

February 13, 2026

SUBMITTED VIA WWW.REGULATIONS.GOV

Office of the General Counsel
Regulations Division
Department of Housing and Urban Development
451 7th Street SW, Room 10276
Washington, DC 20410-0500

Re: Comments in Response to HUD's Implementation of the Fair Housing Act's Disparate Impact Standard Docket No. FR-6540-P-01 (RIN 2529-AB09)

To Whom It May Concern:

We write to you on behalf of the 62 undersigned organizations, and as advocates for gender justice and survivors of gender-based violence, in response to the Department of Housing and Urban Development's ("HUD") proposed rule that would rescind HUD's existing disparate impact standards under the Fair Housing Act, which was published in the Federal Register on January 14, 2026 (RIN 2529-AB09; HUD Docket No. FR-6540-P-01) ("Proposed Rule"). HUD's existing Disparate Impact Rule, codified at 24 C.F.R. § 100.500, is a crucial civil rights enforcement tool for eradicating discriminatory barriers to housing for historically marginalized and otherwise vulnerable communities across the country. We strongly oppose any changes to HUD's current Disparate Impact Rule.

Access to safe and affordable housing is key to the well-being of all people, and especially for women and girls.¹ Housing impacts every aspect of an individual's life, including financial stability, employment, education, food security, and physical and mental health.² Such access is particularly critical for women with intersecting identities—including women of color, domestic violence survivors, immigrant women, women with children, women with disabilities, low-income women, and LGBTQ+ women—who face increased barriers due to overlapping systems of oppression and inequality.³ Advocates have long relied on disparate impact liability, including HUD's existing Disparate Impact Rule, to combat residential segregation and to challenge discriminatory policies and practices that appear "neutral" yet impose unnecessary barriers to housing that disproportionately harm women and other protected groups. For over 50 years, courts have recognized that the Fair Housing Act protects against such disparate impact discrimination, including the Supreme Court's 2015 decision in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.*, 576 U.S. 519 (2015).

The Proposed Rule would rescind HUD's existing disparate impact protections and, in HUD Secretary Scott Turner's own words, "end the agency's use of disparate-impact theory in fair

¹ Talia Grossman, *Why Housing Is a Gender Justice Issue*, National Women's Law Center (Apr. 28, 2023), <https://nwlc.org/why-housing-is-a-gender-justice-issue/>. See also Isabelle Atkinson, *Housing Justice is Gender Justice*, (Mar. 2022), <https://nationalpartnership.org/wp-content/uploads/2023/02/housing-justice.pdf>.

² See, e.g., Sandra Park, *Why Fair Housing is Key to Systemic Equality*, ACLU (May 5, 2023), <https://www.aclu.org/news/racial-justice/why-fair-housing-is-key-to-systemic-equality>.

³ See Sammi Albinder et al., *The Roots of Discriminatory Housing Policy: Moving Toward Gender Justice in Our Economy*, National Women's Law Center (Aug. 2022), <https://nwlc.org/wp-content/uploads/2022/08/Housing-Paper-Accessible-FINAL-1.pdf>.

housing and related civil rights enforcement.”⁴ In doing so, the Proposed Rule would undermine longstanding fair housing protections all people, and especially women and girls, in conflict with the Fair Housing Act’s statutory mandate to affirmatively further fair housing and the Supreme Court’s decision in *Inclusive Communities*. We urge HUD to withdraw the Proposed Rule in its entirety.

The Proposed Rule Would Undermine Protections Against Discriminatory Policies and Practices that Disproportionately Harm Women and Girls.

