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April 21, 2026

Submitted via www.regulations.gov

Office of the General Counsel
Regulations Division
Department of Housing and Urban Development
451 Seventh Street SW, Room 10276
Washington, DC 20410-0500

RE: Comments on Proposed Rule: HUD Docket No. FR-6524-P-01, *Housing and Community Development Act of 1980: Verification of Eligible Status*, 91 Fed Reg. 8151 (Feb. 20, 2026) (to be codified at 24 C.F.R. Part 5), RIN 2501–AE16.

Dear Secretary Turner:

We, the Attorneys General of California, New York, Arizona, Colorado, Connecticut, Delaware, District of Columbia, Hawai'i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Vermont, Virginia, and Washington ("the States"), write to provide comments on the Department of Housing and Urban Development's ("HUD") Proposed Rule, Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed Reg. 8151 (Feb. 20, 2026) (to be codified at 24 C.F.R. Part 5) ("2026 Proposed Rule"). As the chief legal officers for our respective States, the undersigned Attorneys General share a commitment to serving the public interest and promoting the rule of law. With those interests in mind, we oppose the 2026 Proposed Rule, which, if finalized, would displace tens of thousands of eligible children and families from their homes without basis, cause extensive harm that is not acknowledged in the 2026 Proposed Rule or the accompanying Regulatory Impact Analysis, and violate federal law.

The 2026 Proposed Rule would harm the States, their residents, their local economies, and the public health by jeopardizing access to affordable housing, increasing the burdens on State agencies, and undermining States' laws and programs. The 2026 Proposed Rule would eliminate housing assistance for tens of thousands of mixed-status households[1] throughout the United States,

[1] "Mixed-status families" or "mixed-status households" refers to families in which at least

with nearly 37,000 U.S. children bearing the consequences.[2] The 2026 Proposed Rule would impact over 7,000 mixed-status households in California, 2,500 mixed-status households in New York, and nearly 1,000 mixed-status households in Massachusetts.[3] The 2026 Proposed Rule would severely harm the States' immigrant communities by forcing families to choose between evicting family members and losing their affordable housing, thus increasing the homelessness in our States. The 2026 Proposed Rule would also eliminate housing assistance for many additional state residents who are U.S. citizens and eligible non-citizens, because the verification systems are prone to error and many eligible individuals lack the verification documents that would now be required.

The 2026 Proposed Rule would violate the Administrative Procedure Act ("APA") because it is contrary to law, in excess of statutory authority, and arbitrary and capricious. Moreover, the 2026 Proposed Rule runs afoul of the Paperwork Reduction Act and other federal requirements. For the reasons stated herein, we request HUD withdraw its 2026 Proposed Rule.[4]

I. Statutory and Regulatory Background

Section 214 of the Housing and Community Development Act of 1980, as amended ("Section 214"), prohibits HUD from providing specified forms of federal housing assistance to ineligible noncitizens.[5] This restriction has consistently been applied for more than 30 years to permit families with mixed immigration status to live together in federally-subsidized housing so long as those individuals who have not established eligibility pay their unsubsidized share of the rent.

A. Congress and HUD Have Consistently Protected the Family Unity of Mixed-Status Families.

In 1980, Congress added Section 214 to the Housing and Community Development Act of

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one member, but not all members, have established eligibility based on U.S. citizenship or immigration status for assistance under Section 214. *See* 42 U.S.C. § 1436a(b)(2); 24 C.F.R. § 5.504(b).

[2] Erik Gartland & Sonya Acosta, *Administration Plan Targeting Immigrants Would Take Away Rental Assistance, Create New Barriers*, Ctr. on Budget & Pol'y Priorities, at 2-3 (Dec. 12, 2025), https://tinyurl.com/37uaxnze. The Gartland and Acosta report analyzed a draft of the proposed rule leaked in September 2025 that is identical to the 2026 Proposed Rule with respect to the number of mixed-status households that would be disqualified from housing assistance.

[3] *Id.* at 9-11 tbl.3. The 2026 Proposed Rule may have even larger effects, considering the overall number of mixed-status households throughout the States. More broadly for example, there are around a half million mixed-status households in Arizona, 4.3 million mixed-status households in California, and 1.4 million mixed-status households in New York. Fwd.Us, *Immigration Reform Can Keep Millions of Mixed-Status Families Together* (Jan. 18, 2024), https://tinyurl.com/2hyxd8bp.

[4] The undersigned States have included numerous citations to supporting sources in footnotes to this letter, including direct links to the sources. We direct HUD to review each of the materials cited, and request that the full text of each of the cited materials, along with the full text of our comment, be considered part of the record for purposes of the NPRM. If HUD will not consider these materials as part of the record in its current form, we ask that you notify us and provide us an opportunity to submit copies of the materials for the record.

[5] *See* 42 U.S.C. § 1436a.

1974 to prohibit federal financial assistance for housing to "nonimmigrant student-alien[s]" and their nonimmigrant spouses and minor children.[6] In 1981, Congress amended Section 214 to expand the categories of nonimmigrants subject to the restrictions on federal housing assistance.[7] Thereafter in 1986, HUD published a final rule to implement Section 214 and the 1981 amendment, but the City of New York and impacted mixed-status families each filed a challenge to the rule.[8] The latter case obtained a preliminary injunction on behalf of a nationwide class of impacted families, and the rule never went into effect. Thereafter, HUD published a new federal register notice that removed the restrictions on housing assistance for ineligible immigrants "until a subsequent final rule is issued."[9]

In 1987, Congress again amended Section 214, and expressly allowed mixed-status families to receive housing assistance.[10] The purposes of the amendment included "to provide needed housing assistance for homeless people and for persons of low and moderate income who lack affordable, decent, safe, and sanitary housing," and to combat "the tragedy of homelessness in urban and suburban communities across the Nation" and "the lack of affordable residential shelter" for "people living on the economic margins of our society (lower income families, the elderly, the working poor, and the deinstitutionalized)."[11] The amendment added a new "preservation of families" subsection that allowed HUD, public housing authorities, and local governmental entities to: (1) provide indefinite continued assistance to mixed status-families, in which the head of household or spouse had eligible status, "if necessary to avoid the division of a family"; and (2) "[d]efer the termination of financial assistance" for families whose head of household or spouse did not have eligible status, for up to three years, "if necessary to permit the orderly transition of the individual and any family members involved to other affordable housing."[12] The amendment reflected a compromise solution—balancing the need to disincentivize unlawful immigration with the need to uphold "the sanctity of the family," as one Senator explained.[13]

HUD notified the public that it would delay implementation of the 1987 amendments until it promulgated a final rule, so as to avoid "anomalously creat[ing] a category of persons . . . who would be denied the new statutory protections simply because of the necessary lag time associated with promulgation of a final rule."[14] HUD explained that it was prioritizing Congress's intent "to

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[6] Housing and Community Development Act of 1980, Pub. L. No. 96-399, § 214(b)(2), 94 Stat. 1614, 1637-38 (1980).

[7] *See* Omnibus Budget Reconciliation Act of 1981, Pub. L. No. 97-35, § 329, 95 Stat. 408 (1981); H.R. Rep. No. 97-208, at 696-97 (1981).

[8] *Yolano-Donnelly Tenants' Ass'n v. Pierce*, No. CIV S-86-846-MLS (E.D. Cal.); *see also City of New York v. Pierce*, No. 86-CIV-6068 (LLS) (S.D.N.Y.). The *Yolano-Donnelly* court found that plaintiffs had raised serious questions on the merits of their claim that the rule violated their Fifth Amendment right to due process because it denied them the right to cohabitate with their families.

[9] Aliens; Withdrawal of Restrictions on the Use of Assisted Housing, 53 Fed. Reg. 842, 842 (Jan. 13, 1988).

[10] *See* Housing and Community Development Act of 1987, Pub. L. No. 100-242, 101 Stat. 1815 (1988).

[11] *Id.* § 2(a)(3), (b)(3), 101 Stat. at 1819.

[12] *Id*. § 164(b), 101 Stat. at 1860-61.

[13] 133 Cong. Rec. 37,657 (1987) (statement of Sen. Armstrong).

[14] *See* 53 Fed. Reg. 41,038, 41,043-44 (Oct. 19, 1988).

protect 'the sanctity of the family.'"[15]

HUD promulgated a final rule in 1995, adopting a requirement that housing assistance be provided to mixed status families on a prorated basis, so that only eligible members of the household received federal funding.[16] Notably, HUD considered and expressly rejected public comments arguing that proration of assistance was not supported by the language of Section 214 and that ineligible family members would benefit from proration of assistance.[17] HUD emphasized congressional intent to protect the sanctity of the family[18] and made plain that "proration of assistance *must* be offered to eligible mixed families."[19] The 1995 rule also allowed family members to elect not to disclose whether they have eligible immigration status under the "do not contend" provision.[20] Furthermore, the 1995 rule did not require U.S. citizens to submit proof of citizenship because Section 214(d) made clear that such documentation was not required.[21] For the same reasons, HUD did not impose documentation requirements on individual family members who chose not to declare their citizenship status.[22]

B. The 1996 Congress Continued to Affirmatively Sanction Prorating Assistance to Mixed-Status Families.

Following the publication of the 1995 rule, Congress added language to Section 214 further confirming the validity of prorated "preservation assistance" and mandating that it be provided under the statute.[23] In doing so, Congress also added the following language regarding proration of benefits that remains in Section 214(b) to this day:

> If the eligibility for financial assistance of *at least one member of a family* has been affirmatively established under the program of financial assistance and 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, based on the number of individuals in the family for whom eligibility has been affirmatively established under the program of financial assistance and under this section, as compared with the total number of individuals who are members of the family.[24]

Congress also added new statutory text specifically exempting individuals aged 62 and

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[15] *Id.*

[16] *See* Restrictions on Assistance to Noncitizens, 60 Fed. Reg. 14,816, 14,817, 14,822 (Mar. 20, 1995).

