposed rule will only serve to further increase child homelessness, with detrimental effects to child well-being and our economy. Homelessness, even for a brief time, is extremely detrimental to a child's healthy development. The younger and longer a child experiences homelessness, the greater the cumulative toll of negative health outcomes.⁴⁰ Homelessness is also associated with an 87 percent greater likelihood of a child or youth dropping out of school.⁴¹

The Rule would harm a broad swath of children and families in the City of Seattle. Children in immigrant families do not live in isolation. They live and grow up in communities where their individual success is critical to the strength of the country's future workforce and collective economic security. When families have access to housing assistance, they have more resources to cover the cost of nutritious foods, health care, and other necessities.⁴² Where families live is also directly tied to where they work. If parents lose access to affordable housing, they may also be at risk of losing their jobs. Families without

³⁵ Liana Fox, "The Supplemental Poverty Measure: 2017," September 2018, <https://www.census.gov/library/publications/2018/demo/p60-265.html>.

³⁶ Andersson, Fredrik and Haltiwanger, John C, et. al. "Childhood Housing and Adult Earnings: A Between-Siblings Analysis of Housing Vouchers and Public Housing." National Bureau of Economic Research, Working Paper No. 22721, September 2018, <http://www.nber.org/papers/w22721>.

³⁷ Elizabeth March, "Rx for Hunger: Affordable Housing," Children's Health-Watch; Medical-Legal Partnership, December 2009, http://www.vtaffordablehousing.org/documents/resources/435_RxforhungerNEW12_09.pdf.

³⁸ "The State of the Nation's Housing 2018", Joint Center for Housing Studies of Harvard University, tabulations of US Bureau of Labor Statistics, 2016 Consumer Expenditure Survey, 2018, http://www.jchs.harvard.edu/sites/default/files/Harvard_JCHS_State_of_the_Nations_Housing_2018.pdf

³⁹ "Federal Data Summary School Years 2014-2015 to 2016-2017, National Center for Homeless Education, February 2019, <https://nche.ed.gov/wp-content/uploads/2019/02/Federal-Data-Summary-SY-14.15-to-16.17-Final-Published-2.12.19.pdf>.

⁴⁰ Megan Sandel, Richard Sheward, and Lisa Sturtevant, Compounding Stress: The Timing and Duration Effects of Homelessness on Children's Health, Insights from Housing Policy Research (Washington, DC: Center for Housing Policy; Boston: Children's HealthWatch, 2015), <https://www.issuelab.org/resources/21731/21731.pdf>.

⁴¹ Erin S. Ingram, John M. Bridgeland, Bruce Reed, and Matthew Atwell, Hidden in Plain Sight: Homeless Students in America's Public Schools (Washington, DC: Civic Enterprises and Hart Research Associates, 2016), <http://www.americaspromise.org/report/hidden-plainsight>.

⁴² Maqbool, Nabihah; Viveiros, Janet; and Ault, Mindy, "The Impacts of Affordable Housing on Health: A Research Summary," Center for Housing Policy, 2015. Available at http://www.housingpartners.com/assets/creating_change/http_app.bronto.pdf

jobs can lead to families without adequate health care. As compared to children without health insurance, children enrolled in Medicaid in their early years have better health, educational, and employment outcomes not only in childhood but as adults.^{43 44} The City of Seattle values investing in children, rather than put their healthy development and education at risk by destabilizing their families. Forcing parents to choose between their ability to remain with/reunite their family or their children's access to critical benefits is short-sighted and will harm all of us, especially residents of Seattle.

Additionally, a National Academy of Sciences study found that child poverty and homelessness costs our society over \$1 trillion each year.⁴⁵ The results of this same study revealed that making housing vouchers available for 70 percent of the families who are currently eligible would reduce child poverty by three percentage points.

This rule instead takes away housing assistance from thousands of children and families, ignoring research from leading experts regarding what is best for the well-being of the nation's children and families. Evicting families or forcing them to separate will not only harm children's health today, but well into the future. We need policies that expand, not reduce, access to stable homes for families with children in order to ensure all children have opportunities to be healthy and reach their highest potential.