For decades, advocates have relied on disparate impact liability, including HUD’s existing Disparate Impact Rule, to combat residential segregation and to challenge unjust policies and practices that disproportionately limit housing opportunities for women, including, but not limited to, the following:

- **Discrimination against Gender-Based Violence Survivors.** The existing Disparate Impact Rule has served to protect domestic violence survivors—the majority of whom are women⁵—from being evicted or otherwise denied housing because of the abuse they’ve experienced. Domestic violence is a primary cause of homelessness for women and children in the United States.⁶ Access to housing is absolutely critical for survivors, as lack of safe and affordable housing options is regularly reported as a primary barrier to escaping abuse.⁷ Indeed, HUD itself has repeatedly recognized that discrimination against domestic violence survivors is a significant fair housing issue for women.⁸ Advocates have relied on HUD’s existing Disparate Impact Rule to protect survivors against unjust policies and practices that penalize survivors due to the abuse they’ve experienced, including the failure to grant emergency transfers within housing units to escape abuse;⁹ “one-strike” or “crime-free” policies that evict or threaten to evict survivors based on abuse they have experienced in their

⁴ Scott Turner, *It’s Time to Ditch ‘Disparate Impact Theory’ – and Biden’s Weaponization of Civil Rights Law*, National Review, Jan. 19, 2026, <https://www.nationalreview.com/2026/01/its-time-to-ditch-disparate-impact-theory-and-bidens-weaponization-of-civil-rights-law/>.

⁵ U.S. Dep’t of Justice, Office of Justice Programs, *Bureau of Justice Statistics Crime Data Brief: Intimate Partner Violence, 1993-2001* (Feb. 2003).

⁶ See ACLU Women’s Rights Project, *Domestic Violence and Homelessness* (2006), <http://www.aclu.org/pdfs/dvhomelessness032106.pdf>; see also U.S. Conference of Mayors, *A Status Report on Hunger and Homelessness in America’s Cities: A 25-City Survey* (Dec. 2014), <https://www2.cortland.edu/dotAsset/655b9350-995e-4aae-acd3-298325093c34.pdf>; Monica McLaughlin & Debbie Fox, National Network to End Domestic Violence, *Housing Needs of Victims of Domestic Violence, Sexual Assault, Dating Violence, and Stalking* (2019), https://nlihc.org/sites/default/files/AG-2019/06-02_Housing-Needs-Domestic-Violence.pdf.

⁷ See Charlene K. Baker et al., *Domestic violence, housing instability, and homelessness: A review of housing policies and program practices for meeting the needs of survivors*, 15 Aggression & Violent Behavior 430, 430–39 (2010), https://b.3cdn.net/naeh/416990124d53c2f67d_72m6b5uib.pdf; Eleanor Lyon et al., *Meeting Survivors’ Needs: A Multi-State Study of Domestic Violence Shelter Experiences*, NAT’L INST. OF JUSTICE (Oct. 2008), http://www.vawnet.org/Assoc_Files_VAWnet/MeetingSurvivorsNeedsFullReport.pdf.

⁸ See, e.g., U.S. Dep’t of Hous. & Urban Dev., *Assessing Claims of Housing Discrimination against Victims of Domestic Violence under the Fair Housing Act (FHAct) and the Violence Against Women Act (VAWA)* (Feb. 9, 2011), <https://www.hud.gov/sites/documents/FHEODOMESTICVOLGUIDENG.PDF>.

⁹ See, e.g., *Blackwell v. H.A. Hous. LP*, Civil Action No. 05-cv-01225-LTB-CBS (D. Colo. 2005) (prohibiting discrimination against survivors of domestic violence and allowing them to request an emergency transfer when in imminent danger). See also Rasheedah Phillips, *Addressing Barriers to Housing For Women Survivors of Domestic Violence and Sexual Assault*, 24 Temp. Pol. & Civ. Rts. L. Rev. 323, 332-35 (2015).

homes;¹⁰ and crime-free or criminal activity nuisance ordinances that coerce landlords to evict or threaten to evict households based on calls for emergency assistance.¹¹ In 2016, HUD issued guidance on challenging the devastating consequences of nuisance ordinances on domestic violence survivors and other vulnerable and marginalized communities; using disparate impact to challenge such harmful ordinances was an important part of that guidance.¹²