[17] *Id.* at 14,822 ("Proration of assistance is consistent with the preservation of Families provisions of Section 214.").

[18] Restrictions on Assistance to Noncitizens, 59 Fed. Reg. 43,900, 43,901 (Aug. 25, 1994).

[19] 60 Fed. Reg. at 14,822 (emphasis added).

[20] *Id*. at 14,826, 14,835, 14,850, 14,856.

[21] *Id*. at 14,818.

[22] *Id*. at 14,826.

[23] Omnibus Consolidated Appropriations Act of 1997, Pub. L. No. 104-208, § 572, 110 Stat. 3009 (1996); *see also* H.R. Rep. No. 104-863, at 701 (1996) (Conf. Rep.); 42 U.S.C. § 1436a(c).

[24] Omnibus Consolidated Appropriations Act of 1997, § 572 (emphasis added); *see also* H.R. Rep. No. 104-863 at 701; 42 U.S.C. § 1436a(b)(2).

older from having their immigration status verified even if they provided a declaration stating that they are not citizens or nationals of the United States.[25] In late November 1996, HUD published an interim rule which continued the practice of preservation assistance by "requir[ing] that continued financial assistance provided to an eligible mixed family after November 29, 1996 be prorated based on the percentage of family members that are eligible for assistance."[26] In 1999, HUD made this interim rule final.[27]

Congress has had multiple opportunities since the 1995 rule to change these requirements, but it has repeatedly chosen not to do so, instead consistently maintaining assistance for mixed-status families. Although Congress amended Section 214 again in 1996, 1998, 2000, and 2016, it did not remove the statutory language regarding proration of benefits to mixed-status families or change the documentation requirements,[28] thus demonstrating its approval of HUD's interpretation.

C. HUD's Proposed Changes to Its Longstanding Rule.

On May 10, 2019, HUD published a proposed rule seeking to alter this longstanding policy and prohibit mixed-status families from receiving any HUD assistance in public housing, Section 8, and other programs.[29] On April 2, 2021, HUD withdrew the 2019 Proposed Rule, explaining that it was inconsistent with, among other things, President Biden's Executive Order 14012, which in part required that "the Federal Government eliminate sources of fear and other barriers that prevent immigrants from accessing government services available to them . . . [and] develop welcoming strategies that promote integration, inclusion, and citizenship . . . ."[30]

On February 20, 2026, HUD renewed its attempt to divide families and displace thousands by proposing once again to disqualify entire families from several federal financial housing assistance programs if even a single member of that family is ineligible due to their citizenship or immigration status.[31] The 2026 Proposed Rule would eliminate HUD's longstanding policy of providing lasting prorated federal financial housing assistance to mixed-status families, changing the Rule to provide limited prorated assistance only temporarily until HUD has completed verifying the eligibility of every individual within a family's household.[32] The 2026 Proposed

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[25] Omnibus Consolidated Appropriations Act of 1997, § 574.

[26] Revised Restrictions on Assistance to Noncitizens, 61 Fed. Reg. 60,535, 60,536 (Nov. 29, 1996).

[27] Revised Restrictions on Assistance to Noncitizens, 64 Fed. Reg. 25,726, 25,727 (May 12, 1999).

[28] *See* Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, § 572, 110 Stat. 3009, 3009-684-85 (1996); Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, Pub. L. No. 105-276, § 592, 112 Stat. 2461, 2653 (1998); Organic Act of Guam—Amendments, Pub. L. No. 106-504, § 3(b), 114 Stat. 2309, 2312 (2000); Housing Opportunity Through Modernization Act of 2016, Pub. L. No. 114-201, Title I, § 113, 130 Stat. 782, 804 (2016).

[29] Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589 (May 10, 2019).

[30] Housing and Community Development Act of 1980: Verification of Eligible Status; Withdrawal; Regulatory Review, 86 Fed. Reg. 17,346 (April 2, 2021).

[31] *See* 2026 Proposed Rule, 91 Fed. Reg. at 8,151.

[32] *Id.* at 8,153-54.

Rule would also, among other things:

- Require every member of a mixed-status family, regardless of age, to demonstrate their eligibility within 90 days of the effective date of the 2026 Proposed Rule;
- Require every member of a non-mixed-status family, regardless of age, to demonstrate eligibility at their next annual or interim reexamination;
- Require family members who are U.S. citizens to provide additional verification and documentation of citizenship status;
- Require public housing authorities and private housing providers to verify the eligibility of every family member in a household;
- Require public housing authorities and private housing providers to notify tenants of these new requirements; and
- Require public housing authorities and private housing providers to notify tenants that the public housing authority or private housing provider must notify the Department of Homeland Security ("DHS") whenever their personnel become aware that any member of a household is present in the United States in violation of the Immigration and Nationality Act.[33]

In both the 2026 Proposed Rule and the Regulatory Impact Analysis accompanying it, HUD concedes that the 2026 Proposed Rule would "adversely affect" States, their residents, and private housing providers.[34]

II. The 2026 Proposed Rule Would Harm the States, Their Residents, and Private Housing Providers.

The 2026 Proposed Rule would cause significant harm to the States, their residents, and private housing providers and should be withdrawn. HUD fails to consider how the 2026 Proposed Rule would impact the States in the following ways: (A) the 2026 Proposed Rule would inflict significant economic costs on the States and exacerbate the affordable housing crisis; (B) the 2026 Proposed Rule would harm state residents, including those eligible for housing assistance; and (C) the 2026 Proposed Rule is in tension with state and local laws that prohibit discrimination or seek to preserve the family unit.

A. The 2026 Proposed Rule Would Increase Costs to the States and Reduce Access to Subsidized Housing Programs.

The 2026 Proposed Rule would have direct effects on States, their housing authorities, and their housing providers, substantially increasing the States' costs in many ways, including but not limited to:

First, the 2026 Proposed Rule would result in fewer families overall receiving housing subsidies, displacing many from their homes and increasing the number of people who are homeless or at imminent risk of homelessness. Within the States, the 2026 Proposed Rule will

[33] *Id.* at 8,155-60.

[34] *Id*. at 8,153; U.S. Dep't of Hous. & Urban Dev., Regulatory Impact Analysis for the Housing and Community Development Act of 1980: Verification of Eligibility Status Proposed Rule (2025) (hereinafter "Regulatory Impact Analysis") at 5.

jeopardize housing assistance for nearly 4.3 million people, as estimated by the Center for Budget and Policy Priorities.[35] Nationwide, the Center for Budget and Policy Priorities estimates that approximately 37,000 children are likely to lose assistance due to the 2026 Proposed Rule.[36] By displacing these thousands of people from their homes, the 2026 Proposed Rule would increase the demand for and the burden on state and local government housing assistance programs. For example, New York State funds its Homeless Housing and Assistance Program, which finances affordable and supportive housing for homeless individuals.[37] Similarly, California funds its Homeless Assistance and Housing Support Programs, which provide payments, rental assistance, and social services.[38] These types of programs would be unable to meet the increased demand in the States, resulting in increased homelessness and subsequent effects on other state-provided social services.

The 2026 Proposed Rule would also result in more families becoming dependent on social benefit systems funded and administered by the States, such as Medicaid, due to health emergencies that arise from being homeless.[39] Likewise, homelessness would increase families' reliance on the States' welfare programs, such as California's CalWORKs program, and California's Supplemental Nutrition Assistance Program, CalFresh.[40] The 2026 Proposed Rule would disproportionately harm families and children, with children being 46 percent of those likely to lose housing assistance.[41] The ripple effects from increased homelessness would impose substantial burdens on the States' education,[42] health services, food banks, and other social benefits programs.[43] In its Regulatory Impact Analysis, HUD acknowledges that the 2026 Proposed Rule may increase homelessness and "[t]he costs of homelessness to local governments can be substantial, arising from the provision of transitional shelters and community supports, emergency services and health care, and interaction with the criminal justice system."[44] By HUD's own analysis, "[s]ome studies have found that the costs associated with homelessness could range

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[35] Gartland & Acosta, *supra* note 2, at 9-11 tbl.3.

[36] Gartland & Acosta, *supra* note 2, at 3 tbl. 1.

[37] *See* Office of Temporary and Disability Assistance, Housing and Support Services (HSS), https://tinyurl.com/5b9ac3hk.

[38] *See* Cal. Dep't of Soc. Servs., CalWORKS California Families Working Together Annual Summary 143-50 (Aug. 2023), https://tinyurl.com/yahmmzrs.

[39] *See* Kate Brantley, Alexa Eisenberg, & Roshanak Mehdipanah, *Record Costs: Examining the Impact of Eviction Filings for Tenants and their Families*, Housing Studies (Aug. 10, 2025), https://tinyurl.com/yc5wvmzd (finding that nearly half of the study's participants who moved after their eviction experienced a subsequent period of homelessness with most attributing this to the inability to find alternative housing.)

[40] *See* Cal. Dep't of Soc. Servs., *supra* note 38, at 105.

[41] Gartland & Acosta, *supra* note 2, at 3.

[42] Am. Psych. Ass'n, *Mental Health Effects of Poverty, Hunger, and Homelessness on Children and Teens* (updated May 2024) https://tinyurl.com/yjkk6r83 (explaining that "students experiencing homelessness are more than twice as likely to be chronically absent than non-homeless students," and "are also more likely to change schools multiple times and to be suspended," thus affected the States' educational funding).

