

October 18, 2019

Office of General Counsel, Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410- 0500

RE: Proposed Rule: FR-6111-P-02 HUD's Implementation of the Fair Housing Act's Disparate Impact Standard

Dear Secretary Carson:

I am writing on behalf of RESULTS to comment in opposition to HUD's proposed rule to change the disparate impact standard as interpreted by the U.S. Department of Housing and Urban Development ("HUD"). **As an anti-poverty organization, we strongly oppose any changes to HUD's current Disparate Impact Rule.** We urge that the rule be withdrawn, mirroring the mission of HUD to "create strong sustainable, inclusive communities and quality affordable homes for all."

RESULTS creates the public and political will to end poverty by empowering individuals to exercise their personal and political power for change. We support a network of more than 115 chapters with over 650 active volunteers (and an additional 7,000 members in our e-mail action network) across the U.S. Our grassroots advocates educate members of congress, work with the media, and build awareness within their communities on housing programs and policies, basic nutrition and health programs, along with budget and tax policies. Our grassroots network includes a specific focus on engaging young leaders and elevating the voices of low-income Americans who have firsthand experience of poverty.

As an organization we are focused on effective policies that create opportunity toward the goal of ending poverty, and we know that housing impacts every aspect of our lives — our health care, our education, our ability to get a nutritious diet, our access to good jobs, and more. The existing Disparate Impact Rule serves the American public by providing an incentive for municipalities, large corporations, and others to modify policies that wrongly and unnecessarily keep people from the opportunities they need to be successful in life. **As an organization deeply committed to ending poverty and creating opportunity, with a focus on understanding the root causes of racial wealth inequality, RESULTS strongly opposes gutting a core tool for fighting housing discrimination.** In particular, we fear some of these discriminatory impacts:

- A landlord's "zero-tolerance-for-crime" policy has a disproportionate impact on Domestic Violence survivors, the majority of whom are women, who get evicted after calling the police seeking protection from their abuser.
- Landlords refusing to accept Section 8 housing choice vouchers can have a disparate impact on people of color, female-headed households, and people with disabilities.

- An apartment building restricts occupancy to one person per bedroom, which disproportionately impacts families with children, especially low-income families who cannot afford an apartment with more bedrooms.
- Landlords requiring documentation from every occupant may have a disparate impact on immigrants (a national origin discrimination claim).
- Mortgage lenders use policies that end up charging people of color more than white people with similar credit scores. Insurance companies use policies that outright deny homeowner's insurance to homes under a certain value or charge higher premiums. These can exacerbate an already staggering racial wealth divide.

As an organization deeply committed to ending poverty and creating opportunity, with a focus on understanding the root causes of racial wealth inequality, **RESULTS is deeply concerned about the impact of the proposed changes on low-income people and communities of color.** Research shows that unstable housing can lead to future health problems, increased hospital visits, loss of employment, and higher likelihood of mental health problems in children.^{1,2&3} For adults, unstable housing can also increase the risk of addiction relapses. These consequences can be avoided when stable housing is provided. Evidence shows that unstable housing interrupts cognitive development in children, leading to poorer outcomes in adulthood.⁴ Additionally, housing instability decreases student retention rates and contributes to homeless students' high suspension rates, school turnover, truancy and expulsion.⁵ Taken together, this research suggests that unstable housing limits children's ability to gain the educational skills to help them succeed later in life.⁶

RESULTS strongly opposes efforts that harm households with low-incomes and create conditions that lead to further entrenched poverty. The role of the HUD is to protect individuals from homelessness by providing "inclusive" and "quality affordable homes for all." This proposed rule change goes against current legislation and the founding principles of the department. As a nation, we have a shared interest in ensuring that housing opportunities are available to every individual, regardless of their personal characteristics. The Fair Housing Act prohibits intentional

¹ Megan Sandel et al., *Unstable Housing and Caregiver and Child Health in Renter Families*, 141 PEDIATRICS 1 (2018), <http://pediatrics.aappublications.org/content/141/2/e20172199>.

² See Will Fischer, *Research Shows Housing Vouchers Reduce Hardship and Provide Platform for Long-Term Gains Among Children*, CENTER ON BUDGET AND POLICY PRIORITIES (October 7, 2015), <https://www.cbpp.org/research/research-shows-housing-vouchers-reduce-hardship-and-provide-platform-for-longterm-gains>; see also Linda Giannarelli et al., *Reducing Child Poverty in the US: Costs and Impacts of Policies Proposed by the Children's Defense Fund* (Jan. 2015), <http://www.childrensdefense.org/library/PovertyReport/assets/ReducingChildPovertyintheUSCostsandImpactsofPoliciesProposedbytheChildrensDefenseFund.pdf>.

³ HEATHER SANDSTROM & SANDRA HUERTA, THE NEGATIVE EFFECTS OF INSTABILITY ON CHILD DEVELOPMENT: A RESEARCH SYNTHESIS (2013), <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>.

