To Whom It May Concern:

I write to you on behalf of the Children’s Law Center of Kentucky (CLC), where we tirelessly advocate for justice on behalf of children and youth despite their race, gender, or disability. I am responding to the Department of Housing and Urban Development’s (HUD) notice concerning the implementation of the Fair Housing Act’s (FHA) Disparate Impact Standard. It is imperative to CLC that the current Standard be maintained, as it protects our clients from discrimination in housing, which they would face regularly without the current rule. We strongly oppose any changes to the Standard that currently exists, and implore HUD to completely withdraw the Proposed Rule.

It is CLC’s mission to “protect the rights of children and youth to help them overcome barriers and transition into adulthood, better advocate for their needs, and successfully contribute to society.” As it directly concerns housing, CLC has partnered up with other organizations in the region, including Lighthouse Youth and Family Services, and Strategies to End Homelessness in order to advocate for individuals experiencing homelessness in our area, particularly youth. We assist other organizations who advocate for women, people of color, members of the LGBTQ community, immigrants, disabled individuals, families with children, and survivors of gender-based violence experiencing homelessness.

At CLC, we serve youth who either are in danger of becoming homeless, or youth that are currently experiencing homelessness. We also serve minorities, young women, and disabled individuals. According to statistics collected by Strategies to End Homelessness, 598 youth in Hamilton County, Ohio, between the ages of 18 and 24 were homeless in some manner in 2018. Of the 598 youth, 75% were youth of color; 23% of youth spent time on the street during their bout of homelessness, and the average length of their homelessness was between 41 to 45 days. Between 52 to 62% of youth entered into permanent housing at some point during 2018, and about 38% returned to homelessness after receiving permanent housing.[[1]](#footnote-1) We project that number to rise profusely if HUD’s Proposed Rule is passed.

If an individual does not have stable housing, they cannot be reasonably expected to excel in any other avenues of life. It is difficult to apply for a job without an address, or to register yourself/your children into school. Many of our clients are escaping abusive relationships. Leaving a home, no matter how abusive it is, to live on the street, has the potential to give a false sense that it would be better to have a home, and be abused, than to live on the street. That ideology has the potential to produce life-threatening consequences to our clients.

HUD places an emphasis on ensuring that Americans are able to exercise their right to housing without facing discrimination, and having their quality of life compromised as a result of unfair housing practices, or a lack of housing. CLC urges HUD to withdraw the Proposed Rule because implementing such rule has the potential to create living circumstances not only adverse to CLC’s goals, but also adverse to the mission HUD promotes.

1. **Permanent housing is instrumental in ensuring youth have access to the necessities to which all youth are entitled.**

A lack of safe, permanent housing has the propensity to cause depression amongst youth. Also, a lack of permanent housing can cause health issues, and affect the youth’s ability to receive an education.

1. Lack of adequate permanent housing has the ability to induce depression on the individual; depression has lasting effects which can linger for several years.

Children who have lived in temporary housing, which includes a shelter, or a family member’s home temporarily, for more than a year, are three times as likely to suffer from a mental ailment such as depression, than their peers who reside in permanent housing.[[2]](#footnote-2) Mothers are more likely than fathers to suffer from clinical depression as a result of living in temporary/inadequate housing. Ten percent of women who live in temporary/inadequate housing have been diagnosed as clinically depressed.[[3]](#footnote-3) Even when an individual’s housing conditions improve, the threat of persistent poor housing causes mental health to actually get worse before it gets better.[[4]](#footnote-4) According to a survey conducted by Homeless Link, out of 2500 homeless adults surveyed to determine whether or not they were depressed, 45 percent were found to have a mental issue, while only 25 percent of the general population has been found to possess a mental ailment. [[5]](#footnote-5)

In order to shield our clients from the negative effects depression has on the mind long-term, we ask that the Rule remain as it is written. CLC is here to help our clients find permanent, safe, adequate housing, and the new Rule will make that task more difficult. Research shows that even living in inadequate temporary housing for a short amount of time has lasting negative effects on that individual’s mind, which last for several years. It is CLC’s mission to prevent those negative effects from being inflicted on our clients by providing them with permanent housing as soon as there is a threat of homelessness. The removal of the protections in the Disparate Impact Theory is a great detriment to CLC’s cause, and we do not support it.

1. Homelessness has a despairing effect on an individual’s health; an individual without permanent housing is more likely to suffer from physical ailments, but not be able to recover from them due to their debilitating, but rightful concern for their lack of housing.