[43] *Id*. (explaining that "[h]omelessness can have a tremendous impact on children, from their education [to their] physical and mental health," and that "homeless children are less likely to have adequate access to medical and dental care, and may be affected by a variety of health challenges due to inadequate nutrition and access to food, education interruptions, trauma, and disruption in family dynamics").

[44] Regulatory Impact Analysis at 35.

from $20,000 to $50,000 per person per year."[45] However, HUD fails to consider how the States would be able to meet the increased need for state social services.

Second, by eliminating federal housing assistance for thousands of mixed-status families, the 2026 Proposed Rule will also have the effect of reducing federal funding for state and local agencies that administer those federal housing programs. State and local agencies receive administrative fees from HUD based on the number of vouchers or subsidized units that they administer.[46] But the "[t]he primary regulatory effect [of the 2026 Proposed Rule] would be to reduce the number of households and family members receiving assistance."[47] Even assuming that mixed-status families displaced by the 2026 Proposed Rule could eventually be replaced (which is no guarantee), HUD estimates that the 2026 Proposed Rule still would reduce the number of persons receiving assistance by 31,000 because the new families are expected to require larger average housing subsidies per household.[48] Thus, assuming that the total pool of housing assistance available remains constant, many housing authorities would have to offer fewer vouchers or leave units unoccupied, resulting in fewer subsidized housing units and fewer administrative fees than the States otherwise would have received.[49]

Further consequences would flow from the lost income due to the 2026 Proposed Rule. According to HUD, one "likely response by affected PHAs would be to reduce" the quality of public housing by reducing "overall project expenses such as housing maintenance, protective services, management and leasing services, and/or self-sufficiency programs for tenants."[50] Similarly, private owners of project-based rental assistance housing may receive "fewer contracts (either in terms of projects or units)," losing long-term income as well.[51]

Third, the 2026 Proposed Rule would impose substantial administrative costs upon the States by requiring verification of eligibility for all current and future program participants. State and local housing authorities would have to train staff and employ staff resources to conduct the additional verification procedures using DHS's Systematic Alien Verification for Entitlements ("SAVE") System,[52] and would have to collect, review, and maintain documentation submitted by families or individuals flagged by the initial process.[53] Housing providers, including state agencies that directly administer housing assistance programs subject to Section 214,[54] would need to establish new compliance systems, protocols, and document retention policies, and divert a significant number of hours to this compliance. HUD itself acknowledges that over 20,000 current tenants and over 10,000 new tenants per year would require additional verification because of the

[45] *Id.*

[46] States generally receive the full administrative fee if they administer the housing program directly, and only part of the administrative fee if they oversee a contracted party that is responsible for day-to-day operations.

[47] Regulatory Impact Analysis at 16.

[48] *See id.* at 14-18. Indeed, HUD estimates that the 2026 Proposed Rule would thereby increase subsidy costs by an amount ranging from $167 million and $218 million annually. *Id.*

[49] *Id*. at 17-18.

[50] *Id.* at 18.

[51] *Id.*

[52] 2026 Proposed Rule, 91 Fed. Reg. at 8,158.

[53] *Id*.

[54] For example, New York Homes and Community Renewal, that State's housing agency, administers around 10,000 Housing Choice Vouchers in New York City.

proposal, creating about $2.1 million in one-time administrative costs and approximately $1.1 million in additional, yearly administrative costs.[55] But as explained below, the true number of individuals who would be subject to increased verification and documentation requirements is many times higher than HUD estimated, and thus, the associated costs to housing authorities and other housing providers would be far greater than HUD's estimates.[56] Moreover, HUD's novel and error-prone use of SAVE for citizenship verification would greatly compound these burdens.[57] And because the 2026 Proposed Rule sets a 90-day deadline for mixed-status family members to submit documentation, housing providers would have to rapidly pay these one-time costs, straining their resources even further.

Fourth, state agencies that finance, monitor, or administer contracts for housing projects receiving federal subsidies would incur administrative costs to create new policies, guidance, documents, training, and monitoring programs to enable the projects they fund to meet the 2026 Proposed Rule's new requirements. These compliance costs may be especially steep given the limited time to complete them under the 2026 Proposed Rule's 90-day deadline for mixed-status families. For example, California's Housing and Community Development agency ("HCD") finances and monitors projects that receive Section 8 and other federal housing subsidies. HCD is thus responsible for ensuring that housing developments in its portfolio meet the various requirements of federal funding, while also providing significant support and technical assistance to those applying for federal housing funding. HCD anticipates that, in response to the 2026 Proposed Rule, it would need to, among other things, respond to public inquiries, draft and issue technical assistance memoranda, modify training and outreach materials, and conduct trainings to clarify HUD rules at significant cost to the agency.

Fifth, the 2026 Proposed Rule would burden state agencies and public housing authorities with the administrative costs of terminating subsidies, including undertaking the administrative hearing process and, when applicable, litigating eviction proceedings in court. Mixed-status families participating in the Housing Choice Voucher program who were found ineligible under the Proposed Rule would be entitled to notice and an opportunity to contest subsidy termination through an informal hearing.[58] This process would be burdensome on the public housing authority, resulting in many hours of document preparation, discovery, and litigation. The informal hearing process itself is lengthy and can result in multiple appeals, including to state courts that have jurisdiction to review the final decisions of public housing authorities. Even if the public housing authority is able to terminate via the administrative process, eviction and removal from the public housing unit may only be accomplished by obtaining a judgment from a court of competent jurisdiction, which process also affords tenants a right to appeal.[59] State agencies administering

[55] Regulatory Impact Analysis at 24.

[56] *See infra* at 20 (explaining how HUD erroneously concludes that only 1.9 million individuals overall would be subject to the documentation requirements, despite HUD's own figures showing that the relevant population is closer to nine million).

[57] *See infra* at 20-21.

[58] *See* 24 C.F.R. § 982.552.

[59] Private housing providers who administer subsidized multifamily housing would likewise be burdened significantly by the administrative and legal process of subsidy termination and, when applicable, eviction. *See* HUD Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs, §§ 8-6, 8-7. There are additional mandatory administrative procedures. HUD Handbook 4350.3, § 8-13.

these programs would be required to significantly expand the legal support staff and resources required to carry out these processes.

Sixth, the 2026 Proposed Rule may impact States' housing development plans. For example, since 1969, California has implemented its statutory obligation of reviewing local jurisdictions' housing elements, a required component of each local jurisdiction's general plan. Through HCD, California reviews every local jurisdiction's housing element in a comprehensive, multi-year planning process to further housing development in every community to meet the needs of individuals at all income levels, including those with low income and those requiring emergency shelter.[60] Each local jurisdiction's housing plan includes planning for emergency housing, the need for which is based on existing federal programs and demographics, including the number of individuals eligible for Section 8 housing.[61] Because California's local jurisdictions have planned for a certain amount of shelters and affordable housing in reliance on existing federal housing assistance programs (including the existing Rule's provision of prorated assistance to mixed-status families), these jurisdictions likely would not have the emergency shelter or affordable housing available to absorb the thousands of families that would be displaced by the 2026 Proposed Rule. The 2026 Proposed Rule will increase homelessness and cause jurisdictions to revise their methodology to account for the increased need in upcoming housing element cycles.

Seventh, by imposing substantial new administrative burdens on private housing providers, the 2026 Proposed Rule would deter many landlords from participating in subsidized housing programs, reducing the supply of affordable housing in the States.[62] The 2026 Proposed Rule would require them to collect more documents from more individuals—both existing and prospective tenants—spend more time verifying status and eligibility for assistance, transmit documents to the U.S. Citizen and Immigration Services through SAVE, and collect and submit additional documentation if initial verification is not successful. All these steps will raise costs and introduce delays in application approval.[63] For tenants who would become ineligible due to the 2026 Proposed Rule, landlords of subsidized housing would have to complete extensive administrative processes, including notice and hearing, to deny or terminate assistance and tenancy. Furthermore, the 2026 Proposed Rule would impose additional costs associated with lease termination and eviction of households who can no longer afford to pay rent due to the 2026 Proposed Rule's requirements. Last, the 2026 Proposed Rule's notification requirement misleadingly suggests that landlords must become auxiliaries to federal immigration enforcement and must report ineligible current residents and applicants to immigration enforcement agencies (despite not separately imposing such a requirement).[64] The takeaway: many landlords will be

[60] *See* Cal. Gov't Code §§ 65580-65589.11; Cal. Hous. & Com. Development, Housing Elements, https://tinyurl.com/23ykx6nx (as of Jan. 28, 2026).

[61] *See, e.g.*, Cal. Gov't Code § 65583(a)(9).

[62] Lola Fadulu & Zolan Kanno-Youngs, *Landlords Oppose Trump Plan to Evict Undocumented Immigrants*, N.Y. Times, (Jun. 17, 2019), https://tinyurl.com/2u8hs8s4.

[63] *See* Regulatory Impact Analysis at 28-29; *see also* Kevin Morris & Cora Henry, *Millions of Americans Don't Have Documents Proving Their Citizenship Readily Available*, Brennan Ctr. for Justice (June 11, 2024), https://tinyurl.com/36d2zvfc (noting that nine percent of all voting-age Americans, or 21.3 million people, "don't have proof of citizenship readily available"); Krista M. Pereira et al., *Barriers to Immigrants Access to Health and Human Services Programs*, ASPE Research Brief (May 2012), https://tinyurl.com/48y9mer9.

[64] *See infra* at III.B.2 (explaining why the notification requirement misstates the law).

deterred from participating in subsidized housing programs.

