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Point of View

HUD's Latest Attack on Fair Housing

HUD published today its Disparate Impact [proposed rule](#), the latest of HUD Secretary Carson's efforts to gut fair housing protections. With this proposal, Secretary Carson would dismantle a critical enforcement tool for combatting discrimination, further restricting access to housing for people of color, seniors, people with disabilities, families with children, LGBTQ people, victims of domestic violence, and others.

Throughout his tenure at HUD, [Secretary Carson has prioritized undermining fair housing protections](#). Under his leadership, HUD has [slowed or stopped](#) most high-priority fair housing investigations and enforcement. When the city of Houston violated federal fair housing law by perpetuating racial segregation, Secretary Carson [let the city off the hook](#) by agreeing to a weak, largely unenforceable [settlement](#). Last year, a [court had to intervene](#) to prevent Secretary Carson from reversing policies that make it easier for low-income families to move out of high-poverty and segregated neighborhoods. Secretary Carson effectively [suspended the Affirmatively Furthering Fair Housing rule](#), the agency's strongest effort in decades to reverse harmful patterns of segregation and discriminatory practices in communities across the country. Now, [he seeks to weaken the process to prove disparate impacts](#) in housing and other policy.

The Fair Housing Act prohibits housing policies and practices that have a discriminatory or disparate impact, even if there was no obvious intent to discriminate. Eleven U.S. Courts of Appeals and the Supreme Court have ruled that violations of the Fair Housing Act can be established through a disparate-impact standard of proof. HUD's current Disparate Impact regulation codifies decades of federal court rulings to establish uniform "burden-shifting" standards for determining when a housing practice or policy with a discriminatory effect violates the Fair Housing Act.

Secretary Carson's proposed Disparate Impact rule would radically change these standards to place virtually all the burden on people of color, women, immigrants, people with disabilities, LGBTQ people, and other protected classes. The changes are designed to make it much more difficult, if not impossible, for protected classes to challenge and overcome discriminatory effects in housing.

Overt, explicit discrimination is less common in our country than it was decades ago – for the most part, we have cultural norms and laws that prevent it - but implicit discrimination is not uncommon. Take disaster recovery, for example. Time and again we have seen federal disaster rebuilding dollars favor higher-income white communities over lower-income black communities. After Hurricane Katrina, New Orleans created programs that awarded funds based on the pre-storm value of a home rather than on the cost to reconstruct it. The outcome: lower-income black families living in distressed communities with lower home values received far less in rebuilding money than higher income white families, even though the cost to rebuild homes was about the same for both. After Hurricane Harvey, local discretion in designing and implementing rebuilding programs resulted in white families in higher-income neighborhoods receiving about \$60,000 of recovery dollars per resident while black families in poorer neighborhoods received, on average, \$84 per person.

Restrictive local zoning laws are another example. City councils rarely state explicitly that the purpose for new zoning laws is to keep certain protected classes out of their communities, but that is very often at the root of local zoning decisions. The Des Moines, Iowa city council is proposing a new minimum house sizes and prohibiting the use of less expensive building materials. They propose these changes just as the local Latino population is increasing. The Des Moines Latino population has, on average, lower incomes than the white Des Moines population, and so would be disproportionately harmed by these proposed zoning changes.

Even if the policymakers behind these programs did not intend to discriminate, there is a negative outcome for protected classes, and the discriminatory impact is proven and rectified with disparate impact, the very tool that HUD now proposes to weaken.

A striking theme in Secretary Carson's proposed rule is his efforts to tip the scale in favor of defendants that are accused of discrimination. He would shift the burden of proof entirely to the plaintiff; victims of discrimination are asked to try to guess what justifications a defendant might invoke and preemptively counter them. Secretary Carson further proposes making a profitable policy or practice immune from challenge of discriminatory impact unless the victims of discrimination can prove that a company could make at least as much money without discriminating. In other words, according to Secretary Carson, the profit justifies the discrimination.

Also noteworthy: Secretary Carson creates new defenses for lenders and others that use algorithms with potentially discriminatory outcomes. For example, under HUD's proposal a lender would be permitted to continue using an algorithm with a discriminatory impact if the algorithm in use is considered an "industry standard." In other words, if all lenders adopt discriminatory underwriting standards, none would be liable. The lender using an algorithm with a discriminatory impact could, by Secretary Carson's recommendation, avoid any liability by having its vendor be solely responsible.

We cannot allow these proposals to be implemented. **The promise and obligations of the Fair Housing Act are more important than ever.** The housing crisis is worsening, along with its disproportionate harm to people of color. The racial wealth gap is growing, with generational impacts on black and Latino families. Black homeownership has declined to levels below rates when discrimination was legal. Racial segregation persists and concentrated poverty grows.

There are tremendous racial disparities in our country's housing system. Disparate impact is a critical tool for overcoming and reversing these disparities, and this is the very tool that Secretary Carson seeks to dismantle. Rather than attempting to weaken the disparate impact rule, HUD should be working to vigorously enforce it.

We'll work to ensure they do.

[Join us.](#)

Diane

Out of Reach 30th Anniversary

Podcast Commemorating the 30th Anniversary of *Out of Reach* Report, Moderated by *New York Times* Reporter Emily Badger

This year marks the 30th anniversary of NLIHC's [Out of Reach](#). To commemorate the milestone, NLIHC [invited](#) *New York Times* reporter Emily Badger to interview a panel of experts: Peggy Bailey, vice president for housing policy at the Center on Budget and Policy Priorities; Shelia Crowley, former president and CEO of NLIHC; Erhard Mahnke, coordinator of the Vermont Affordable Housing Coalition and NLIHC board member; and Andrew Aurand, vice president for research at NLIHC. The interview was recorded for a [podcast](#) on the history of *Out of Reach* and solutions to the affordable housing crisis. Diane Yentel, NLIHC president and CEO, introduces the podcast.