IV. The Proposed HUD rule is bad fiscal policy because of numerous negative impacts to HUD itself.

The proposed rule will actually lead to a decrease in the number of families assisted – according to HUD.

Cities across the country currently face an affordable housing crisis. Homelessness and housing instability are already a severe problem in Seattle and King County. According to the 2019 Point-in-Time Count in Seattle/King County, there were 11,199 people experiencing homelessness.⁴⁶ According to a 2016 report on homelessness conducted by the City, 11 % of the 1,050 homeless people in Seattle said they were immigrants or refugees.⁴⁷ As mentioned previously, the federal definition of homelessness is unique for minors because of how vulnerable they are to any form of housing instability. According to Washington State Office of Superintendent of Public Instruction, in Seattle Public Schools, 4,169 public school children were determined to be homeless in the 2017-2018 academic.⁴⁸ Notably, the immigrant dense neighborhoods in Southeast Seattle reported a tripling of homeless public school students since 2010.⁴⁹

Part of our housing crisis is a crisis in response, as currently the names of over three million individuals appear on voucher waitlists around the country, with an additional six million that would like to be on

⁴³ O'Brien, Rourke and Robertson, Cassandra, "Medicaid and Intergenerational Economic Mobility," University of Wisconsin—Madison, Institute for Research on Poverty, 2015. Available at <https://search.library.wisc.edu/catalog/9910223409002121>.

⁴⁴ Goodman-Bacon, Andrew, "The Long-Run Effects of Childhood Insurance Coverage: Medicaid Implementation, Adult Health, and Labor Market Outcomes," NBER Working Paper No. 22899, 2016. Available at www.nber.org/papers/w22899.

⁴⁵ National Academies of Sciences, Engineering, and Medicine 2019. A Roadmap to Reducing Child Poverty, The National Academies Press, 2019, <https://doi.org/10.17226/25246>.

⁴⁶ See http://allhomekc.org/wp-content/uploads/2019/05/2019-Report_KingCounty_FINAL.pdf

⁴⁷ City of Seattle 2016 Homeless Needs Assessment prepared by Applied Survey Research. Available at

<https://www.documentcloud.org/documents/3480319-City-of-Seattle-Homeless-Needs-Assessment-March.html>

⁴⁸ See <https://www.k12.wa.us/homeless-education-student-data>

⁴⁹ Norimine, Hayat, "In South Seattle, the Number of Homeless Students Tripled Since 2010," Seattle Met, April 12, 2018.

Available at <https://www.seattlemet.com/articles/2018/4/12/in-south-seattle-the-number-of-homeless-students-tripled-since-2010>

these waitlists.⁵⁰ The proposed rule would not alleviate this crisis, it would instead worsen it. By HUD's own assessment, the proposed rule will likely lead to a **decrease** in the number of assisted families. According to HUD, if the agency were to replace the 25,000 mixed status families currently receiving HUD assistance with households comprising of members who are all eligible, this transition would cost HUD from \$372 million to \$437 million annually.⁵¹ This harmful wastefulness does not strike us as an efficient and best use of taxpayer dollars.

To pay for these new costs of the proposed rule,⁵² HUD has surmised that the likeliest scenario, would be that **HUD would have to reduce the quantity and quality of assisted housing in response to higher costs**. In this case, the transfer would be from assisted households who experience a decline in assistance (in whole or in part) to the replacement households. With part of the budget being redirected to cover the increase in subsidy, there could be fewer households served under the housing choice vouchers program.⁵³

News of this HUD rule would also cause a "chilling effect" negatively impacting other immigrant families.