⁴ HEATHER SANDSTROM & SANDRA HUERTA, THE NEGATIVE EFFECTS OF INSTABILITY ON CHILD DEVELOPMENT: A RESEARCH SYNTHESIS (2013), <https://www.urban.org/sites/default/files/publication/32706/412899-The-Negative-Effects-of-Instability-on-Child-Development-A-Research-Synthesis.PDF>.

⁵ See Mai Abdul Rahman, *The Demographic Profile of Black Homeless High School Students Residing in the District of Columbia Shelters and the Factors that Influence their Education 55* (Mar. 2014) (Ph.D. dissertation, Howard University), available at <http://gradworks.umi.com/3639463.pdf> (citations omitted).

⁶ See Mai Abdul Rahman, *The Demographic Profile of Black Homeless High School Students Residing in the District of Columbia Shelters and the Factors that Influence their Education 55* (Mar. 2014) (Ph.D. dissertation, Howard University), available at <http://gradworks.umi.com/3639463.pdf> (citations omitted).

discriminatory acts and facially “neutral” policies that limit housing opportunities based on race, color, national origin, religion, sex, the presence of families with children, and people with disabilities. Fully realizing the promises of the Fair Housing Act for every person in the United States is central to HUD’s mission.

Three in four households eligible for housing assistance do not receive it.⁷ Instead of using resources to increase the number of households accessing housing assistance, this rule undermines fair housing policies. The Proposed Rule includes deeply flawed changes that shift the burden of proof and inserts inordinately high barriers that would make it virtually impossible to bring the bedrock and heartland housing discrimination cases that Justice Kennedy expressly stated should be brought using disparate impact.⁸ Access to stable and affordable housing is a basic platform for family and community health, well-being, and dignity, and our communities thrive when everyone has access to a high-quality home.

And, the evidence is clear that safe and affordable housing supports health.⁹ When families are rental cost-burdened they can’t afford to pay for other basic needs like food and health care, which is why problems like food insecurity increase along with housing costs,¹⁰ and many renters delay needed medical care because they can’t afford it.¹¹ If the HUD rule is enacted, families will face additional barriers to accessing housing. Eviction itself is also linked with negative health outcomes like: depression, anxiety, high blood pressure, and emergency room visits.^{12& 13} Our grassroots advocates know – many from lived experience – the importance of stable and affordable housing and feel strongly that we must protect and expand effective housing assistance programs for all those in the U.S.

As noted above, **RESULTS is deeply concerned about the impact of the proposed changes on low-income people and communities of color.** Rather than evidence-based policymaking, the proposed rule would cause great harm to individuals, families, and communities, without a full rationale or calculation of the potential harm.

⁷ Center on Budget and Policy Priorities, “Policy Basics: Federal Rental Assistance.” (November 15, 2017), <https://www.cbpp.org/research/housing/policy-basics-federal-rental-assistance>.

⁸ [1] *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 135 S. Ct. 2507, 2511 (2015), available at: <https://casetext.com/case/texas-dept-of-housing-and-community-affairs-v-inclusive-communities-project-inc>.

[2] *Inclusive Communities*, 135 S. Ct. at 2522.

⁹ Nabihah Maqbool, Janet Viveiros, & Mindy Ault, CENTER FOR HOUSING POLICY, *The Impacts of Affordable Housing on Health: A Research Summary* (Apr. 2015), <https://www.rupco.org/wp-content/uploads/pdfs/The-Impacts-of-Affordable-Housing-on-Health-CenterforHousingPolicy-Maqbool.etal.pdf>.

¹⁰ Jason M. Fletcher, Tatiana Andreyeva, & Susan H. Busch, *Assessing the Effect of Increasing Housing Costs on Food Insecurity* (Nov. 12, 2009), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1503043.

¹¹ ENTERPRISE, *Renters Report Housing Costs Significantly Impact Their Health Care* (Apr. 3, 2019), https://www.enterprisecommunity.org/news-and-events/news-releases/2019-04_renters-report-housing-costs-significantly-impact-their-health-care.

¹² Alison Bovell & Megan Sandel, *The Hidden Health Crisis of Eviction*, CHILDREN’S HEALTH WATCH BLOG (Oct. 5, 2018), <http://childrenshealthwatch.org/the-hidden-health-crisis-of-eviction/>.

¹³ Robert Collinson & Davin Reed, *The Effects of Evictions on Low-Income Households*, NYU LAW (Dec. 2018), https://www.law.nyu.edu/sites/default/files/upload_documents/evictions_collinson_reed.pdf.

RESULTS believes that creating additional barriers for all households in accessing housing creates health, economic, and moral damage in the long and short-term. The Department of Housing and Urban Development should immediately withdraw this proposal and dedicate its efforts to advancing policies that strengthen — rather than undermine — the ability of people to support themselves and their families in the future.

Thank you for the opportunity to submit comments on the proposed rulemaking. Please do not hesitate to contact me to provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Meredith Dodson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Meredith Dodson
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