Emily posed questions to panelists covering a variety of housing affordability issues. How did we get to this crisis? How have policy changes impacted access to affordable housing? What are some solutions and resources

that we already have in place but that are underutilized and threatened? What should the next president do in their first 100 days in office to significantly increase affordable housing for the lowest-income people?

Listen to the 30th Anniversary of *Out of Reach* podcast at: <https://bit.ly/2OZGYfU>

The 2019 *Out of Reach* report is at: <https://reports.nlihc.org/oor/>

Our Homes, Our Votes: 2020

Issue of Affordable Housing Is Featured in the News and on the Campaign Trail

The Des Moines Register published an [opinion piece](#) by Eric Burmeister and Lauren Johnson of the Polk County Housing Trust Fund (PCHTF) and NLIHC President and CEO Diane Yentel on August 12 calling on Iowans to raise their voices on the issue of affordable housing and to demand the moderators of the next presidential debates call on the candidates to respond. This op-ed is part of the effort by the [Our Homes, Our Votes, Our Iowa](#) project, a collaboration between NLIHC and PCHTF, to engage 2020 presidential candidates around affordable housing.

The nation's affordable housing crisis – and how candidates are responding - is gaining increasing news coverage around the country. "[Here's how the top Democratic presidential hopefuls would fix the affordable housing](#)" in the *Reno Gazette Journal* reviews the policy blueprints of nine of the ten top presidential hopefuls. An editorial by *The Boston Globe*, "[Health and stable housing: Taking preventative medicine to the next level](#)," discusses the close link between health and housing affordability, featuring a significant new effort by three large Boston hospitals to help low-income families stay in their homes. A *Yahoo* article, "[A vicious cycle: high rents are keeping Americans from health care](#)," reviews a new [Enterprise Community Partners report](#) that found 54% of the renters they surveyed indicated that they delayed medical care to pay their rent.

The presidential candidates are addressing the issue of affordable housing and their plans to deal with the crisis on the campaign trail as never before. On August 13, former HUD Secretary Julián Castro visited the Hilltop Apartments, an affordable housing complex in Des Moines, IA. He later spoke at an affordable housing town hall. See media coverage of his visit [here](#) and [here](#), and read about another event Secretary Castro conducted in New Hampshire in this *Memo to Members and Partners*.

Also this past week, [Senator Bernie Sanders](#) spoke about affordable housing in New Hampshire, as did [Senator Kamala Harris](#) in Iowa.

[Our Homes, Our Votes: 2020](#) is tracking what all candidates are saying on affordable housing. Every week we are adding new content to the candidate pages – so check back often.

Julián Castro Addresses Affordable Housing and Homelessness in New Hampshire

Presidential candidate and former HUD Secretary Julián Castro participated in an [Our Homes, Our Votes, Our New Hampshire](#) event on August 17 for an intimate policy conversation on affordable housing and homelessness and a tour of Cross Roads House, a homeless shelter in Portsmouth, NH. "I believe housing is a human right. Everybody should have a safe, affordable place to live," Secretary Castro said at the event. He called for investing \$40 billion per year in the national Housing Trust Fund (HTF). "That's particularly significant because that's aimed at people who are extremely low-income," he said.

During the policy conversation, Secretary Castro spoke with NLIHC President and CEO Diane Yentel, Cross Roads House Executive Director Martha Stone, Ben Frost with New Hampshire Housing, residents of Cross Roads House and other impacted community members. Secretary Castro said he intended to elevate the issue of housing affordability on the campaign trail, focusing on the need to increase funding for housing vouchers, the national HTF, and implementing source-of-income discrimination protections, among other things.

The tour of Cross Roads House, which provides emergency and transitional shelter for homeless families and individuals as they return to permanent housing, showcased the property's emergency-shelter dorm rooms, the transitional shelter rooms, and on-site facilities including medical, kitchen and resource rooms.

Our Homes, Our Votes, Our New Hampshire is a nonpartisan candidate engagement partnership between Housing Action NH and NLIHC to elevate the affordable housing crisis and its solutions in New Hampshire's first-in-the-nation presidential primary. The goal is to ensure that *all* candidates for president put forward bold solutions for affordable housing—and commit to advancing real solutions – so that the next president prioritize ending homelessness and housing poverty. Read more about *Our Homes, Our Votes, Our New Hampshire* [here](#) and about the nationwide *Our Homes, Our Votes: 2020* project [here](#).

Watch the recordings of the conversation at: <https://bit.ly/2Mowx3v> and <https://bit.ly/2NgzpzW>

Sign Letter Calling for Affordable Housing in Next Presidential Debate

All presidential candidates should share what they will do to make homes affordable for the millions of households struggling to keep roofs over their heads or who have no homes at all. Add your organization to a [national letter](#) urging ABC, Univision, and the moderators of the next 2020 Democratic debate to ask the candidates about the most important issue impacting our economic wellbeing, health, educational success, and so much more – affordable homes. Over 250 organizations have signed; let's double it this week!

The buzz around affordable housing is growing this election cycle. A full 15 months before election day, housing policy is part of the presidential campaigns as never before. For the first time ever, several presidential candidates talked about affordable housing solutions in a presidential debate. Eleven presidential candidates have released major plans or other proposals to address the housing crisis, with most of the plans centering on the needs of the lowest-income renters and people experiencing homelessness. More are coming soon. The candidates are talking about their housing plans on the campaign trail – in town halls, forums, coffees, and beyond.