Once gone, many of these formerly subsidized and affordable units will likely never be recovered, further exacerbating the depletion of affordable housing throughout the States. "The diminishing housing stock available to low-income tenants has been a brewing problem for HUD. Between 2010 and 2020, some 50,000 housing providers left the voucher program."[65] The 2026 Proposed Rule would aggravate the lack of affordable housing. Households with only U.S. citizens and eligible immigrants would then be left with fewer options, longer waiting lists, and less funding with which to find sanitary, safe, and affordable housing.[66]

B. The Proposed Rule Would Harm Many Vulnerable State Residents, including U.S. Citizens.

The 2026 Proposed Rule would destabilize vulnerable families in the States by requiring families to choose—on a very short timeline[67] —between expelling ineligible family members and losing assistance for the entire family.[68] And even if families conclude they have no choice but to expel family members, they would still be punished with two years of ineligibility under the 2026 Proposed Rule.

These harms will disproportionately burden Latinx families and those with disabilities. According to HUD data, the 2026 Proposed Rule would require 79,600 people to either separate their families or lose rental assistance. Of those 79,600 individuals, 68,500 (or 86 percent) are Latinx, the vast majority of whom are citizens or eligible noncitizens.[69] Meanwhile, the termination of prorated housing assistance would disproportionately harm eligible individuals with disabilities who are more likely than those without disabilities to not have a valid ID and whose disabilities may impair their ability to obtain one, particularly on HUD's expedited timeframe.[70] People with disabilities may also suffer disproportionately because their caretakers may be

[65] Sally Ho, Charlotte Kramon & The Associated Press, *Trump Administration Plans to Cap Rental Aid at 2 years Could Expose 1.4 Million Poor Households to Eviction*, Fortune (July 17, 2025), https://tinyurl.com/33h5u7k6.

[66] Many landlords already choose not to participate in subsidy programs because of existing administrative burdens. *See* Mary Cunningham et al., Urb. Inst., *A Pilot Study of Landlord Acceptance of Housing Choice Vouchers 1* (prepared for the U.S. Dep't of Hous. and Urb. Dev.) (2018) (citing study showing 60 percent of landlords refuse to rent to voucher holders and landlords cite concerns about administration complexity as a deterrent).

[67] 2026 Proposed Rule, 91 Fed. Reg. at 8,166.

[68] Indeed, when it proposed a similar change to its rules in 2019, HUD itself described the decision to expel ineligible family member(s) as a "ruthless one." U.S. Dep't of Hous. & Urban Dev., Regulatory Impact: Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980 16 (Apr. 15, 2019).

[69] Gartland & Acosta, *supra* note 2, at 3 tbl.1. For comparison, Latinx individuals make up only about 21 percent of the overall population in the HUD programs covered by Section 214. *Id.* at 7 tbl.2. By contrast, the 2026 Proposed Rule would only affect 2,500 white individuals, or three percent of the overall population affected by the Rule, even though white individuals make up about 26 percent of the overall population in the HUD programs covered by Section 214. *Id.* at 3 tbl.1, 7 tbl.2.

[70] *See* Jillian Andres Rothschild et al., Who Lacks ID in America Today? An Exploration of Voter ID Access, Barriers, and Knowledge, Ctr. for Democracy & Civic Engagement (Jan. 2024), https://tinyurl.com/265bdzca.https://tinyurl.com/ytjzu4ae

ineligible noncitizens who are excluded from their households based on the 2026 Proposed Rule.

The 2026 Proposed Rule increases documentation requirements for U.S. citizens. The Regulatory Impact Analysis erroneously assumes the change is minor because many authorities "already ask for such documents or other forms of identification,"[71] but the Regulatory Impact Analysis ignores the fact that housing authorities generally accept a wider range of documents than would be allowed by the 2026 Proposed Rule.[72] These documentation requirements would affect about 8.5 million U.S. citizens.[73] Of these U.S. citizens, 72 percent are people of color; 62 percent are women and girls; 36 percent are children; 24 percent have a disability; and 21 percent are over the age of 62.[74] Despite being eligible for assistance, if these individuals are unable to timely prove their citizenship, they would be at risk of losing their homes. Recent surveys find that nearly 29 million adult U.S. citizens lacked a valid driver's license, and over 7 million had no other forms of non-expired government-issued photo identification.[75] This risk is especially great for seniors and individuals with disabilities, both of whom are more likely to require more time and assistance to timely obtain and submit documentation.[76] Others born at home rather than the hospital—such as many Native American individuals—may not have received a birth certificate and may face similar hurdles acquiring documentation.[77] As a result, these individuals may be forced to find alternative housing in shelters and other settings funded and administered by the States and local authorities.

C. The 2026 Proposed Rule is in Tension with State and Local Laws.

The federal Fair Housing Act prohibits discrimination in the sale, rental, and financing of housing based on race, color, religion, sex, familial status, national origin, and disability.[78] Many States have passed similar fair housing laws prohibiting discrimination against the same protected classes enumerated in the federal Fair Housing Act, and some States provide more expansive protections against discrimination.[79] If finalized, the 2026 Proposed Rule may provide a pretext for housing providers to violate these laws by denying and evicting residents because of their actual

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[71] Regulatory Impact Analysis at 22.

[72] *Compare* 2026 Proposed Rule, 91 Fed. Reg. at 8,167 (requiring birth certificate, naturalization certificate, consular report of birth abroad, unexpired passport, or certificate of citizenship) *with, e.g.*, Housing Authority of the City of Los Angeles, Section 8 Administrative Plan 6-8, https://tinyurl.com/47pnxxu9 (allowing baptismal certificate, census record, driver's license, state ID care, adoption papers, military discharge records, life insurance policy, Veterans Administration records, etc., in place of birth certificate); N.Y. City Housing Authority, Admissions and Continued Occupancy Policy 93-94, https://tinyurl.com/2m83vs7p (similar).

[73] Gartland & Acosta, *supra* note 2, at 5.

[74] *Id.*

[75] Maryland Today Staff, *UMD Analysis: Millions of Americans Don't Have ID Required to Vote*, Maryland Today (Apr. 13, 2023), https://tinyurl.com/3jt6zmtu.

[76] *See* Movement Advancement Project, Identity Documents & People with Disabilities (Apr. 2025), https://tinyurl.com/ntxaae2b.

[77] *See* Betsy L. Fisher, *Citizenship, Federalism, and Delayed Birth Registration in the United States*, 57 Akron L. Rev. 49, 65-70 (2025); Aaron Granillo, *Navajos Born at Home Find It Hard to Get Delayed Birth Certificates*, Knau Az. Public Radio (July 18, 2014), https://tinyurl.com/yc7dtcbs.

[78] *See* 42 U.S.C. §§ 3601 *et seq*.

[79] *See, e.g.*, N.Y. Executive Law § 296.

or perceived alienage and citizenship status.[80]

The 2026 Proposed Rule is also in tension with other state and local laws and policies. For example, some States have laws that bar disclosure of information to federal authorities for the purpose of civil immigration enforcement except where required by law.[81] The 2026 Proposed Rule would require public housing authorities (including state and local agencies) to tell tenants that the authorities are obligated to notify DHS if they determine that a person is in the United States unlawfully, even though that is not an accurate description of federal law requirements, *see infra*, and some state and local laws prohibit such reporting unless required by law.

III. The 2026 Proposed Rule Would, If Adopted, Violate the Administrative Procedure Act.

The APA prohibits agency action that is "arbitrary, capricious," "not in accordance with law," or "in excess of statutory . . . authority."[82] Because federal agencies are creatures of statute, they have "no power to act . . . unless and until Congress confers power upon" them.[83] Thus, "[a]ny action that an agency takes outside the bounds of its statutory authority" violates the APA.[84] Here, the 2026 Proposed Rule is contrary to law, exceeds HUD's statutory authority and is ultra vires, and is arbitrary and capricious for the reasons described below.

A. The 2026 Proposed Rule Is Contrary to Law and Exceeds Statutory Authority Under the APA.

The 2026 Proposed Rule is contrary to law and in excess of the agency's statutory authority for a number of reasons.

First, the 2026 Proposed Rule asserts that Section 214 allows prorated assistance only in two circumstances: (1) "where at least one family member has verified citizenship or eligible immigration status and the remaining family members' verification is pending"; and (2) "for families that were receiving [such] assistance under a Section 214 covered program on February 6, 1988."[85] Yet the 2026 Proposed Rule's limitation of the first circumstance—where "the remaining family members' verification is pending"—appears nowhere in the statute and contravenes Section 214's generally applicable proration provisions, as well as the statutory purpose. Section 214(b)(2) of the Housing Community Development Act states, "[i]f the eligibility

[80] *Cf. Reyes v. Waples Mobile Home Park Ltd. P'ship*, 91 F.4th 270, 277 (4th Cir.), *cert. denied*, 145 S. Ct. 172 (2024) (rejecting landlord's improper attempt to invoke anti-harboring statute as the basis for its policy of requiring tenants to verify their legal status).

[81] *See* Colo. Rev. Stat. § 24-74-103 ("A state agency employee shall not disclose or make accessible, including through a database or automated network, personal identifying information that is not publicly available information for the purpose of investigating for, participating in, cooperating with, or assisting in federal immigration enforcement, including enforcement of civil immigration laws and 8 U.S.C. sec. 1325 or 1326, except as required by federal or state law or as required to comply with a court-issued subpoena, warrant, or order.").

[82] 5 U.S.C. § 706(2)(A), (C).

[83] *La. Pub. Serv. Comm'n v. FCC*, 476 U.S. 355, 374 (1986).