Undoubtedly, this proposed rule would exacerbate Seattle's already existing housing crisis, as it is entirely plausible that a percentage of immigrant families will drop out of affordable housing and instead choose overnight shelters and other temporary homelessness programs. We also believe that it would not only be mixed-status families impacted by this rule. It is also plausible that low-income immigrant families comprised entirely of U.S. citizens or LPRs and who qualify for these housing supports may decide not to apply because of the chilling effect this rule will likely create for all immigrant communities regardless of status. The public record has documented a number of instances of the chilling effect caused by rules such as this. For example, many immigrant and refugee families chose to drop out of public assistance programs over fears of becoming a public charge after the draft version of the 2017 White House public charge executive order leaked to media outlets in February 2017. OIRA received reports from both immigrants living within Seattle and staff from immigrant-serving community-based organizations that immigrants themselves started refusing local and federal benefits that they qualify for, and many also requested case managers to disenroll them from social programs that they are eligible for after USCIS published their "public charge" NPRM. This trend has been widely documented by media outlets.^{54 55} Immigration policy, whether NPRMs, the president's own rhetoric, or executive orders, affects the everyday decisions of immigrants and refugees.

The cumulative negative impacts of the rule could affect all eligible immigrant families, regardless of status. Studies have shown that unstable housing situations can cause individuals to experience

⁵⁰ See Alicia Mazzara, CBPP, *Housing Vouchers Work: Huge Demand, Insufficient Funding for Housing Vouchers Means Long Waits* (Apr. 19, 2017), <https://www.cbpp.org/blog/housing-vouchers-work-huge-demand-insufficient-funding-for-housing-vouchers-means-long-waits>.

⁵¹ 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 11 (Apr. 15, 2019).

⁵² Braktkton Booker, *White House Budget Calls for Deep Cuts to HUD*, NPR (Feb. 13, 2018), <https://www.npr.org/2018/02/13/585255697/white-house-budget-calls-for-deep-cuts-to-hud>.

⁵³ 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 3 (Apr. 15, 2019) (emphasis added).

⁵⁴ Shapiro, Nina, "As Trump considers penalties, Seattle-area immigrants turn down public benefits they're entitled to claim," *Seattle Times*, August 12, 2018, <https://www.seattletimes.com/seattle-news/legal-immigrants-in-seattle-area-alarmed-over-possible-penalties-for-using-benefits/>.

⁵⁵ Baumgaertner, Emily, "Spooked by Trump Proposals, Immigrants Abandon Public Nutrition Services," *New York Times*, March 6, 2018, <https://www.nytimes.com/2018/03/06/us/politics/trump-immigrants-public-nutrition-services.html>.

increased hospital visits, loss of employment, and mental health problems, which aside from the ethical and humanitarian considerations, would also negatively impact the economies of cities.^{56 57} Having safe and stable housing is crucial to a person's good health, sustaining employment, and overall self-sufficiency. The Rule threatens to undermine the overall well-being of low-income immigrants and their families, who comprise a significant portion of Seattle's economy.

V. The proposed HUD rule is bad policy because this rule would violate HUD's obligation to affirmatively further fair housing.

The adoption of this proposed rule would also directly violate 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.⁵⁸ In its 2015 regulation, HUD defined "[a]ffirmatively 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."⁵⁹ 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 move backwards by denying housing opportunities to thousands of immigrant families, using immigration status as a pretext for discriminating against individuals based on their race and national origin. Furthermore, according to HUD's own analysis, 70 percent of the households negatively impacted by this proposed rule *are families with eligible children*.⁶⁰ Since minor children comprise the vast majority of eligible occupants of mixed status households,⁶¹ 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.

VI. The proposed HUD rule has inequitable impacts of communities of color.

Latino Communities

The proposal to take away critical public or other subsidized housing support from families of mixed immigration status would inequitably harm Latino communities both across the nation and locally. Today, the U.S. Latino population is at more than 55 million, comprising 18 % of the total U.S. population, and approximately one in five Latinos are non-citizens.⁶² By 2050, the projections are that

⁵⁶ Horowki, Meredith, "Housing Instability and Health: Findings from the Michigan Recession and Recovery Study," National Poverty Center Policy Brief #29, March 2012. Available at

http://www.npc.umich.edu/publications/policy_briefs/brief29/NPC%20Policy%20Brief%20-%2029.pdf

⁵⁷ Desmond, Matthew and Gershenson, Carl, "Housing and Employment Insecurity Among the Working Poor," Soc. Problems 1, 2016. Available at

<http://scholar.harvard.edu/files/mdesmond/files/desmondgershenson.sp2016.pdf?m=1452638824http://pediatrics.aappublications.org/content/early/2018/01/18/peds.2017-2199>

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

⁵⁹ 24 C.F.R. § 5.152 (definition of "Affirmatively furthering fair housing").