Let's keep it going. [Sign your organization on to the letter](#) to debate moderators today.

Department of Homeland Security

Final Public Charge Rule Published, Impacting Immigrants' Use of Public Housing, Vouchers, and Project-Based Rental Assistance

The U.S. Department of Homeland Security (DHS) published its [final "public charge" rule](#) in the *Federal Register* on August 14. Public housing, Housing Choice Vouchers, and Section 8 Project-Based Rental Assistance provided (or that may be provided in the future) at private, multifamily housing are now on the list of "public benefits" that could lead an immigrant to be considered a potential "public charge," someone who is now defined as not self-sufficient and therefore who could be denied a green card or visa. A proposed rule was

issued on October 10, 2018 (see *Memo*, [10/1/18](#) and [10/9/18](#)). DHS received 266,077 comments on the proposed rule and, according to DHS, the vast majority of commenters opposed the rule.

Noncitizens seeking admission to the U.S. and those applying for lawful permanent resident status (green card) have long been subject to a review to determine whether they are, or might become, a public charge. A 1999 guideline defined “public charge” as someone who might become “primarily dependent on the government.”

The new DHS rule will make it far more difficult for people to convince officials at the U.S. Citizenship and Immigration Service (USCIS) that they are not and will not become a public charge. The rule is one more brick in the Trump administration’s invisible wall designed to intimidate and harm immigrants. Another brick is HUD’s proposal to evict “mixed-status” immigrant families from subsidized housing (see *Memo*, [5/13](#)).

As Diane Yentel, NLIHC president and CEO wrote last week (see *Memo*, [8/14](#)), “For the first time ever, an applicant for a visa or green card would be denied if they need support for safe and affordable housing, food assistance, or health care”. And as she wrote on August 14 in a [joint statement](#) with other organizations, “The administration designed this latest policy to do the greatest harm to low-income immigrants and their children by severely restricting their ability to access critical and life-saving benefits including food, health, and housing assistance. As low-income immigrant families lose access to needed housing assistance, they will face increased risk of eviction and homelessness, with tremendous personal and societal costs from poorer health, lowered educational attainment, and lessened lifetime earnings that will result.”

The rule goes into effect on October 15, unless litigation prevents its implementation. As of last week, 17 states, the District of Columbia, the City of San Francisco, and the County of Santa Clara have filed suit. In addition, a suit was brought by the National Immigration Law Center, Western Center on Law & Poverty, National Health Law Project, and Asian Americans Advancing Justice-Los Angeles.

Advocates should ask their member of Congress to co-sponsor [H.R. 3222](#), the “No Federal Funds for Public Charge Act of 2019.” The bill was introduced by Representative Judy Chu (D-CA) and currently has 61 co-sponsors. The bill would prevent federal funds to be used to carry out DHS’s public charge rule. The fiscal year 2020 spending bill for DHS also includes an amendment that would block the implementation of the rule.

The [Protecting Immigrant Families \(PIF\)](#) campaign has a variety of materials, including messaging to fight fear with facts. Advocates are encouraged to use the PIF resources and check their website periodically as new materials will continue to be added in the days ahead.

Key features of the rule follow. NLIHC also has a more [in-depth preliminary summary](#).

Housing Assistance, SNAP, and Medicaid Added to List of “Public Benefits”

Under the *Field Guidance on Deportability and Inadmissibility on Public Charge Grounds* of 1999, public benefits only included Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI) primarily for people with disabilities, and state or local cash assistance such as “General Assistance.” That *Guidance* interpreted “public charge” to mean a person “primarily dependent on the government for subsistence, as demonstrated by either the receipt of public cash assistance for income maintenance or institutionalization for long-term care at government expense.”

The final rule adds to the list of previous “public benefits,” public housing, Housing Choice Vouchers, and Section 8 Project-Based Rental Assistance (PBRA) which is used to subsidize private, multifamily housing. Also added by the new rule is the Supplemental Nutrition Assistance Program (SNAP), formerly known as food stamps, and most forms of Medicaid. Medicaid benefits received by someone under the age of 21 are not treated as a public benefit, nor are Medicaid benefits for a woman who is pregnant or for 60 days after giving birth.

The preamble to the final rule states that other housing programs are not “public benefits,” specifically referencing the Low-Income Housing Tax Credit (LIHTC) and Rural Development Section 515 and Section 514/516 programs. Other exempted housing programs are Section 202 housing for the elderly, Section 811 housing for people with disabilities, Housing Opportunities for Persons with AIDs (HOPWA), Family Self-Sufficiency (FSS), and Rural Development Rental Assistance. Because other programs such as HOME tenant-based rental assistance or state and local rental assistance are not specifically listed in the rule, immigration experts interpret that to mean those programs could not be considered public benefits.

In response to many comments that temporary access to public services help people transition to better conditions, DHS replies that it “does not believe that Congress intended for DHS to administer [the Immigration and Nationalization Act (INA)] in a manner that fails to account for alien’s receipt of food, medical, and housing benefits so as to help aliens *become* self-sufficient.” (emphasis in original). “DHS believes that it will ultimately strengthen public safety, health, and nutrition through this rule by denying admission or adjustment of status to aliens who are not likely to be self-sufficient.”

Definition of “Public Charge”

The 1999 *Guidance* defined “public charge” to mean someone who is “primarily dependent on the government for subsistence.” The new rule redefines “public charge” to mean “an alien who receives one or more public benefits for more than 12 months in the aggregate within any 36-month period.” The rule explains that, for instance, receipt of two benefits (such as a voucher and SNAP) in one month counts as two of the 12 months. DHS refers to this as the public charge “threshold.”

