



CATHOLIC LEGAL
IMMIGRATION
NETWORK, INC.



Mixed-Status Families and Eligibility for Certain HUD Housing Programs: What You Need to Know About HUD's Proposed Rule

Overview:

The Housing and Community Development Act of 1980 ("The Act") prohibits the Secretary of the Department of Housing and Urban Development (HUD) from making financial assistance available to persons other than U.S. citizens or certain categories of eligible noncitizens in HUD's public and specified assisted housing programs.ⁱ The Act enumerates certain eligible individuals for assistance and does not prohibit prorated assistance for eligible household individuals who are part of mixed-status familiesⁱⁱ – families that have at least one eligible household member, as well as other ineligible household member(s).

Those eligible for assistance under the Act are: (1) U.S. citizens and nationals; (2) lawful permanent residents; (3) VAWA self-petitioners; (4) asylees and refugees; (5) parolees; (6) persons granted withholding of removal/deportation; (7) victims of trafficking; (8) individuals residing in U.S. under compacts of free association with Marshall Islands, Micronesia & Palau; and (9) immigrants admitted for lawful temporary residence under the Immigration Reform & Control Act of 1986.

Current Practice for Mixed Status Families:

- ▶ People who are ineligible do **NOT** receive assistance;
- ▶ At least one U.S. citizen or eligible immigrant **must** live in the household and may receive **prorated** assistance from a HUD program; and
- ▶ Individuals in the household must submit or meet one of the following documentation requirements:
 - (1) declaration that they are a U.S. citizen or noncitizen with eligible status;
 - (2) eligible noncitizens must provide an original copy of a document designated by DHS as acceptable evidence; or
 - (3) a household member can "Not Contend" eligibility (i.e., they do not request consideration for assistance).

Proposed Changes:

HUD is proposing to revise the current eligibility standards for housing assistance drastically. If implemented, the proposed rule would limit many families' ability to access such assistance. Specifically, HUD is seeking to:

- ▶ Prohibit prorated assistance to mixed-status families, even if some of its members are otherwise eligible to apply and participate in the program under the Act;
- ▶ Require all noncitizen family members' immigration statuses to be verified in USCIS's Systematic Alien Verification for Entitlements ("SAVE") Program, regardless of whether each family member is applying for benefits;
- ▶ Require the housing unit's leaseholder (i.e., the head of household) to be verified as eligible through the SAVE Program, regardless of whether he/she is applying for benefits; and
- ▶ Institute additional documentation requirements for all applicants, including U.S. citizens and seniors.

Affected HUD Programs:ⁱⁱⁱ

- [Public Housing](#)^{iv};
- [Section 8 Housing Choice Vouchers](#);^v
- [Section 8 Project Based Housing \(PBRA\)](#);^{vi}
- Section 235 Home Loan Program;
- Section 236 Rental Assistance Program;
- Rent Supplement Program; and
- [Housing Development Grant Programs](#) (low-income units only).^{vii}

Why Does HUD's Proposed Rule Matter to Catholics?

1. [The Proposed Rule Fails to Treat Housing as a Fundamental Right](#). Catholic social teaching holds that safe, decent, and affordable housing is a fundamental human right. "There must be made available to all men everything necessary for leading a life truly human, such as food, clothing, and shelter."^{viii} Housing is more than a market commodity, it is a basic social good. Because housing is a basic right of the human person, the government has a positive and proactive role to play in its provision. HUD must not neglect its responsibility to serve the poor and vulnerable and ensure that safe, decent, and affordable housing is available to mixed-status families.

2. [The Proposed Rule Harms Families](#). If implemented, the proposed rule would require these families to make a heartbreaking choice – endure family separation so that eligible members could continue to qualify for critical subsidized housing programs or stay together and forfeit any housing assistance. This is a choice no family should be forced to make.

3. [The Proposed Rule Would Harm Vulnerable Populations and the Agencies that Serve Them](#). The proposed rule is not only contrary to law, but it is in tension with the dignity of the person and the common good that we are called to support. If implemented, the influx of increased need derived from the impact of this proposed rule would be devastating to the low-income populations we serve. Under the proposed rule, Catholic Charities and other social service agencies would be required to terminate assistance for mixed-status families and potentially be forced to push eligible residents, including children and seniors, out of the household. In addition, the loss of housing would create the need for services that might not have been necessary with stable housing.

Who Is Impacted by the Proposed Rule?

- An estimated 25,000 mixed-status households currently receiving assistance;
 - Of individuals in these households, 71 percent are otherwise eligible for assistance;
- An estimated 55,000 children (U.S. citizens, lawful permanent residents, or otherwise eligible for assistance); and
- Families with undocumented members, as well as those who are here in a status not specifically recognized by the Act (e.g., Deferred Action for Childhood Arrivals or U nonimmigrant status).

The rule will also have disproportionate impacts in California, Texas, and New York, with over 72% of affected mixed-status families residing in these three states.

What Can You Do to Protect Immigrant Families and Oppose the Proposed Rule?

- **Learn More.** We encourage you to learn more about the proposed rule.
 - Read the text of the proposed rule [here](#).^{ix}
 - Share this backgrounder and our [webinar](#)^x on the proposed rule.
- **Share Community Impacts.** If you work with or know of affected individuals who would be willing to share their stories, please contact jfi@usccb.org. Identifying information can be redacted to protect individuals' privacy.
- **Voice Your Opposition.** Push back against this rule by submitting a comment and encouraging your network to do so as well.
 - To learn more about filing, see our [Public Comments webinar](#).^{xi}
 - Comments are due by July 9th.
 - Submit Comments:
 - Online at: <https://www.regulations.gov>
- **Contact Your Lawmakers.** Tell your Members of Congress that you want them to voice opposition to the proposed changes.

Endnotes

ⁱ 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 1 (Apr. 15, 2019); *see also* Housing and Community Development Act of 1980, 42 U.S.C. § 1436(a).

ⁱⁱ *See* Housing and Community Development Act of 1980, 42 U.S.C. § 1436(a).

ⁱⁱⁱ Please note, Section 235, Section 236, and the Rent Supplement programs are no longer active. However, certain housing units that benefitted from the programs may still be on the market and could potentially be affected by this proposed rule.

^{iv} “Public and Indian Housing,” Department of Housing and Urban Development, July 1, 2019, available at: https://www.hud.gov/program_offices/public_indian_housing.

^v “Housing Choice Vouchers Fact Sheet,” Department of Housing and Urban Development, July 1, 2019, available at: https://www.hud.gov/topics/housing_choice_voucher_program_section_8.

^{vi} “Renewal of Section 8 Project-Based Rental Assistance,” Housing and Urban Development, July 1, 2019, available at: <https://www.hud.gov/hudprograms/rs8pbra>.

^{vii} “Grants Information,” Department of Housing and Urban Development, July 1, 2019, available at: https://www.hud.gov/program_offices/spm/gmomgmt/grantsinfo

^{viii} Second Vatican Council, *Gaudium et Spes: Pastoral Constitution on the Church in the Modern World*, *Promulgated by Pope Paul VI, no. 26* (December 7, 1965).

^{ix} Housing and Community Development Act of 1980: Verification of Eligible Status, 84 Fed. Reg. 20,589 (May 10, 2019), available at: <https://www.govinfo.gov/content/pkg/FR-2019-05-10/pdf/2019-09566.pdf>.

^x Justice for Immigrants, “HUD’s Proposed Rule on Housing Assistance” Webinar, June 27, 2019, available at: <https://www.youtube.com/watch?v=8Lp8aURqBTY&feature=youtu.be>.

^{xi} *Id.*