⁶⁰ RIA at 8.

⁶¹ *Id.* At 6 (noting that in mixed status households, 73 percent of eligible occupants are children between 0 and 17 years old).

⁶² U.S. Census Bureau, American FactFinder: Selected Population Profile in the United States: 2017 American Community Survey 1-Year Estimates.

nearly one-third of the U.S. workforce will be Latino.⁶³ Among Latino children, who account for a quarter of all U.S. children, the majority (52%) have at least one immigrant parent,⁶⁴ and more than half of children of immigrants are Latino.⁶⁵

Despite the hard work and the many contributions by Latinos to the economy, this group continues to face prejudice and discrimination throughout the U.S., 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 for their family. This year, the National Low-Income Housing Coalition (NLIHC) released their annual Out of Reach report showing that federal minimum wage would not cover rent anywhere in the U.S.⁶⁶ More importantly, it shows that nationally, a family would need to earn \$22.10 an hour to afford a modest two-bedroom apartment. Assuming this rate applied to full-time work, annual earnings to afford a two-bedroom apartment would be \$45,968.⁶⁷ Here in Seattle, a minimum wage worker would have to work 93 hours a week to afford a modest two-bedroom home for their family.⁶⁸ Also, in 2017, 4.4 million (55%) Latinos who rented their home were cost-burdened, which means they devoted 30% or more of their income towards rent.⁶⁹ For the Seattle Metropolitan area about half of Latino renters were cost-burdened.⁷⁰

Traditionally, access to federal housing assistance has allowed hundreds of thousands of Latinos to lift themselves out of poverty. According to an analysis conducted by public policy thinktank UnidosUS, federal housing assistance, which includes public and other subsidized housing, lifted approximately 800,000 Latinos out of poverty in 2017, including more than 280,000 Latino children.⁷¹ While research suggests that Latinos remain underrepresented in these programs,⁷² the proposed rule would deter many eligible Latinos participating in public or subsidized housing programs, and increase housing insecurity for Latino families. As HUD acknowledges, families that lose housing assistance are at risk of homelessness, with serious consequences for family well-being and child development. When families have access to housing assistance, they have more resources to cover the cost of nutritious foods, health care, and other necessities.⁷³ Where families live is also directly tied to where they work. If parents lose access to affordable housing, they may also be at risk of losing their jobs.

⁶³ 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/>.

⁶⁴ 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/>.

⁶⁵ 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>.

⁶⁶ https://www.cbsnews.com/news/minimum-wage-doesnt-cover-the-rent-anywhere-in-the-u-s/?fbclid=IwAR2eKx3fRzsvJHwZHaaob_Lj6FLjvXu9gDI7lDeTpU0n7d2-knJf8rpkEg

⁶⁷ National Low Income Housing Coalition "Out of Reach the High Cost of Housing" (Washington, DC: NLIHC, 2019) https://reports.nlihc.org/sites/default/files/oor/OOR_2019.pdf.

⁶⁸ Id. at 46.

⁶⁹ 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>.

⁷⁰ Joint Center for Housing Studies of Harvard University "Renter Cost Burdens by Race and Ethnicity" https://www.jchs.harvard.edu/ARH_2017_cost_burdens_by_race.

⁷¹ UnidosUS, "Federal Programs Lift Millions of Latinos Out of Poverty" (Washington, DC: UnidosUS, October 2018) <http://publications.unidosus.org/handle/123456789/1894>.

⁷² 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>.

⁷³ Nabihah Maqbool, Janet Viveiros, and Mindy Ault, *The Impacts of Affordable Housing on Health: A Research Summary*, Center for Housing Policy, 2015, http://www.housingpartners.com/assets/creating_change/http_app.bronto.pdf.

For progress to continue in the Latino community and our nation, immigrants should have an opportunity to support the resilience and upward mobility of their families. The proposed changes by HUD fail in this respect as Latino families of mixed immigration status would be forced to break up to receive housing assistance, to forego the assistance altogether, or face termination from the programs.