Whether someone is “likely at any time” to become a public charge, USCIS has to consider “the totality of the alien’s circumstances by weighing all factors relevant to whether the alien is more likely than not at any time in the future to receive one or more public benefits for more than 12 months in the aggregate within any 36-month period.”

Factors that Might Make Someone “Inadmissible”

The Immigration and Nationality Act (INA) indicates that in determining whether someone is “inadmissible,” an administering agency must consider a person’s age, health, family status, assets, resources and financial status, and education and skills. To that end, the new rule elaborates on those five factors for assessing the totality of someone’s circumstances. As an example, the preamble to the rule considers a person’s age younger than 18 or older than 61 to be a negative factor. See NLIHC’s [in-depth summary](#) for details.

Heavily Weighted Factors

In addition, the rule adds a list of four negative and three positive “heavily weighted factors.” One example of a heavily weighted negative factor is an inability to demonstrate current employment, a recent employment history, or a reasonable prospect for future employment. However, the preamble indicates that a single heavily weighed negative (or positive) factor will not on its own create a presumption that someone is likely to become a public charge. See NLIHC’s [in-depth summary](#) for details.

People Exempt from the Public Charge Rule

There is a long list of categories of people for whom the public charge rule does not apply. The primary categories are refugees, people seeking asylum, and Violence Against Women Act (VAWA) self-petitioners. The many other categories refer to obscure statutes.

DHS Admits Potential Adverse Consequences

DHS issued a [Regulatory Impact Analysis](#) (RIA), but buried it amidst 85 other “supporting documents.” In the RIA DHS admits that a number of consequences could occur as people exit public benefit programs or decide not to apply for assistance. The list of “non-monetized” potential consequences include:

- Worse health outcomes, especially for pregnant and breastfeeding women, infants, or children;
- Increased use of emergency rooms as a primary method of health care due to delayed treatment;
- Increased prevalence of communicable diseases;
- Increased rates of poverty and housing instability; and
- Reduced productivity and educational attainment.

Housing Related Observations

In response to a variety of objections to including the housing programs, DHS replies, “DHS has determined that considering housing programs such as Section 8 Vouchers, Section 8 Rental Assistance, and public housing in the rule is important in ensuring that aliens are self-sufficient and rely on their own capabilities and the resources of their families, their sponsors, and private organizations. These programs have high expenditures and relate to the basic living need of housing, and therefore the receipt of such housing related public benefit suggests a lack of self-sufficiency.”

Commenters wrote that many people receiving housing assistance are working. In reply, “DHS recognizes that people receiving public benefit may nonetheless be working, but as they are seeking public benefits, such aliens are not self-sufficient.”

The official *Federal Register* version of the public charge rule is at: <https://bit.ly/2yY3rzd>

An easier to read advance version of the public charge rule is at: <https://bit.ly/2N1Nxfq>

The DHS Regulatory Impact Analysis is at: <https://bit.ly/2Kbg2Pf>

NLIHC’s more in-depth preliminary summary of the key features of the rule are at: <https://bit.ly/2YUMbdy>

H.R. 3222, “No Federal Funds for Public Charge Act of 2019,” is at: <https://bit.ly/31EJp96>

The Protecting Immigrant Families campaign is at: <https://protectingimmigrantfamilies.org>

Slides from a PIF webinar are at: <https://bit.ly/2KOMVXG> and a recording of that webinar are at: <https://bit.ly/2MilqJ8>

The joint statement made by NLIHC, the Center on Law and Social Policy, Center on Budget and Policy Priorities, Housing California, National Housing Law Project, the National Immigration Law Center, and Non-Profit Housing Association of Northern California is at: <https://bit.ly/33FIZRA>

HUD

Webinar on Proposed Anti-Fair Housing Disparate Impact Rule, August 22

The [National Housing Law Project](#) (NHLP) will hold a [webinar](#) on August 22 to discuss HUD’s proposed [drastic changes to the Disparate Impact rule](#) that would make it virtually impossible for discrimination plaintiffs to bring successful disparate impact claims. The webinar will outline the importance of disparate impact theory and highlight contexts where it is crucial to advancing housing rights for the Fair Housing Act’s “protected

classes” of people. Presenters will share information on how removing this tool will impact people with criminal records, survivors of domestic violence, and immigrants, as well as the effect it would have on land use policies.

The webinar scheduled for Thursday, August 22 at 3:00 pm ET. Sign up [here](#)

Presenters will include:

- Marie Claire Tran-Leung, senior attorney, Shriver Center on Poverty Law
- Sandra Park, senior attorney, ACLU Women’s Rights Project
- Scott Chang, director of litigation, Housing Rights Center
- Eric Dunn, director of litigation, NHLP
- Renee Williams, staff attorney, NHLP will moderate

In case you missed the August 5 *Memo*, NLIHC prepared a [preliminary summary](#) of the proposed rule, along with a [side-by-side](#) comparison of the key section of the existing rule and how HUD proposes to change it (see *Memo*, [8/5](#))

NLIHC’s Preliminary Summary of Key Features is at: <https://bit.ly/2MALi2r>

NLIHC’s Side-by-Side of §100.500 is at: <https://bit.ly/2yzdevq>

More about disparate impact is on [page 7-8](#) of NLIHC’s *2019 Advocates’ Guide*.