[84] *City of Providence v. Barr*, 954 F.3d 23, 31 (1st Cir. 2020) (citations omitted); 5 U.S.C. § 706(2)(C).

[85] 2026 Proposed Rule, 91 Fed. Reg. at 8,152, 8,154.

for financial assistance of at least one member of a family has been affirmatively established . . . 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 . . . *shall be prorated*" comparing the number of eligible family members with the total number of ineligible family members.[86] The statute expressly calls for prorated housing assistance to be provided to mixed-status families without time limitation. Furthermore, the statutory scheme makes clear that assistance for mixed-status families does not constitute assistance to ineligible members because the assistance is prorated based on the percentage of eligible members in the family.[87] The 2026 Proposed Rule violates the statute by disqualifying those families entirely and reducing prorated assistance to the small time period during which a family's eligibility is being verified.[88]

Second, the 2026 Proposed Rule would eliminate assistance to all family members of noncitizen students, even citizen family members.[89] Section 214(c)(2), however, prohibits assistance only to the noncitizen student and the "*alien* spouse and minor children of any" noncitizen student.[90] When read in harmony with the statutory proration provisions described above, Section 214(c)(2) unambiguously provides that the citizen spouses of noncitizen students and their children must receive prorated assistance on an ongoing basis. HUD's longstanding regulation correctly provides this assistance,[91] and the 2026 Proposed Rule's removal of such assistance has no statutory basis.

Third, the proposal would require all noncitizens to verify and document their immigration status, which is contrary to the express language of Section 214. Section 214 provides that, "with respect to financial assistance being or to be provided for the benefit of an individual,"[92] the individual must provide a declaration stating that they are a citizen or have satisfactory immigration status.[93] "If the declaration states that the individual is not a citizen or national of the United States *and that the individual is younger than 62 years of age*, the declaration shall be verified by [DHS]."[94] Similarly, if the "individual is not a citizen or national of the United States, *is not 62 years of age or older*," and other conditions are met, the individual must provide documentation of their immigration status.[95] Thus, Congress unambiguously mandated that the verification and documentation requirements shall not apply to individuals 62 years or older.

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[86] 42 U.S.C. § 1436a(b)(2) (emphasis added).

[87] *See, e.g.*, *id.* § 1436a(d)(6).

[88] *See* 2026 Proposed Rule, 91 Fed. Reg. at 8,154; *see also Hous. Auth. of City & Cnty. of San Francisco v. Turner*, No. 25-CV-08859-JST, 2025 WL 3187761, at *11 (N.D. Cal. Nov. 14, 2025) (holding immigration-related conditions on federal housing assistance to be unlawful, in part, because this section "of the Housing and Community Development Act of 1980 . . . specifically provides public housing eligibility for mixed-status households").

[89] 2026 Proposed Rule, 91 Fed. Reg. at 8,162.

[90] 42 U.S.C. § 1436a(c)(2).

[91] 24 C.F.R. § 5.522(b)(2) ("The prohibition on providing assistance to a noncitizen student does not extend to the citizen spouse of the noncitizen student and the children of the citizen spouse and noncitizen student.").

[92] As explained, prorated assistance is not assistance for the benefit of family members who have not established eligibility.

[93] 42 U.S.C. § 1436a(d)(1)(A).

[94] *Id.* (emphasis added).

[95] *Id.* § 1436a(d)(2) (emphasis added).

B. The 2026 Proposed Rule is Arbitrary and Capricious.

Even if the 2026 Proposed Rule were a permissible construction of Section 214, it violates the APA because it is arbitrary and capricious.[96] An agency action is arbitrary and capricious "if it is 'not reasonable and reasonably explained.'"[97] Agency decisions are not reasonably explained when, among other things, "the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise."[98] Where an agency changes a prior position, it is required to "display awareness that it *is* changing position" and "must show that there are good reasons for the new policy."[99] Moreover, an agency must provide a "more detailed justification" for a change in position where "its prior policy has engendered serious reliance interests that must be taken into account."[100] And the agency must consider reasonable alternatives "that are within the ambit of the existing policy."[101]

1. The 2026 Proposed Rule fails to consider relevant factors.

The 2026 Proposed Rule fails to consider relevant statutory factors and important aspects of the problem, including Congress's exemption of noncitizens over 62 from the documentary requirements, given the burdens associated with obtaining such documents and the acute harms associated with depriving elderly people of their housing arrangements. Congress recognized concerns about elderly people experiencing homelessness when it exempted elderly individuals from the documentation requirements. *See supra* § I(B). Currently, individuals who were 62 years or older as of January 31, 2010 and had begun the eligibility determination process before that date do not have to provide this documentation.[102] HUD provided this "narrowly tailored" exception "to avoid the eviction of elderly persons who already reside in assisted housing and who are in compliance with all other program requirements."[103] Indeed, HUD recognized "the potentially harsh results . . . and the burdens" that would otherwise befall such individuals.[104] Yet, the 2026 Proposed Rule ignores these risks and would require elderly, long-term tenants to provide their

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[96] 5 U.S.C. § 706(2)(A).

[97] *Ohio v. Env't Prot. Agency*, 603 U.S. 279, 292 (2024) (quoting *FCC v. Prometheus Radio Project*, 592 U.S. 414, 423 (2021)).

[98] *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983) ("*State Farm*").

[99] *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009).

[100] *Id.*

[101] *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020) (citation modified).

[102] 24 C.F.R. § 5.216(e)(1)(i) ("Each participant, except those age 62 or older as of January 31, 2010, whose initial determination of eligible was begun before January 31, 2010, must submit" an SSN and documentation to verify each SSN); *see also* 42 U.S.C. § 1436a(d) (conditions for provision of financial assistance for individuals, including presentation of documentation, apply to individuals who are "not 62 years of age or older").

[103] Refinement of Income and Rent Determination Requirements in Public and Assisted Housing Programs: Implementation of the Enterprise Income Verification System Amendments, 74 Fed. Reg. 68,924, 68,930 (Dec. 29, 2009).

[104] *Id.*

social security numbers and related documentation.[105] HUD does not acknowledge, let alone justify, these harms that Congress, as well as the agency in prior rules, expressly sought to avoid.

The Proposed Rule also fails to consider Congress's intent to preserve family unity of non-citizen families and limit homelessness, evidenced in successive amendments to the law—intent which the agency expressly sought to prioritize in prior rules. The 2026 Proposed Rule ignores entirely Congress's intent, family unity, and the Rule's potential to force families to separate, a possibility that HUD acknowledged in 2019 would be a "ruthless" policy option.[106] And the Proposed Rule fails to consider whether, in light of the burdens the agency recognizes will be imposed on state and local governments, it is appropriate to reimburse "an amount equal to 100 percent of the costs incurred . . . in implementing and operating an immigration status verification system,"—notwithstanding that Congress has expressly permitted such reimbursement.[107]

2. The 2026 Proposed Rule's PRWORA reporting notification is arbitrary because it relies on an erroneous statement of law.

The 2026 Proposed Rule's reporting notification is arbitrary and capricious because it is based on a misstatement of law.[108] Specifically, the 2026 Proposed Rule requires public housing authorities *and* private owners of housing to notify applicants and tenants that housing providers "must inform DHS immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act."[109] HUD claims that this notification requirement "ensur[es] applicants and existing households have notice of PHAs' obligation to comply with section 404 of PRWORA"—the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.[110] But HUD's proposed notification misstates PRWORA's requirements. Private owners of housing are not required to comply with PRWORA[111]—a fact that HUD concedes, even as it requires private owners to erroneously inform

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[105] *See* 2026 Proposed Rule, 91 Fed. Reg. at 8,165.

[106] U.S. Dep't of Hous. & Urban Dev., Regulatory Impact Analysis: Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980 (Apr. 15, 2019), https://tinyurl.com/385j69ym at 16.

[107] 42 U.S.C. § 1436a(g).

[108] *Sec. & Exch. Comm'n v. Chenery Corp.*, 318 U.S. 80, 94 (1943) ("[I]f the [agency] action is based upon a determination of law . . . an order may not stand if the agency has misconceived the law.").

[109] 2026 Proposed Rule, 91 Fed. Reg. at 8,166. The 2026 Proposed Rule requires only that public housing authorities and private owners issue a *notification* about their reporting requirements—but does not purport to impose additional reporting requirements. *See id.* However, to the extent the 2026 Proposed Rule is implemented to impose additional reporting requirements, it would exceed HUD's statutory authority for the reasons stated above, *see supra* § III(A), and such an unexplained and unacknowledged change would be arbitrary and capricious, *see supra* § III(B), and would violate the notice-and-comment rulemaking requirement, *see* 5 U.S.C. § 553(b).

[110] 2026 Proposed Rule, 91 Fed. Reg. at 8,156.