Asian American Pacific Islander Communities

The Asian American Pacific Islander (AAPI) community is the fastest growing racial group in the U.S. and one of the largest communities of color in the Seattle area. Further, AAPIs are one of the fastest growing poverty populations with more than half of all poor AAPIs living in only 10 Metropolitan Statistical Areas (MSAs)⁷⁴, the majority of which are concentrated in the most expensive markets.

Analysis of U.S. Census 2016 ACS data shows that the majority of all AAPIs in poverty live in ZIP codes with housing costs above the national median. This is true for both for rental housing (64% of AAPIs in poverty live in ZIP codes where the median rent for rental housing in the ZIP code is higher than the U.S. national median rent), and for homeownership (65% of AAPIs in poverty live in ZIP codes where the median home value is more expensive than the U.S. national median home value).⁷⁵ In short, AAPIs with low incomes 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.⁷⁶ 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.⁷⁷ Further, nearly 10% of AAPI households live in multi-generational homes,⁷⁸ a figure that is likely much lower than the actual proportion reported anecdotally from the field, which is closer to 20%.

HUD should instead be acknowledging that past federal policies, such as the Chinese Exclusion Act of 1882 was a significant factor leading to the widespread expulsion of Chinese laborers from cities across the U.S. in the 1800s. Additionally, HUD should recognize that Alien Land Laws also prohibited non-white immigrants from owning land or even their own homes. In the U.S., homeownership has traditionally been the key to creating and sustaining generational wealth, and wealth has been denied to a large section of the American population based on their race/ethnicity. HUD should focus on how its policies can undo this generational harm rather than exacerbate it.

VII. Conclusion

The City of Seattle strongly opposes the changes regarding "verification of eligible status," in HUD's proposed rule change published in the Federal Register on May 10, 2019. The rule change not only directly harms HUD itself and causes government waste, it will also likely force mixed-status immigrant families out on the streets, causing severe harm to those families and especially children. Families

⁷⁴ US Census, 1-Year American Community Survey, 2011-2017

⁷⁵ US Census, 5-Year American Community Survey, 2016

⁷⁶ National CAPACD analysis of US Census data (5-Year ACS, 2016)

⁷⁷ US Department of Housing and Urban Development, *Picture of Subsidized Households*, 2018

⁷⁸ US Census, 2010 Decennial Census, SF2

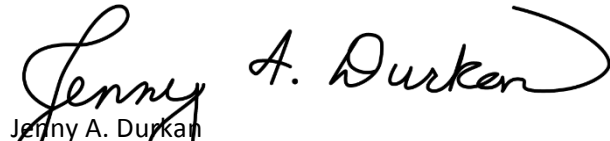
without stable homes will face much greater challenges maintaining employment and providing a nurturing environment for children to thrive. Harming families in this way is not only un-American, but also harms economies of cities across the country, as families without access to basic needs will be forced to access more expensive emergency care, shelter, and services. The rule would also not only impact mixed-status families, but also immigrant families who would qualify for HUD-subsidized housing, as we have seen time and again the chilling effect that the federal administration's actions have had on immigrant communities regardless of status.

Additionally, HUD's own economic analysis shows that the proposed rule will not only fail to achieve its stated goals of addressing the subsidized housing waitlist crisis, but will in fact exacerbate this very issue. The Regulatory Impact Analysis released by HUD makes it clear that the proposed rule will not further HUD's mission to "create strong, sustainable, inclusive communities and quality affordable homes for all."⁷⁹ In fact, the proposed rule will do the exact opposite, reducing the quantity of affordable homes on the market.

Lastly, the rule would have disproportionate significant negative impacts on communities of color across the nation.

We urge HUD to immediately withdraw its current proposal, and dedicate its efforts to advancing policies that strengthen — rather than undermine — the ability of immigrants to support themselves and their families in the future. If we want our communities to thrive, everyone in our communities must be able to stay together and get the care, services and support they need to remain healthy and productive.

Sincerely,



Jenny A. Durkan
Mayor of Seattle

⁷⁹ HUD, ABOUT HUD, MISSION (last visited May 20, 2019), <https://www.hud.gov/about/mission>.