Proposed Anti-Fair Housing Disparate Impact Rule Published in the Federal Register

HUD formally published in the *Federal Register* on August 19, [proposed changes](#) to the fair housing Disparate Impact rule that would make it far more difficult for people experiencing various forms of discrimination to challenge the practices of businesses, governments, and other large entities. As proposed, the current three-part “burden shifting” standard to show disparate impact would be radically changed to a five-component set of tests placing virtually all of the burden on people who are in “protected classes” as defined by the Fair Housing Act – people of color, women, immigrants, families with children, people with disabilities, LGBTQ persons, and people of faith.

NLIHC opposes these proposed changes and will work with our fair housing and civil rights partners to defend civil rights. Comments are due by October 18. NLIHC will offer a sample comment letter for advocates to tailor for submitting comments.

In a [statement](#), Diane Yentel, NLIHC President and CEO said, “HUD’s disparate impact [proposed rule](#) is the latest in a series of Trump administration efforts to gut civil rights and fair housing protections. With HUD’s Disparate Impact rule, Secretary Carson is attempting to create a new and much higher bar for proving discriminatory outcomes. The Trump administration designed these changes to make it much more difficult, if not impossible, for communities of color to challenge discriminatory effects in housing.”

Background

For more than 40 years, HUD and the courts have interpreted the Fair Housing Act to prohibit housing policies or practices that have a discriminatory effect even if there was no apparent intent to discriminate. There are 13 U.S. Courts of Appeals, 11 of which have heard disparate impact cases, and all have upheld disparate impact and applied a burden shifting standard. Because there were minor variations in how the courts and HUD applied the concept of discriminatory effects over the years, a proposed rule in 2011 offered a standard for comment,

culminating in a final Disparate Impact rule on February 15, 2013. That final regulation established uniform standards for determining when a housing policy or practice with a discriminatory effect violates the Fair Housing Act. It is the February 15, 2013 final rule that HUD is proposing to drastically overhaul.

The three-step burden shifting standard in the current rule is very simple:

1. The plaintiff (the party alleging disparate impact) has the burden of proving that a policy or practice caused or predictably will cause a discriminatory effect.
2. If the plaintiff satisfies that burden of proof, the burden shifts to the defendant (the business, government, or other entity) to prove that the challenged policy or practice is necessary to achieve one or more of the defendant's substantial, legitimate, nondiscriminatory interests.
3. If the defendant satisfies the above burden of proof, then the burden shifts again to the plaintiff to prove that the defendant's substantial, legitimate, nondiscriminatory interests could be served by another policy or practice that has a less discriminatory effect.

The U.S. Supreme Court upheld the use of disparate impact theory as a legal tool to establish liability under the Fair Housing Act on June 25, 2015 in *Texas Department of Housing and Community Affairs v. Inclusive Communities (ICP)*. The current HUD administration issued an advance notice of proposed rulemaking (ANPR) in the *Federal Register* on June 20, 2018 (see *Memo*, [6/25/18](#)). HUD acknowledged then that the Supreme Court upheld the use of disparate impact theory, but HUD asserts that the Court “did not directly rule upon it [the 2013 disparate impact rule].” Advocates and attorneys agree, however, that the Court implicitly endorsed the rule by not questioning it or challenging it.

Key Features of the Proposed Changes

NLIHC has prepared a [preliminary summary of key features](#) of the proposed rule. NLIHC has also prepared a [side-by-side comparison](#) of a key section (§100.500) of the current rule and HUD's proposed changes to it.

The *Federal Register* version of the proposed rule is at: <https://bit.ly/2ZaOVj>

An easier to read version of the proposed rule (the same as the version leaked and reported in *Memo* on August 5) is at: <https://bit.ly/31LTrFM>

NLIHC's Preliminary Summary of Key Features is at: <https://bit.ly/2MALi2r>

NLIHC's Side-by-Side of §100.500 is at: <https://bit.ly/2yzdevq>

A media statement by Diane Yentel, NLIHC president and CEO is at: <https://bit.ly/31Lbwnf>

More about disparate impact is on [page 7-8](#) of NLIHC's *2019 Advocates' Guide*

Congress

House Financial Services Committee Holds Field Hearing on Homelessness in Los Angeles

The House Financial Services Committee held a field hearing, “Examining the Homeless Crisis in Los Angeles,” on August 14. Three panels of witnesses from state and local organizations explained that while Los Angeles is a leader at mitigating homelessness, the City still struggles to reduce its homeless population – the second largest in the country. Witnesses discussed the urgency of implementing Chair Maxine Waters' (D-CA) “[Ending Homelessness Act of 2019](#)” (H.R. 1856), which would authorize \$13 billion to end homelessness.

In her opening statement, Chair Waters stated that the homelessness crisis is directly linked to the lack of affordable housing, citing data from NLIHC's [Out of Reach](#) and [The Gap](#). Angelinos face one of the least affordable housing markets in the country; an estimated 721,000 families in the county pay more than 50% of their income for rent and utilities. Witnesses cited recent point in time counts that estimate a 12-16% increase in homelessness from 2018 to 2019, with an average of 60,000 unsheltered Angelinos on any given night.

Witnesses described homelessness as a symptom of systemic issues, such as redlining, racial discrimination, stagnant wages, a shortage of affordable and accessible homes, and inadequate resources for formerly incarcerated individuals, foster youth, veterans, people with mental illness or substance abuse problems, and domestic violence survivors. Mayor Eric Garcetti stated that homelessness “is where affordable housing meets trauma.” Tim Watkins, president and CEO of the Watts Labor Community Action Committee asked, “How much of this is by design? Why do people have to be homeless for a year before getting help?”