- **Occupancy and Amenity Restrictions.** HUD’s existing Disparate Impact Rule has been essential in challenging unjustified policies and overly restrictive occupancy requirements, as well as arbitrary restrictions on the use of facilities overwhelmingly enjoyed by children—which disproportionately harm families with children, many of which are headed by women.¹³ HUD’s Disparate Impact Rule also helps to combat arbitrary restrictions on the use of facilities that are overwhelmingly enjoyed by children, such as pools or courtyards.¹⁴ Such policies significantly limit housing opportunities for families with children and often have the harshest consequences for low-income women of color.
- **Source-of-Income Discrimination.** Advocates have employed the existing Disparate Impact Rule to challenge unjustified discrimination by landlords who are unwilling to rent to voucher holders or other applicants who receive public assistance and benefits—which disproportionately limits housing opportunities for women of color, women with disabilities, and low-income women with children.¹⁵
- **Unjust and Overbroad Tenant-Screening Policies.** HUD’s existing Disparate Impact Rule also protects against unjust and overbroad tenant-screening policies that categorically deny housing based on certain factors—such as arrest records or prior eviction filings—and disproportionately harm women of color and other marginalized communities.¹⁶ For

¹⁰ See, generally, *Warren v. Ypsilanti Hous. Auth.*, Case No. 4:02-cv-40034 (E.D. Mich. 2003) (defendant agreed to cease evicting survivors of domestic violence under its “one-strike policy”).

¹¹ U.S. Dep’t of Housing & Urban Development, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services* (2016), available at <https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>. See also Noah M. Kazis, *Fair Housing For A Non-Sexist City*, 134 Harv. L. Rev. 1683, 1703-11 (2021); American Civil Liberties Union & New York Civil Liberties Union, *More Than a Nuisance: The Outsized Consequences of New York’s Nuisance Ordinances* (2018), https://www.nyclu.org/sites/default/files/field_documents/nyclu_nuisancereport_20180809.pdf.

¹² U.S. Dep’t of Housing & Urban Development, *Office of General Counsel Guidance on Application of Fair Housing Act Standards to the Enforcement of Local Nuisance and Crime-Free Housing Ordinances Against Victims of Domestic Violence, Other Crime Victims, and Others Who Require Police or Emergency Services* (2016), available at <https://www.hud.gov/sites/documents/FINALNUISANCEORDGDNCE.PDF>.

¹³ See, e.g., *Hous. Opps. Project for Excellence, Inc. v. Key Colony No. 4 Condo. Assoc.*, 510 F. Supp. 2d 1003 (S.D. Fla. 2007) (holding that residents had successfully stated a disparate impact claim because the restrictive occupancy rules had discouraging effects on families with more than two children); *Rhode Island Comm’n for Human Rights v. Graul*, 120 F. Supp. 3d 110, 125-27 (D.R.I. 2015); *United States v. Badgett*, 976 F.2d 1176, 1178-79 (8th Cir. 1992); *Khalil v. Farash Corp.*, 260 F. Supp. 2d 582, 589 (W.D.N.Y. 2003).

¹⁴ See *id.*

¹⁵ See Talia Grossman et al., *The Continuing Need for Gender, Racial, and Disability Justice in the Rental System*, National Women’s Law Center (Jan. 2024), <https://nwlc.org/wp-content/uploads/2024/02/Renters-Issue-Brief-Accessible.pdf>; see also Kinara Flagg, *Mending the Safety Net Through Source of Income Protections: The Nexus Between Antidiscrimination and Social Welfare Law*, 20 Colum. J. Gender & L. 201, 206 (2011).