[111] 42 U.S.C. § 1437y; *see also* Responsibility of Certain Entities to Notify the Immigration and Naturalization Service of Any Alien Who the Entity "Knows" Is Not Lawfully Present in the United States, 65 Fed. Reg. 58,301, 58,302 (Sept. 28, 2000) ("No other entity is required to report under the provisions of Title IV of PRWORA.").

households that PRWORA *does* apply.[112] Moreover, even with respect to public housing authorities, HUD's contract with a public housing authority only requires the authority to report any individual the authority "*knows*" is not lawfully present in the United States—a legal term of art which means there must be "a finding of fact or conclusion of law that is made by the entity as part of a formal determination that is subject to administrative review on an alien's claim."[113] Even then, public housing authorities are not required to "immediately" make any such reports, as the Proposed Rule's notification states; rather, they must "at least 4 times annually *and* upon request of [U.S. Citizenship and Immigration Services]" provide such information.[114]

3. The 2026 Proposed Rule fails to otherwise explain the HUD's decision.

The Proposed Rule fails to connect the facts found with the choices made, and it fails to show there are good reasons for HUD's abrupt policy change and its decision to disregard the factors that underlay the agency's policy for the past 30 years—in particular, where Congress's purposes to ensure family unity and limit homelessness resulted in allowing mixed-status families to receive federal housing assistance with assistance prorated for eligible individuals. *See supra* § I. Nor does HUD explain why its stated goals of reducing regulatory burdens and enhancing effectiveness are served by requiring the use of SAVE—which results in substantial errors in identifying ineligible individuals.[115]

HUD also fails to explain why it has rejected its own prior, considered assessment—in the context of rulemaking—that long-term prorated assistance to mixed-status families is both permissible and appropriate to achieve Congress's statutory purposes: "Proration of assistance is consistent with the preservation of Families provisions of Section 214, which provide for continued assistance and temporary deferral of termination of assistance."[116] HUD previously rejected arguments to eliminate proration based on the same statutory language and facts as today, and it provides no reasoned basis for changing track now—which is arbitrary and capricious.[117] Moreover, HUD's suggestion that the 2026 Proposed Rule would achieve its goals by the "reallocation of HUD funds to the intended recipients"[118] is counterfactual because, under current

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[112] 2026 Proposed Rule, 91 Fed Reg. at 8156 ("HUD has determined that owners should align with PHAs on this PRWORA reporting requirement.").

[113] 65 Fed. Reg. at 58,302. In addition, that finding or conclusion of unlawful presence must be supported by a determination by DHS, such as a final order of deportation. *Id*. A SAVE system check that indicates that an individual is ineligible for a benefit does not constitute a finding of fact or conclusion of law that the individual is not lawfully present. *Id*.

[114] 42 U.S.C. § 1437y (emphasis added).

[115] *See infra* § III(B)(2); *see* 2026 Proposed Rule, 91 Fed. Reg. at 8159 (noting SAVE limitations).

[116] *See* Restrictions on Assistance to Nonresidents, 60 Fed. Reg. 14,820, 14,822 (Mar. 20, 1995).

[117] *See Perez v. Mortgage Bankers Ass'n*, 575 U.S. 92, 106 (2015) (explaining that "the APA requires an agency to provide more substantial justification when 'its new policy rests upon factual findings that contradict those which underlay its prior policy'") (quoting *Fox*, 556 U.S. at 515).

[118] 2026 Proposed Rule, 91 Fed. Reg at 8,153.

policy, ineligible individuals do not receive HUD assistance; rather, their eligible family members do, *see supra* § I(B), and HUD expressly rejected this argument in the past, *see supra* § I(A). The 2026 Proposed Rule also seeks to remove the definition of "other affordable housing" from 24 C.F.R. § 5.518(b)(1)[119]—yet continues to use that phrase in the Rule's substantive requirements[120]—leaving housing providers without any standard, let alone a workable one, to determine when they can provide temporary deferrals.

Moreover, the 2026 Proposed Rule imposes retroactive no-notice punishments on families that have followed the law. The Rule would revise 42 C.F.R. § 5.514(c)(1)(iii) to require housing providers to terminate assistance to *nearly all* mixed-status families that had received federal housing assistance leading up to the change in rule (and for that termination to last at least two years), even though those families relied upon and complied with HUD's existing regulations, which permit prorated assistance.[121] HUD provides no explanation for penalizing such families—and doing so runs counter to HUD's stated goal of removing ineligible individuals from public housing assistance. Even if mixed-status families exclude such individuals going forward, they will *still* lose their housing assistance.

4. The 2026 Proposed Rule fails to consider serious reliance interests.

HUD has failed to adequately consider the serious reliance interests of States, housing providers, and the States' communities engendered by the prior policy, which has been in place for the last 30 years, for all the reasons described, *see supra* § II.

First, HUD failed to adequately consider how removing prorated assistance would impact mixed-status families, including the U.S. citizens or eligible members who would be displaced. "The typical mixed-status household whom the new policy would take assistance from—or force to separate—is a family of four with two children and two adults. Among such families, typically three of the four family members are U.S. citizens eligible for rental assistance and the household is currently receiving three-quarters of the rental assistance they would receive if all individuals were eligible."[122] Under the 2026 Proposed Rule, either the one ineligible family member is forced to leave the household, or most likely, all members would leave to avoid family separation or being evicted.

While HUD's Regulatory Impact Analysis acknowledges this potential outcome on families, HUD fails to recognize that, in some cases, families might have no choice but to leave their homes. In some cases, even if only ineligible individuals were to leave, the family would no longer meet the occupancy requirements of their current unit, causing the unit to no longer fall within the subsidy designation. So even those families that separate because of the 2026 Proposed Rule could still be displaced, also potentially causing a vacancy and loss of an affordable housing unit. Moreover, HUD also fails to consider an important aspect of this problem, and a factor Congress intended HUD to consider: protecting the "sanctity of the family."[123] The extensive legislative and regulatory history of Section 214, detailed *supra* § I, indicates that both Congress

[119] *Id.* at 8,161.
[120] *Id.* at 8,169-70.
[121] *Id*. at 8,160.
[122] Gartland & Acosta, *supra* note 2, at 4.
[123] 133 Cong. Rec. 37,657 (1987) (statement of Sen. Armstrong).

and HUD adopted preservation and prorated assistance for mixed-status families to avoid breaking up families. Yet the 2026 Proposed Rule offers not a single word about how its changes affect family unity, let alone how its changes help keep families together—including mixed-status families with U.S. citizen children.

Second, HUD failed to adequately consider the impacts of its increased documentation requirements. Under the 2026 Proposed Rule, over 8.8 million individuals would be subjected to the proposed documentation requirements. *See supra* § II(B). In particular, HUD failed to justify, or even consider, the 2026 Proposed Rule's impact on eligible individuals who do not have access to documents—harms that Congress considered in detail when it decided how to amend Section 214. It is estimated that nearly 4 million adult U.S. citizens lack documentation of citizenship, and an additional 17.5 million cannot easily access such documents. Further, low-income individuals are more likely to lack identification, as are formerly homeless individuals. A large portion of the nearly 8.5 million U.S. citizens who are subject to the documentation requirement are elderly or have a disability. The obstacles faced by many of those typically housed using HUD funding in obtaining and maintaining acceptable documents increase the chances that this population will not be able to timely comply with these new requirements and face eviction. As explained above, given the low income of these families, they are likely to fall into homelessness, overwhelming state social benefit programs, temporary and emergency housing, shelters, educational systems, and health services. The 2026 Proposed Rule furthers the assault on low-income individuals, already reeling from the Administration's "cuts to food assistance and health coverage [which] force more families with low incomes to make impossible decisions, like whether to pay rent or buy groceries or whether to keep the lights on or fill a prescription."[124] The effects on low-income families would impact the States' budgets and their economies as States are forced to cover the burdens of these costs as they face the loss of consumer spending of these families.

Third, HUD also failed to adequately consider the administrative burdens that the 2026 Proposed Rule would place on state and local agencies, along with private housing providers, who have built complex systems of housing support in reliance on the prorated assistance provided to mixed-status families. The 2026 Proposed Rule creates a wave of new administrative burdens on several fronts, including: (1) the screening and individualized documentation requirements that must be done for all existing program participants, along with all prospective applicants; (2) the administrative costs of creating new policies, guidance, documents, training, and monitoring programs to ensure compliance with the 2026 Proposed Rule's new requirements; (3) the costs of revising complex housing development plans that relied upon the prior rule; (4) the costs associated with losing subsidized households, terminating rental subsidies, and litigating eviction proceedings resulting from the 2026 Proposed Rule; and (5) substantial increases in expenditures for state and local housing and social services programs that would cover all the families who would lose federal subsidies or lose their homes under the 2026 Proposed Rule.

These burdens on state and local agencies and private housing providers would be multiplied by the proposal's arbitrary imposition of a 90-day deadline for mixed-status family members to submit newly required documentation. This deadline would require agencies and private housing providers to make untenably fast changes to long-standing policies, procedures, and staffing to communicate new documentation and eligibility requirements. It would also require

[124] Gartland & Acosta, *supra* note 2, at 4-6.

providers to simultaneously process a wave of increased documentation submissions (with multiple rounds of follow-up for many families), voluntary departures initiated by families, and involuntary subsidy termination and eviction proceedings, all at the same time. These responsibilities would fall on housing providers and state agencies who participate in these housing programs.

The Regulatory Impact Analysis purportedly addresses some of these costs, but its analysis is facially faulty and unsupported, leading to dramatic underestimates. For example, the Regulatory Impact Analysis asserts that only 1.9 million individuals would be subject to the 2026 Proposed Rule's requirements, despite the Regulatory Impact Analysis's own figures showing that the number of affected individuals would be nearly 9 million.[125] This drastic error shows that HUD has not engaged in reasoned decision-making and cannot do so through this proposed rulemaking.

Furthermore, the Regulatory Impact Analysis's cost estimates are based on the assertion that the proposal would increase verification costs for merely 1.05 percent of current tenants who have declared eligibility (and 1.05 percent of future tenants in the same circumstances) and 5 to 10 percent of household members who have not contended eligibility (and 5 to 10 percent of future household members who would not have contended eligibility but for the 2026 Proposed Rule).[126] These assertions are plainly wrong. In fact, the proposal would increase verification costs for *the vast majority* of current and future tenants, including all U.S. citizens and many noncitizens.[127] Again, these costs are nonexistent under current HUD rules. Furthermore, the 2026 Proposed Rule dramatically increases the cost of verifying eligibility by now including noncitizens who are 62 years or older in documentation and verification requirements despite clear authority to the contrary.[128] The Regulatory Impact Analysis entirely omits these costs based on the erroneous assumption that new costs would only be associated with individuals who lack documentation, as opposed to the millions of other individuals subject to increased verification and documentation requirements. These blatant errors and omissions mean that HUD has ignored the relevant data and important aspects of the problem.