Committee members and witnesses discussed the potential negative impacts of recent Trump administration proposals, including HUD's proposed changes to the mixed-status immigrant family rule (see [Memo, 5/10](#)) and the Equal Access rule (see [Memo, 5/28](#)). Witnesses stated that the proposed changes would limit access to housing and would be harmful for their communities. Representative Al Green (D-TX) and Mayor Garcetti stated their desire for President Trump to visit Los Angeles' skid row to gain a “different appreciation for the human tragedy” of homelessness and to understand the impacts of funding cuts to federal housing programs.

Witnesses expressed support for H.R. 1856 as a starting point for addressing the homelessness problem in Los Angeles and across the country.

More about the hearing is at: <https://bit.ly/2MkPXpW>

Research

Inequality in Housing Prices and Incomes Reduces Mobility

A working paper from the International Monetary Fund, [Stranded! How Rising Inequality Suppressed US Migration and Hurt Those 'Left Behind'](#), argues that regional inequality in home prices and household incomes has reduced the prevalence of long-distance moves, which are more likely than short-distance moves to be associated with employment. Inter-state migration rates declined from 3% to 1.5% between 1981 and 2016.

Using data from the Current Population Survey, Zillow Home Value Database, and the Federal Housing Finance Agency's House Price Index, the paper shows that higher housing prices in more prosperous metropolitan areas deter migration of lower-income households from poorer to richer metropolitan areas. At the same time, the prospect of lower earnings deters migration of higher-income households from richer to poorer metropolitan areas. The authors state that this decline in migration reduces labor market churning, lengthening economic downturns and slowing recovery.

Job opportunities are more related to long-distance moves than local moves. Thirty-four percent of moves across counties were employment-related compared to 20% of moves within counties in 2015. Long-distance migration is also linked to educational attainment; in 2016 those with education beyond high school were almost twice as likely to move to another state as those with only a high school diploma. The education-level link indicates a wage premium for workers with higher education attainment who have become geographically concentrated in more prosperous metropolitan areas.

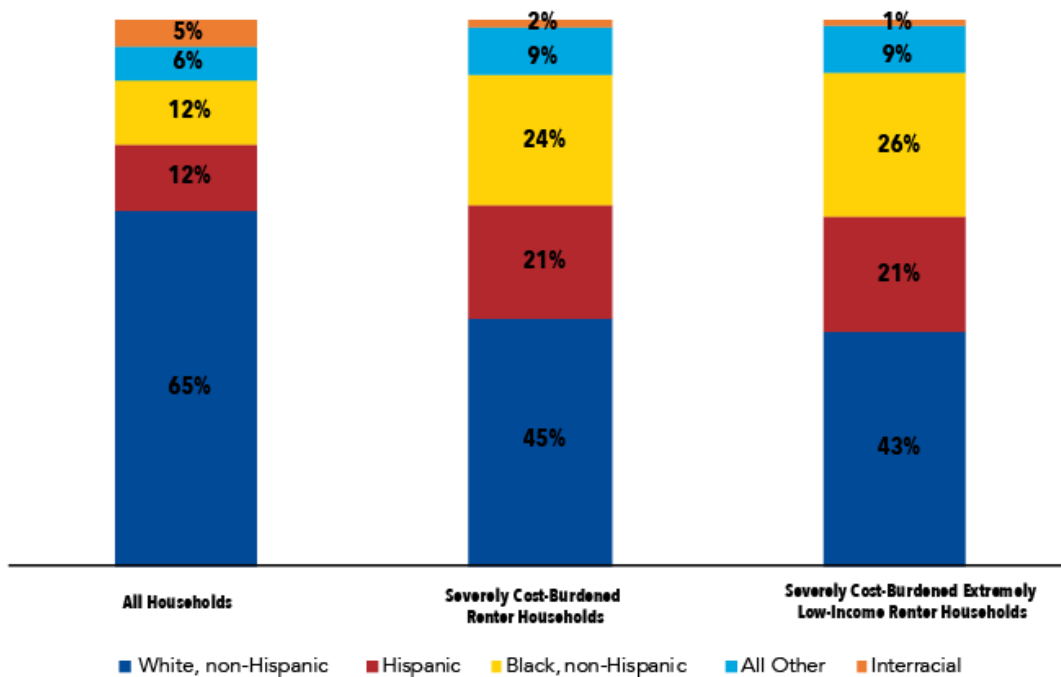
The authors' statistical model of inequality in housing prices and household incomes explains two-thirds of the fall in long-distance migration of more than 200 miles between poor metropolitan areas and prosperous ones. The authors urge policymakers at all levels of government to help workers gain new skills, address the supply of housing (and its cost) through modernization of land-use regulations and reduction of bureaucratic delays, and improvements to transportation and public transit to widen the catchment areas of prosperous metropolitan areas.

The full working paper is available at: <https://bit.ly/2QQJvGv>

Fact of the Week

African American and Latino Households are Disproportionately Severely Housing Cost-Burdened

Households by Race and Ethnicity



Source: 2017 ACS PUMS.

Source: 2017 ACS PUMS.

Opportunity Starts at Home

Multi-sector Campaign Applauds Budget Deal and Urges Congress to Prioritize Housing Assistance

The [Opportunity Starts at Home](#) campaign's multi-sector Steering Committee sent a [letter](#) on August 14, to Chairs and ranking members of the Senate and House Transportation-HUD Appropriations Subcommittees, Senators Susan Collins (R-ME) and Jack Reed (D-RI) and Representatives David Price (D-NC) and Mario Diaz-Balart (R-FL). The letter urges the leaders to prioritize housing assistance for the nation's most vulnerable people during negotiations regarding FY20 appropriations.