There is an undeniable connection between health and homelessness. HUD conducted a survey, and found that in 2017, 16 percent of homeless individuals had physical health conditions that were related to substance abuse; more than 10,000 homeless individuals had HIV/AIDS. The American Psychological Association conducted a survey where it was determined that homeless individuals also have a higher rate of tuberculosis, hypertension, asthma, and diabetes.[[6]](#footnote-6) HUD also found that HIV/AIDS was found in the homeless population between three and six times more than in the general population. Individuals who have substance abuse problems are more likely to recover from those ailments when they have a permanent home because they are not having to decide where they will be living while also trying to fight their addiction.[[7]](#footnote-7)

While difficult to accurately gather, the American Public Health Association estimates that between 500,000 and 2.1 million youth, ages 13-21 are homeless. Ethnic minorities are more likely to be homeless than their counterparts. Similarly, individuals who identify themselves as part of the LGBTQ community are between 30 and 45 percent of the homeless population.[[8]](#footnote-8)

It is HUD’s mission to make sure citizens are self-sufficient; they are able to do so by having permanent, affordable housing. Without permanent housing, statistics have consistently showed that an individual’s health is likely to decline, and will do so at a rapid pace. Considering naivety as a factor, youth generally do not know, beyond the basics, how to care for themselves when they are sick, nor do they know the factors/symptoms of more serious illnesses to know when they experience these symptoms, something needs to be done.

Stating that a homeless youth would be ashamed of their situation is not outlandish. According to research conducted by the California Homeless Youth Project, homeless African American youth are least likely to state they are homeless, which prevents them from receiving services and federal aid they are entitled due to their economic status.[[9]](#footnote-9) A homeless youth is more likely not to go to the doctor when sick due to a fear of judgment.

CLC will have a difficult time keeping youth experiencing homelessness in Cincinnati and Northern Kentucky off the street if the Disparate Impact Standard is changed. We need the Standard to remain as it is in order to assist HUD in maintaining its mission. With the Proposed Rule, we are more likely to see many of our youth on the street, and at a great risk of experiencing their health decline at a massive rate.

1. While not impossible, it is extremely difficult for homeless youth to pursue an education; with the struggles a homeless youth faces, education is not a top priority.

Youth experiencing homelessness have a difficult time being successful in school because of the toxic stress they endure due to the stress of not having a safe, consistent living arrangement.[[10]](#footnote-10) Due to the stressful environments in which they leave, children experiencing homelessness have smaller vocabularies, and do not communicate in a manner that is appropriate when considering their age.[[11]](#footnote-11) Preschoolers experiencing homelessness, when tested, revealed devastating statistics. Their vocabularies were in the first percentile, meaning 99 percent of preschoolers were using vocabulary superior to theirs.[[12]](#footnote-12)

Youth experiencing homelessness are more than four times more likely to develop a developmental delay than children in permanent, stable housing.[[13]](#footnote-13) They are also twice as likely to develop a learning disability than a child in a stable home.[[14]](#footnote-14) According to *Education Week,* youth experiencing homelessness are 87 percent more likely to drop out of school due to their living situation.[[15]](#footnote-15) Since they have not obtained an education, they are more likely to be homeless in adulthood than youth who had a stable home.[[16]](#footnote-16)

A major focus of CLC is the education of youth in Cincinnati, and Northern Kentucky. In 2018, 3,688 people were homeless in Northern Kentucky; 193 of them were individual youth, and 953 were individuals a part of a family, which could include men, women, and children.[[17]](#footnote-17) In Ohio, there were 10,249 people homeless in 2018; 686 were individual youth, and 3,320 of them were in families. With these massive numbers, homelessness is a major issue in the area. In order to reduce homelessness, youth need to get an education, which exposes them to countless opportunities. If permanent housing is not attainable for them, however, because the Disparate Impact Rule is modified adverse to their interest, it will be difficult for them to be given the chance of stability needed in order to succeed in school. While we have the McKinney-Vento Act, which makes it easier for CLC to enroll homeless children in school who are not under anyone’s guardianship or parentage, the youth still is not given a high likelihood of success if they are not given the housing necessary to remove the toxicity stress causes when worrying about becoming homeless. CLC needs the Rule to remain as written; our youth need the Rule to remain as it’s written.

1. **The Proposed Rule will eliminate protections from policies and practices that discriminate against individuals based on sex.**
2. The Proposed Rule will weaken protections put in place to protect survivors of domestic violence; the majority of these survivors are women.