¹⁶ See Talia Grossman et al., *Housing Discrimination Still Remains a Reality for Many Women and LGBTQIA+ People* (Apr. 2024), <https://nwlc.org/wp-content/uploads/2024/04/Housing-Discrimination-Still-Remains-a-Reality-for-Many-Women-and-LGBTQIA-People-Accessible-April-2024.pdf>.

example, blanket bans on prior eviction history disproportionately slam the door to housing opportunities for Black women and other women of color, regardless of whether the case was dismissed, occurred many years ago, or was filed on unlawful grounds.¹⁷ Moreover, women who have been involved with the criminal or juvenile legal system face tremendous barriers to successfully reintegrating into their communities, including overbroad tenant screening policies and “one-strike” eviction policies that effectively ban people with any criminal history from accessing housing.¹⁸

We believe in and are committed to eliminating housing discrimination, and we urge HUD to uphold the existing Disparate Impact Rule.

Women of all backgrounds and identities should feel protected under the Fair Housing Act. The Proposed Rule directly conflicts with, and undermines, HUD’s mission to affirmatively further fair housing and prevent discrimination against women and other protected groups as set forth under the Act. Furthermore, the Proposed Rule would jeopardize access to housing opportunities for women and other protected groups, and if finalized as proposed, violate the Administrative Procedures Act requirement that agency action not be arbitrary and capricious. We urge HUD to immediately withdraw the Proposed Rule and instead preserve its existing disparate impact standard that helps to ensure access to stable, safe, and affordable housing for all.

Sincerely,

AccessAbility
AFT: Education, Healthcare, Public Services
American Association of University Women (AAUW)
Autistic People of Color Fund
Autistic Women & Nonbinary Network
California Partnership to End Domestic Violence
Center for Law and Social Policy (CLASP)
CenterLink
Clearinghouse on Women's Issues
Coalition on Human Needs
CT Coalition Against Domestic Violence
DC Coalition Against Domestic Violence
Disability Law Center
Disability Rights Connecticut
Disability Rights South Carolina
ED- OCR Alumni Collective
Equal Justice Society
Equal Rights Advocates
Equality California
Feminist Majority Foundation
Freedom Network USA

¹⁷ Sandra Park, *Unfair Eviction Screening Policies Are Disproportionately Blacklisting Black Women*, ACLU News & Commentary (Mar. 30, 2017), <https://www.aclu.org/news/womens-rights/unfair-eviction-screening-policies-are-disproportionately>.

¹⁸ National Women’s Law Center & National Low Income Housing Coalition, *Gender and Racial Justice in Housing* (Feb. 2021), <https://nwlc.org/wp-content/uploads/2021/02/Gender-and-Racial-Justice-in-Housing.pdf>.

Fund for Leadership, Equity, Access and Diversity
Georgia Coalition Against Domestic Violence
Houston Immigration Legal Services Collaborative
Idaho Coalition Against Sexual and Domestic Violence
Indiana Coalition Against Domestic Violence
Indiana Disability Rights
Jewish Council for Public Affairs
Jewish Women International
Just Solutions
LA County Domestic Violence & Homelessness Services Coalition
League of United Latin American Citizens (LULAC)
Legal Momentum, the Women's Legal Defense & Education Fund
Maine Coalition to End Domestic Violence
Maryland Network Against Domestic Violence
Mothers Outreach Network
National Disability Rights Network (NDRN)
National Homelessness Law Center
National Housing Law Project
National Network to End Domestic Violence
National Organization for Women
National Partnership for Women & Families
National Women's Law Center
Nevada Coalition to End Domestic and Sexual Violence
New York State Coalition Against Domestic Violence
NJ Coalition to End Domestic Violence
North Carolina Coalition Against Domestic Violence
Ohio Domestic Violence Network
Phoenix Legal Action Network (PLAN)
Regional Housing Legal Services
Sakhi for South Asian Survivors
Silver State Equality
TDIforAccess
The Arc of South Carolina
The Arc of the United States
Ujima, The National Center on Violence Against Women in the Black Community
Victim Rights Law Center
Violence Free Minnesota
Washington State Coalition Against Domestic Violence & Sexual Assault
William E. Morris Institute for Justice
Wisconsin Coalition Against Sexual Assault
ZeroV