The letter follows a recent agreement between Congress and the White House to lift the Budget Control Act's federal spending caps on defense and domestic programs by \$321 billion for the next two fiscal years. In light of the new agreement, the letter urges Congress to at least match the Housing Choice Voucher and public housing funding levels in the House-passed "[Bipartisan Budget Act of 2019](#)" (H.R. 3877).

The letter is at: <https://bit.ly/2Z2CK7b>

From the Field

Ohio Legislature Expands Funding for the Ohio Housing Trust Fund for First Time in Sixteen Years

The final biennial budget passed by the Ohio Legislature on July 17 includes \$5 million in new funding for the Ohio Housing Trust Fund. The \$2.5 million for each year of the biennial falls short of the \$8 million mark that advocates were seeking, but this new commitment of funds is the first since 2003. This expansion of the Ohio Housing Trust Fund is the result of a coordinated campaign effort led by the Coalition On Homelessness and Housing In Ohio (COHHIO), an NLIHC state coalition partner.

Originally established in 1991, the Ohio Housing Trust Fund has helped 1.9 million Ohioans secure safe, accessible, affordable homes. The Housing Trust Fund is a flexible funding source that supports a wide range of housing development, preservation, rehabilitation, and operation. The Housing Trust Fund is also an essential tool for combating homelessness in Ohio, as it provides significant support to organizations developing and operating permanent supportive housing for the lowest income people. According to COHHIO, there are now 71,123 Ohioans experiencing homelessness, which is a 20% increase over the past five years. The new \$5 million in funding will help to slow the growth of this trend, but much more investment is needed moving forward.

The primary source of funding for the Ohio Housing Trust Fund since its inception has been document recording fees collected by county governments. Over time, this funding source has proved less valuable; \$43 million is available for 2020, down from \$73 million in 2015. To address this reduction in funds at a time of growing needs, COHHIO organized more than 300 nonprofit organizations and companies in Ohio to call for increased investment. The additional \$5 million over two years will be funded by a \$6 increase to the document recording fee on the first two pages of applicable documents.

For more information on campaign efforts to protect and expand the Ohio Housing Trust Fund, contact Gina Wilt, advocacy director for COHHIO, at ginawilt@cohhio.org.

Disaster Housing Recovery

Disaster Housing Recovery Update, August 19, 2019

The following is a review of additional disaster housing recovery developments since the last edition of *Memo to Members and Partners* (for the article in the previous *Memo*, see [8/12](#)).

Federal Action

Senators Rick Scott (R-FL) and James Langford (R-OK) introduced the [Disaster Contract Transparency Act](#). The bill would require state and local governments to have advanced contracts with vendors for debris removal. It would also allow FEMA to penalize contractors that seek to raise prices after a disaster, and limit the amount of funds FEMA can use to reimburse state and local governments for debris removal services.

National Perspectives

Since 2003, [people affected by 651 smaller declared disasters have not received Individual Assistance](#) due to FEMA requirements governing IA implementation. These requirements favor urban areas and larger disasters, leaving people in small communities to deal with recovery as best they can.

The Associated Press released a study showing a [preliminary finding](#) that disasters caused \$1.2 billion dollars in damage to public infrastructure so far this year. Many [states have begun to invest in recovery and preventive measures](#).

Flooding

West Virginia

West Virginia is set to receive more than \$100 million in federal disaster mitigation funding. HUD [announced](#) that *Federal Register* notices guiding the use of CDBG-DR mitigation funds going to numerous states and Puerto Rico and the Virgin Islands will be released in the coming weeks.

Tornadoes

Alabama

Nineteen out of the 23 people who died during the March tornado in Lee County, died in a manufactured home. There are [no regulations](#) requiring manufactured home parks to have storm shelters or evacuation plans, leaving manufactured home residents 15 to 20 times more vulnerable to tornado deaths.

California Wildfires

On August 16, a [dedication and unveiling event took place at the](#) Sonoma Wildfires Cottages where nine fire survivor families will move into their new disaster resistant cottages.

In northern California, communities like [Shingletown](#) are feeling the effects of successive catastrophic wildfires. Low-income residents are slowly leaving, wary of the emerging threat of wildfires and the high cost of housing.

Hurricane Florence

North Carolina

Gearing up for the rest of this hurricane season, North Carolina continues to [improve their recovery strategies](#), including finally establishing evacuation zones to help evacuate people who are in the greatest danger.

2017 Disasters

Hurricane Irma: The state of Florida has begun buying up coastal properties vulnerable to hurricanes and sea level rise. Some experts worry that the move is the first sign of a “[retreat from the coast](#).”

Hurricane Irma: The U.S. Virgin Islands is [pushing](#) back against allegations from HUD that the island is not prepared to receive federal recovery funding.

Hurricane Harvey: Houston was granted \$1.2 billion for Hurricane Harvey recovery, but in cities like [Kashmere Gardens, residents have yet to see any recovery efforts](#). Much of the delay is attributed to making sure applications are filled correctly and that money goes to the right people, but impatient residents suspect fraud or worse.

Many poor communities and communities of color in Harris County use decades old ditches as their main drainage system to mitigate floods. With a [\\$2.5 billion flood infrastructure bond deal](#), some of these longstanding issues will have to be fixed. Now the question is, how long will these communities have to wait for repairs?

Earlier Disasters

Hurricane Sandy: [Officials in Ocean County](#) New Jersey are getting the word out about the upcoming 2020 Census. They hope that a robust showing in the county will allow greater access to federal funding for disasters.

Hurricane Charlie: FEMA has been attempting to [claw back funds](#) from Charlotte County Florida. FEMA claims it overpaid the county after Hurricane Charlie impacted the region in 2004.

