



February 13, 2026

Submitted via Regulations.gov

Regulations Division
Office of General Counsel
U.S. Department of Housing and Urban
Development 451 7th Street, SW
Washington, D.C. 20410

Re: Docket No. FR-6540-P-01, RIN 2529-AB09; HUD's Implementation of the Fair Housing Act's Disparate Impact Standard

Thank you for the opportunity to comment on HUD's proposed rule on implementation of the Fair Housing Act (FHA)'s disparate impact standard. The undersigned are co-chairs of the Consortium for Constituents with Disabilities (CCD) Housing Task Force. CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration, and inclusion of children and adults with disabilities in all aspects of a society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ discrimination and religious intolerance. The Housing Task Force works to ensure that all people with disabilities have safe, stable, accessible, affordable, and integrated housing that enables people to live in communities of their choosing, with full access to home and community-based services and supports.

We oppose HUD's proposed rule, which would undermine fair housing by rescinding HUD's regulations on the FHA's disparate impact standard. As HUD acknowledges, the U.S. Supreme Court has held that disparate impact claims are cognizable under the FHA in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc.* HUD's disparate impact rule established a workable framework for disparate impact claims consistent with longstanding case law, including the Supreme Court's ruling in *Inclusive Communities*. We urge HUD to retain the current rule and to fully enforce the FHA with respect to disparate impact and other claims.

Fair housing is critical for ensuring equal housing opportunities for people with disabilities. People with disabilities – particularly those with the lowest-incomes¹ – face a national shortage of accessible and affordable housing.² People with disabilities often have few financial resources and remain among the country's poorest, and they

¹ Technical Assistance Collaborative, Inc. "Priced Out: The Housing Crisis for People with Disabilities" (2026) at <https://www.tacinc.org/resources/priced-out/>.

² U.S. Dept. Of Housing and Urban Development, "Worst Case Housing Needs: 2025 Report to Congress" (2025) at <https://www.huduser.gov/portal//portal/sites/default/files/pdf/Worst-Case-Housing-Needs-2025-Report-to-Congress.pdf>.



far too frequently encounter discrimination when seeking housing.

In 2024, disability discrimination was again the basis for more than half of all fair housing complaints nationwide, with over 17,000 complaints reporting discrimination against people with disabilities.³ The lack of sufficient safe, accessible, and affordable housing is a continuing and significant barrier to integrated community living. This barrier prevents people with disabilities from moving from segregated facilities into the community, and it places many people with disabilities at risk of unnecessary institutionalization or homelessness.⁴ It remains crucially important to work toward inclusive housing in the community for people with disabilities, and to protect rights guaranteed under the FHA.

HUD's proposed removal of its disparate impact regulations is part of HUD's policy of refusing to fully enforce the FHA with respect to disparate impact and other claims the current administration disfavors. Maintaining HUD's clear articulation of the disparate impact standard in the current regulations, fully investigating all HUD-filed complaints that allege disparate impact discrimination, and adhering to Supreme Court and other judicial precedent are vitally important to addressing housing discrimination for people with disabilities.

Disparate impact liability has been used to challenge a range of discriminatory housing policies that harm people with disabilities. In one example, Mr. Spooner – a 67-year-old disabled man who was trying to leave his nursing home and find housing – filed a fair housing lawsuit (*Spooner and Fair Housing Justice Center, Inc. v. Goldfarb Properties, Inc.*) over a housing provider's minimum income policies. The housing provider required tenants to have a minimum gross annual income of 43 times the monthly rent and denied Mr. Spooner's application for failing to meet that requirement. Mr. Spooner received a state rental subsidy that would have enabled him to pay the full rent. An investigation found that the housing provider's income policies effectively excluded all households using similar rental subsidies, a disproportionate number of whom were people with disabilities. Plaintiffs prevailed on their claims of disability discrimination based on disparate impact, and the court ordered the housing provider to amend its policies and adopt non-discriminatory rental criteria.⁵

Mr. Spooner's case illustrates how disparate impact can help uncover and remove housing barriers for people with disabilities, including those who are at risk of or experiencing institutionalization. Every day a person with a disability lives in an institution instead of the community is a lost opportunity, lost human potential, and needless cost to public systems. It is a lost opportunity for those disabled people who

³ National Fair Housing Alliance, 2025 Fair Housing Trends Report at <https://nationalfairhousing.org/wp-content/uploads/2025/11/2025-NFHA-Fair-Housing-Trends-Report.pdf>.

⁴ See, e.g., U.S. Dep't of Housing and Urban Development, "2024 Annual Homeless Assessment Report to Congress" (2024) at <https://www.huduser.gov/portal/sites/default/files/pdf/2024-AHAR-Part-1.pdf>

⁵ *Fair Hous. Just. Ctr., Inc. v. Pelican Mgmt., Inc.*, No. 18-CV-1564 (ER) (OTW), 2023 WL 6390159 (S.D.N.Y. Sept. 29, 2023), *aff'd*, No. 23-7348-CV, 2025 WL 251723 (2d Cir. Jan. 21, 2025).



will remain institutionalized rather than active members of their community of choice. It is a lost opportunity for the state and local governments that would benefit from the cost-savings achieved when people with disabilities move from expensive nursing facilities, psychiatric hospitals, and other segregated settings into the community. Yet this proposed rule, along with HUD's other actions to undermine fair housing, will only reinforce patterns of institutionalization.

We oppose HUD's proposed rule and urge you to retain HUD's current disparate regulations. HUD must follow its statutory duty to advance the FHA and promote inclusive communities for all, including people with disabilities.

Sincerely,

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