Lastly, HUD ignores the fact that SAVE is not a reliable source for citizenship verification. Until very recently, SAVE was "not able to verify the citizenship of U.S. citizens born in the United States."[129] The Social Security Administration ("SSA") Inspector General made "a conservative estimate" in 2006 that seven percent of the individuals identified as noncitizens in SSA's records were actually citizens, and it estimated that 17.8 million of those records contained discrepancies.[130] Last year, the SSA and DHS entered into an information sharing agreement for

[125] Regulatory Impact Analysis at 9, 22.

[126] *See* Regulatory Impact Analysis at 23 & n.42, Table 5 & nn.1-2, Table 6 & n.1, Table 7 & nn.2-3, Table 8 & nn.2-3.

[127] *See, e.g.*, 2026 Proposed Rule, 91 Fed. Reg. at 8,165-67 (requiring documentation and verification of citizenship; adding procedures and deadlines for documentation and verification of immigration status).

[128] *See* 24 C.F.R. § 5.508(b)(2); 2026 Proposed Rule, 91 Fed. Reg. at 8,165-67.

[129] Letter Agreement Providing for Information Sharing Between DHS, U.S. Citizenship and Immigration Services (USCIS) and the Social Security Administration (SSA) Regarding Citizenship 1 (May 15, 2015), https://tinyurl.com/3exdada5.

[130] SSA, Office of the Inspector General, Accuracy of the SSA's Numident File, A-08-06-26100, at 13 & n.22 (Dec. 2006), https://tinyurl.com/79cyyuv9.

the purpose of expanding SAVE's ability to verify citizenship.[131] As SSA recently acknowledged, "SSA's records do not provide definitive information about an individual's citizenship status[,]" and "approximately ¼ of those records do not have an indication of citizenship present."[132] HUD grossly underestimates these recognized problems with the reliability of SAVE data: the Regulatory Impact Analysis cites a 2017 study indicating that SAVE had a one percent error rate.[133] The 2017 study noted that "the SAVE program does not verify the citizenship status of native born U.S. citizens," and the study thus has no bearing on the 2026 Proposed Rule's novel and error-prone use of SAVE for citizenship verification.[134] In sum, HUD's planned use of SSA data for verifying citizenship would lead to widespread errors, high rates of secondary verifications, and associated harms to States, local governments, other housing providers, tenants, and applicants. HUD has not considered these harms, and its proposal is therefore arbitrary and capricious.[135]

5. The 2026 Proposed Rule fails to consider its interference with effective enforcement of other laws.

Additionally, the 2026 Proposed Rule is arbitrary because it fails to consider other important aspects of the problem, including the Rule's interference with the effective enforcement of antidiscrimination laws and conflicts with various state and local laws. The 2026 Proposed Rule may have a significant disparate impact on Latinx populations and imposes unique burdens on those with disabilities, potentially violating the antidiscrimination provisions in the Fair Housing Act and Section 504 of the Rehabilitation Act, as well as HUD's own duty under the Fair Housing Act to affirmatively further fair housing.[136] Similarly, as explained in Section II(C), *supra*, the 2026 Proposed Rule is in tension with a number of state and local laws that prohibit discrimination or limit state or local participation in federal immigration enforcement. Yet HUD fails to even acknowledge these effects of the 2026 Proposed Rule, let alone explain how the Rule is consistent with these other requirements.

6. The 2026 Proposed Rule fails to consider reasonable alternatives.

As explained above, the existing regulation reflects the statutory requirements of Section 214. But even assuming that HUD could deviate from these statutory mandates, HUD fails to adequately consider a number of alternatives to the 2026 Proposed Rule. In its Regulatory Impact

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[131] Letter Agreement Providing for Information Sharing, *supra* note 9, at 3-4.

[132] Letter from Nancy Morales Gonzalez, SSA, to Jon Sherman, Fair Elections Center, at 2, 3 (July 13, 2023), https://tinyurl.com/ypw6eh28; *see also id.* at 2 ("SSA did not begin to consistently maintain citizenship information until 1981. . . . [T]here is no obligation for an individual to report to SSA a change in his or her citizenship or immigration status until he or she requests a replacement card or files a claim for a Social Security benefit. . . . [T]he citizenship information . . . may not be current.").

[133] Regulatory Impact Analysis at 29.

[134] U.S. Government Accountability Office, *Immigration Status Verification for Benefits: Actions Needed to Improve Effectiveness and Oversight* 1 n.1 (Mar. 23, 2017), https://tinyurl.com/2e7sx89p.

[135] To the extent that DHS and SSA's information-sharing agreement violates the Privacy Act or other sources of law, HUD's reliance on SAVE for citizenship verification is contrary to law and is arbitrary and capricious for additional reasons.

[136] *See* 42 U.S.C. §§ 3604(b), 3608(d).

Analysis, HUD lists two alternatives: (1) grandfathering in current mixed-eligibility families; and (2) providing prorated housing assistance to a subset of mixed families, such as "mixed families with children, regardless of eligibility status, to mitigate the adverse effects of the rule on child development."[137] If HUD adopted the first alternative, the 2026 Proposed Rule would only apply to new applicants, gradually eliminating mixed-eligibility households through attrition. HUD acknowledged that this option would "fulfill the objectives of the rule and avoid the transition costs borne by mixed families." Nonetheless, HUD provided no further analysis or explanation of why this alternative is not preferable to the 2026 Proposed Rule.[138] Meanwhile, if HUD adopted the second alternative, HUD conceded that substantially fewer households would be affected, and it would "mitigate the adverse effects of the rule on child development."[139] But again, HUD provided no explanation for its rejection of that alternative.

Moreover, there are numerous variations of these alternatives that HUD fails to consider, such as denying housing assistance to households where only the leaseholder is ineligible, or maintaining prorated benefits for mixed-status families currently receiving such assistance that make good faith efforts to obtain other affordable housing, but are unsuccessful in doing so.[140] Other options could include continuing to require SAVE verification only of persons applying for and directly receiving subsidies. Another option would be to alter the proration formula so that individuals who do not contend eligibility reimburse HUD for any marginal costs of their being present in subsidized housing with eligible individuals. HUD could also eliminate the 90-day deadline for mixed-status families or otherwise extend the timeline for compliance. In short, there are many alternatives that HUD could and should have considered that would diminish unnecessary harm, but it has failed to consider these alternatives entirely.

Instead, HUD asserts that it could "mitigate some of the immediate costs" of the 2026 Proposed Rule by "[e]ncouraging the use of preservation assistance" to give eligible families a temporary deferral of termination of assistance.[141] But HUD observes that such deferral is left to the complete discretion of HUD and public housing authorities, and HUD offers no explanation for why deferring the termination of housing assistance is preferable to the many alternatives that could permanently preserve prorated housing assistance for at least some families in at least some manner.[142]

HUD also fails to evaluate reasonable alternatives concerning the 2026 Proposed Rule's increased documentation and verification requirements. For example, as an alternative to requiring citizenship verification via SAVE for all citizens, HUD could exempt children and/or individuals 62 or older, thus alleviating the burden on these particularly vulnerable populations. Or HUD could give housing providers the discretion to verify citizenship, thus allowing providers to adjust this

[137] Regulatory Impact Analysis at 37.
[138] *Id.*
[139] *Id.*
[140] Indeed, HUD's failure to consider the leaseholder alternative is especially glaring given its identification of this alternative when it proposed a similar rule in 2019. *See* U.S. Dep't of Hous. & Urban Dev., Regulatory Impact Analysis: Amendments to Further Implement Provisions of the Housing and Community Development Act of 1980 at 17 (Apr. 15, 2019), https://tinyurl.com/385j69ym.
[141] Regulatory Impact Analysis at 37-38.
[142] *See id.*

requirement based on their needs and the circumstances of the populations they serve. Or HUD could require citizenship verification only where other information in the housing authority's possession indicates a discrepancy regarding the individual's citizenship status. As another example, HUD could give housing providers the discretion to require noncitizens 62 or older to provide documentation and sign a verification consent form. Again, this would allow housing providers to design their programs to better serve their tenant and applicant populations.

HUD also fails to evaluate reasonable alternatives to requiring housing providers to give incorrect information to individuals regarding PRWORA reporting obligations. Instead of requiring these false notices, HUD could simply implement the reporting requirements in Section 404 of PRWORA and/or require housing providers to give accurate notices of those reporting requirements.

IV. The 2026 Proposed Rule Violates the Paperwork Reduction Act.

Congress enacted the Paperwork Reduction Act to "minimize the paperwork burden for," among others, "individuals, small businesses . . . nonprofit institutions . . . [and] State, local and tribal governments, and other persons resulting from the collection of information by or for the Federal Government."[143] The Paperwork Reduction Act requires HUD to submit any proposed collection of information to the Office of Management and Budget ("OMB") prior to the date of publication of a notice of proposed rulemaking in the Federal Register.[144] The 2026 Proposed Rule correctly acknowledges that it would constitute a collection of information under the Paperwork Reduction Act,[145] as the proposal would collect new information from tenants and prospective tenants across the affected programs. The 2026 Proposed Rule asserts that this collection of information has already been approved under OMB Control Number 2577-0295.[146] That control number, however, does not authorize this proposed collection of information.