Resource

HUD Releases Updated CHAS Data

HUD released its latest Comprehensive Housing Affordability Strategy (CHAS) data on August 5. State and local governments use CHAS data to examine their housing needs, make spending decisions, and draft their Five-Year Consolidated Plans and Annual Action Plans required to receive CDBG, HOME, and other HUD funding programs. The data are available for states, counties, places, and census tracts. Users can either download the raw data files or use the CHAS data query tool. The query tool provides the number of low- and moderate-income households, the number of households (by income) with housing cost burdens (spending more than 30% of their income for housing), and the number of households (by income) with severe housing cost burdens (spending more than 50% of their income for housing).

The latest CHAS data (2012-2016) are available at: <https://bit.ly/2KxZd7T>

EVENT

Webinar to Discuss Crime-Free Housing Programs, August 28

The [National Housing Law Project](#) (NHLP) will hold an August 28 [webinar](#) on “crime-free” housing programs and how they adversely impact the housing stability of survivors of domestic violence and other. Survivors of domestic violence are sometimes evicted from their homes because there has been “criminal activity” at their apartments, even though the survivors are the victims. Panelists will talk about the history of crime-free

programs, strategies for interacting with the police, and ways that such programs and policies have been challenged.

The webinar will take place on Wednesday, August 28 at 2:00 pm ET. The webinar is free and will be closed captioned. Register at: <https://adobe.ly/2GSypxc>

Presenters will be:

- Debbie Fox, senior housing policy and practice specialist, National Network to End Domestic Violence
- Linda Morris, Skadden fellow and attorney, Women’s Rights Project, ACLU
- Marie Claire Tran-Leung, senior attorney, housing and community justice, Shriver Center on Poverty Law
- Moderator: Renee Williams, staff attorney, NHLP

NHLP is planning two other webinars on September 10 and September 26 as part of its [Nuisance Ordinance and Crime-Free Housing Initiative](#). Look for information about those upcoming webinars in future editions of *Memo*.

NLIHC in the News

NLIHC in the News for the Week of August 11

The following are some of the news stories that NLIHC contributed to during the week of August 11:

- “The biggest 2020 issue that the Democratic debates missed,” *NBCNews.com*, August 17 at: <https://tinyurl.com/y6sv8eld>
- “The push for affordable housing in Las Vegas,” *8 News Now Good Day KLAS CBS*, August 14 at: <https://tinyurl.com/y6tua5y8>
- “A vicious cycle’: High rent is keeping Americans from health care,” *Yahoo! Finance*, August 13 at: <https://tinyurl.com/yycfnlop>
- “Voters care about affordable housing but 2020 debates have ignored the issue,” *The Des Moines Register*, August 12 at: <https://tinyurl.com/yyxqpy4x>
- “Trump’s new rule targets housing subsidies for legal immigrants,” *Curbed*, August 12 at: <https://tinyurl.com/y4dy2krm>
- “Minneapolis housing authority leads county in evictions,” *StarTribune.com*, August 11 at: <https://tinyurl.com/y455upwk>

NLIHC News

NLIHC Seeks Communications/Media/Graphic Design Intern

NLIHC is accepting applications for our fall internship position for communications/media/graphic design. Interns are highly valued and fully integrated into our staff work. We seek students passionate about social justice issues, with excellent writing and interpersonal skills, to work from late August/early September until mid-December.

The Communications/Media/Graphic Design Intern prepares and distributes press materials, assists with media research and outreach for publication releases, works on social media projects, maintains a media database and tracks press hits. Also assists with sending out e-communications; revises collateral print material

such as brochures, flyers, and factsheets; and updates content on the NLIHC website. Some graphic design experience is highly desired.

Fall interns are expected to work 25 hours a week. NLIHC provides modest stipends.

A cover letter, resume, and writing sample are required for consideration. Applicants for the communications/media/graphic design internship should also submit examples of your graphic-design work.

Interested students should send their materials to: Paul Kealey, chief operating officer, National Low Income Housing Coalition, 1000 Vermont Avenue, NW, Washington, DC 20005 via email to: pkealey@nlihc.org

Where to Find Us – August 19

NLIHC president and CEO Diane Yentel and other NLIHC staff will be speaking at the following events in the coming months:

- [NeighborWorks Training Institute](#), New Orleans, LA, August 19
- [Utah Housing Coalition Conference](#), Park City, UT, August 28
- [2019 National Community Action Partnership Annual Convention](#), Chicago IL, August 29
- [National Home and Community Based Services Conference](#) National Association of States United for Aging and Disabilities, Baltimore, MD, August 29
- [Housing Iowa Conference](#), Cedar Rapids, IA, September 4
- [National Association of Latino Elected Officials National Policy Institute on Emergency Response and Management](#), Long Beach, CA, September 13
- United Tenant Council of Councils Annual Resident Summit, Detroit, MI, September 13
- Vital Services Conference, Jamestown, ND, September 18-19
- [Non-Profit Housing Association of Northern California's 40th Annual Housing Conference](#), San Francisco, CA, September 20
- Urban Land Institute Fall Meeting Panel, Washington, DC, September 20
- [National Alliance of Resident Services in Affordable and Assisted Housing Conference](#), New Orleans, LA, September 25-26
- [Housing & Community Development Network of NJ Annual Conference](#), New Brunswick, NJ, October 18
- New Mexico Coalition to End Homelessness Conference, Albuquerque, NM, October 24
- [Housing Action Illinois 2019 Housing Matters! Conference](#), Bloomington, IL, October 24-25
- [Southern California Association of Non Profit Housing 2019 Annual Conference](#), Los Angeles, CA, October 25
- Rural Housing Summit, San Jose, CA, November 7

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