

MIXED STATUS RULE WITHDRAWAL – FACT SHEET

HUD's Action

- On April 1, 2021, HUD submitted a Federal Register notice withdrawing the unfinalized Mixed Status Rule.

Background

- On May 10, 2019, the prior administration introduced a proposed rule entitled “Housing and Community Development Act of 1980: Verification of Eligible Status” (Mixed Status Rule).
- The proposed Mixed Status Rule, if implemented, would have drastically changed how HUD treats so-called “mixed status” families under HUD programs covered by Section 214 of the Housing and Community Development Act of 1980 (HUD Covered Programs). Mixed status families have some members whose immigration or citizenship status makes them eligible for HUD assistance and some members who do not.
- The HUD Covered Programs include: Public Housing Programs; Section 8 Housing Assistance Programs (Housing Choice Vouchers and Project Based Housing); Housing Development Grant programs for low-income units; the Section 236 Rental Assistance Program (for tenants paying below market rent); and the Section 101 Rent Supplement Program.
- HUD’s traditional practice has been to provide mixed-status families with housing subsidies prorated based on how many members are eligible to receive assistance. For example, if three out of five family members are eligible, HUD will provide the family with 60 percent of the subsidy the family otherwise would receive. Family members who are claiming eligibility must attest to citizenship or demonstrate eligible immigration status, while family members who do not claim eligibility need not do so.
- The proposed Mixed Status Rule, if implemented, would have:
 - Prohibited prorated assistance to mixed-status families, even if some family members were otherwise eligible to apply and participate in HUD programs. Thus, family members would have been excluded from housing assistance for which they are eligible simply because they are in the same family with people who do not claim eligibility;
 - Required verification of the immigration status of all family members in a HUD Covered program who are under the age of 62—even those who are not claiming eligibility to receive housing assistance;
 - Required the housing unit’s leaseholder (i.e., the head of household) to verify eligible immigration status, regardless of whether the leaseholder was claiming eligibility for benefits.
- Thus, the Mixed Status Rule was not about excluding ineligible people from receiving HUD benefits. It was about excluding *eligible* people from benefits based on their association with family members who do not claim eligibility.
- On February 5, 2021, President Biden issued Executive Order 14012, “Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans”, which mandates that the Federal government should be welcoming of immigrants and encourage full participation, including ensuring access to all available government services.

Overview

- ***HUD welcomes immigrant communities.*** Under the Biden-Harris Administration, HUD will ensure and encourage immigrant communities to access to all available housing assistance under the law.
- ***Eligibility for HUD Covered Programs Will Remain the Same.*** As a result of HUD's action, nothing will change as to the treatment of mixed-status families under HUD Covered Programs.
- ***HUD's action prevents harm to families.*** The Mixed Status Rule would have resulted in the eviction or removal of roughly 22,000 families from housing assistance, including over 92,000 individuals and at least 46,000 children—many of whom are clearly eligible for HUD assistance. By preventing evictions and providing certainty on the eligibility criteria, this action will prevent homelessness and unstable housing among an already vulnerable population.
- ***HUD's action keeps families together.*** With today's action, HUD asserts its strong commitment to immigrant rights and preventing family separation.
- ***HUD's action bolsters fair housing efforts.*** Today's action reduces the possibility of using eligible immigration status as a pretext for discrimination against individuals based on their race and national origin.