First, OMB Control Number 2577-0295 authorizes certain information to be collected in the Housing Choice Voucher and Public Housing programs,[147] while the 2026 Proposed Rule would collect information in several additional programs.[148] Second, OMB Control Number 2577-0295 is limited to the collection of information via the HUD 9886-A form.[149] That form authorizes collection of "verification of salary and wages from current or previous employers; . . . wage and unemployment compensation claim information from the state agency responsible for keeping that information; and . . . certain tax return information . . . ."[150] None of the citizenship and immigration information to be collected under the 2026 Proposed Rule falls within the scope of the HUD 9886-A form. Third, the HUD 9886-A form is expressly limited to collections by HUD

[143] 44 U.S.C. § 3501(1).
[144] 44 U.S.C. § 3507(d)(1)(A).
[145] 2026 Proposed Rule, 91 Fed. Reg. at 8,163.
[146] *See id*.
[147] *See* 30-Day Notice of Proposed Information Collection: Restrictions on Assistance to Noncitizens and Authorization for Information/Privacy Act; OMB Control No.: 2577-0295, 88 Fed. Reg. 56,643 (Aug. 18, 2023); Notice of OMB Action, ICR Reference No. 202303-2577-001, OMB Control No. 2577-0295 (Oct. 23, 2023), https://tinyurl.com/3czztah5.
[148] *See* 2026 Proposed Rule, 91 Fed. Reg. at 8,151.
[149] *See* Notice of OMB Action, *supra* note 147, at 2.
[150] Authorization for the Release of Information/Privacy Act Notice to HUD and the Housing Agency/Authority (HA), HUD 9886-A, at 1 (Oct. 2023), https://tinyurl.com/4t22dj7u.

and public housing authorities.[151] The 2026 Proposed Rule, in contrast, would require private housing providers to collect information.[152] Here, HUD erroneously relies on OMB Control Number 2577-0295 to shortcut its way around its notice and comment requirements. For these reasons, the 2026 Proposed Rule runs afoul of the Paperwork Reduction Act and must be withdrawn.

V. The 2026 Proposed Rule Fails to Address the Substantial Direct Effects on the States in Violation of Executive Order 13,132.

HUD also violates Executive Order 13,132's mandate that the agency "consult[] with State and local officials early in the process of developing" a rule with federalism implications and substantial compliance costs to State and local governments, and provide a "federalism summary impact statement."[153] HUD claimed that the order does not apply to the 2026 Proposed Rule.[154] HUD, however, is incorrect. The 2026 Proposed Rule would have direct effects on the States—including by stripping federal housing assistance from at least 80,000 of their residents and would therefore impose substantial direct compliance costs on State and local governments, as defined by the Order.[155] *See supra* § II(A) & (B). Additionally, the 2026 Proposed Rule would co-opt State and local agencies, housing authorities, and housing providers into assisting with immigration enforcement, by requiring them to report individuals for immigration enforcement in an unprecedented new obligation.[156] Accordingly, a federalism summary impact statement must be provided.

VI. The 2026 Proposed Rule Fails to Properly Analyze the Harms of the Proposed Rule, and Thus Fails to Meet the Requirements of Executive Orders 12866 and 13563.

The 2026 Proposed Rule does not comply with Executive Order 12866, "Regulatory Planning and Review,"[157] which has been maintained across Republican and Democratic administrations. Executive Order 12866 requires HUD to assess *all* costs and benefits of the 2026 Proposed Rule and of all the possible or feasible regulatory alternatives—including the alternative of not issuing the regulation. Executive Order 13563 also requires that agencies quantify the costs and benefits of their proposed regulations wherever possible.[158] These requirements are designed to ensure that the government only issues regulations when the benefit of the new policy is greater than the costs associated with that new policy, and when the new policy has net benefits that are greater than any other possible policy alternative.

The 2026 Proposed Rule fails to meet the requirements of Executive Orders 12866 and 13563 because, as demonstrated above in Sections II & III, *supra*, the 2026 Proposed Rule does

[151] *Id.* ("Private owners may not request or receive information authorized by this form.").
[152] *See, e.g.*, 2026 Proposed Rule, 91 Fed. Reg. at 8,154 n.27, 8155.
[153] Exec. Order No. 13,132, 64 Fed. Reg. 43,255 (Aug. 10, 1999).
[154] 2026 Proposed Rule, 91 Fed. Reg. at 8,163.
[155] Exec. Order No. 13,132, 64 Fed. Reg. 43,255 (Aug. 10, 1999).
[156] 2026 Proposed Rule, 91 Fed. Reg. at 8,156, 8,166.
[157] Exec. Order No. 12,866, 58 Fed. Reg. 51,735 (Oct. 4, 1993).
[158] *See* Exec. Order No. 13,563,76 Fed. Reg. 3,821 § 1(c) (Jan. 21, 2011) ("[E]ach agency is directed to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.").

not properly analyze the harms of the Proposed Rule. Specifically, the 2026 Proposed Rule does not sufficiently identify and quantify its costs, particularly, the harms that States and their residents would face should mixed-status families be forced apart or be denied housing assistance. The 2026 Proposed Rule also fails to consider the public health benefits from keeping families together and providing prorated assistance to families with members who are eligible for housing assistance. When a greater share of these families' incomes is used to pay for housing, despite the eligibility of some members for housing assistance, those families have fewer dollars to spend in their local economies. Instead, the States would be forced to increase their expenditures to cover allocations toward voucher programs, project-based assistance, and other housing programs, as well as additional education, health, and other social services for families who may lose their homes as a result of the 2026 Proposed Rule. This results in greater dependence on social benefit systems funded and administered by the States. Accordingly, HUD should conduct a thorough economic impact analysis to address these issues.

VII. Conclusion

If finalized, the 2026 Proposed Rule would cause significant, direct harm to the States and our residents by separating families; worsening the homelessness crisis; harming U.S. citizens; causing instability to children, seniors, and those with disabilities; imposing substantial new administrative burdens on housing providers; and substantially increasing the burdens on state social services and agencies as a result. In light of all the foregoing, the States therefore urge HUD to withdraw the 2026 Proposed Rule.

Sincerely,

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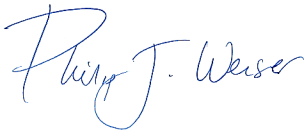

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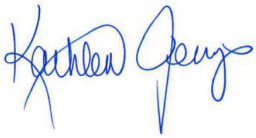

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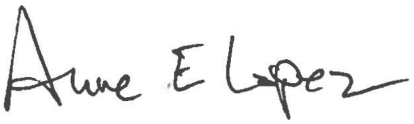

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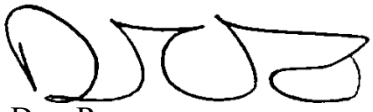

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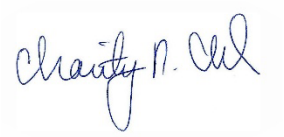

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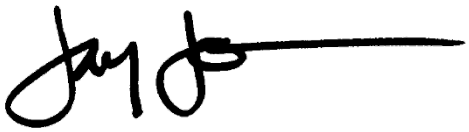

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Appendix

Households and Individuals Affected by the Proposed Rule by State[1]

	Households			Individuals		
State	Total Receiving Assistance	Households with a U.S. Citizen Subject to Proposed Documentation Requirement	Mixed-Status Prohibited from Receiving Assistance	Total Receiving Assistance	Citizens Subject to Proposed Documentation Requirement	Non-Citizens Already Subject to Documentation Requirement
Arizona	37,480	35,710	420	82,900	77,180	5,340
California	453,960	430,070	7,190	898,550	821,500	71,890
Colorado	57,030	55,470	340	111,220	105,780	5,070
Connecticut	75,620	73,550	180	146,610	141,110	5,220
Delaware	10,640	10,520	*[2]	21,970	21,540	360
District of Columbia	25,630	25,000	*	49,520	48,150	1,230
Hawai‘i	19,210	18,220	*	46,430	41,030	5,310
Illinois	198,660	195,190	300	383,340	375,480	7,000
Maine	23,500	22,850	30	40,320	37,850	2,300
Maryland	88,640	87,180	40	182,410	178,550	3,280
Massachusetts	182,810	171,140	910	340,640	309,320	30,210
Michigan	127,320	125,540	20	237,690	233,070	3,830
Minnesota	82,360	78,940	80	162,100	149,910	11,800
Nevada	22,460	21,990	150	49,940	48,340	1,140
New Jersey	149,710	143,980	160	282,420	269,420	12,390
New Mexico	20,130	19,570	230	39,630	37,980	1,580
New York	498,440	475,360	2,540	978,750	914,060	63,520
Oregon	49,320	48,120	580	91,670	87,040	4,390
Rhode Island	33,860	32,080	100	56,480	52,250	3,970
Vermont	11,960	11,690	*	20,750	19,530	1,190
Virginia	90,200	88,170	120	191,210	184,580	6,090
Washington	86,210	82,320	600	166,930	153,020	13,200
Totals:	2,345,150	2,252,660	13,990	4,581,480	4,306,690	260,310

[1] Erik Gartland & Sonya Acosta, Ctr. on Budget and Pol’y Priorities, *Administration Plan Targeting Immigrants Would Take Away Rental Assistance, Create New Barriers*, 9-11 (Dec. 12, 2025), https://tinyurl.com/37uaxnze.

[2] Asterisks denote values which are less than 11 or values that could be used to derive a value less than 11, which are suppressed to meet HUD’s privacy guidelines. *See id*. at 11.