The majority of women who are homeless are without housing because they are fleeing from domestic abuse.[[18]](#footnote-18) According to the same survey, over 90 percent of women experiencing homelessness had experienced domestic violence at some point in their lives, or were currently experiencing domestic violence at the time the survey was taken.[[19]](#footnote-19) It is more likely, according to ACLU, for a woman to be denied housing or evicted when a landlord is alerted that the woman is a survivor of domestic violence.[[20]](#footnote-20)

The Disparate Impact Rule allows a woman experiencing homelessness to prove she has been treated differently because of her sex, With the Proposed Rule, however, those protections will be removed, and landlords will be able to deny survivors of domestic violence housing with little to no ramifications, which has the potential of forcing these women back into their abusive relationships in order to secure housing.

HUD has recognized discriminating against domestic violence survivors is a fair housing issue being that women account for over 80 percent of domestic violence survivors. Minority women face even more harmful effects due to the disproportionate rates of violence they endure coupled with the increased likelihood they will be discriminated against when attempting to obtain housing. Members of the LGBTQ+ community experience high rates of domestic violence; 71 percent of members in the LGBTQ+ community that have experienced domestic violence state that they were denied accommodations in public shelters due to their gender identity.

Currently, advocates are able to rely on the Disparate Impact Rule to protect domestic violence survivors, and ensure they receive adequate, permanent housing. If the Proposed Rule is finalized, however, advocates will have to go through many hurdles to secure housing for those who need it, and will have a difficult time challenging unjust policies implemented by landlords who do not want to house victims of domestic violence for various reasons beyond the victim’s control. Children’s Law Center of Kentucky beseeches HUD to withdraw the Proposed Rule, and instead, continue to further implement the work already accomplished to make fair, equal housing attainable for all citizens.

1. This Rule, if implemented, will limit access to fair housing for, and weaken anti-discrimination protections for LGBTQ+ people.

Specifically as it concerns youth, youth LGBTQ+ people experience higher rates of homelessness due to rejection they have sustained as a result of identifying as LGBTQ+.[[21]](#footnote-21) While one in ten, or 3.5 million youth face homelessness a year, youth who identify as LGBTQ+ experience homelessness at rates 120 percent higher than that. While 40 percent of youth who experience homelessness are LGBTQ+, family rejection was the immediate reason for homelessness for 68 percent of those cases.[[22]](#footnote-22) Landlords are statistically less likely to make rental appointments with men who identify as homosexual, and more likely to then quote them higher rents.[[23]](#footnote-23)

With the Proposed Rule, CLC will not be able to help our clients find housing without the barriers of gender discrimination as we can with the current Rule. With the Proposed Rule, it will be more difficult to prove that our client has been discriminated against because of their gender. It will be more likely that our client is going to have to live in temporary, or inadequate housing as a result of the discrimination they have received due to their gender and sexual orientation. Our LGBTQ+ are depending on the current Disparate Rule Theory; without it, many of them will be subject to homelessness.

1. **The Proposed Rule will have a negative impact on women and girls who are protected from discrimination based on other characteristics.**
2. The Proposed Rule will undermine HUD’s stance to afford fair housing to all; the Rule jeopardizes housing access for minorities.

Research consistently shows minorities have a more difficult time securing housing in safe, productive neighborhoods because of their race. In a study conducted by the Urban Institute in 2012, real estate agents and landlords show fewer available properties to minorities than to whites of equal qualifications. This practice greatly restricted housing options for minorities.[[24]](#footnote-24)

Economic status has been a major factor in the denial of housing for minorities as well. A study performed in Washington, D.C., where all landlords are required to accept vouchers, showed that landlords are more likely to discriminate against a black family using a housing voucher than a black family not using a voucher.[[25]](#footnote-25) The same study, conducted in New Orleans, showed that 99 percent of voucher holders were African American; 82 percent of landlords refused to accept housing vouchers, but were more likely to accept a voucher from a white family than from an African American family.[[26]](#footnote-26)

The Proposed Rule will perpetuate segregation over time; CLC holds firmly to the stance that the Proposed Rule will place a burden on our clients seeking permanent housing. It has been proven that generally, white Americans associate the presence of African Americans in a neighborhood to mean the property values are decreasing, which sways landlords and builders away from renting/selling property to minorities. The Proposed Rule would leave little opportunity for rectification on behalf of our clients as it concerns matters of housing discrimination, and leaving fewer opportunities for housing for our clients. It is in our client’s best interest, and in direct line with HUD’s mission that the Proposed Rule is struck down in order to ensure fair and equal housing for all.

1. The Proposed Rule will negatively affect minority families with children.

The Disparate Impact Rule, as it is written, allows advocates to challenge unjust policies that harm minority families. Overly restrictive occupancy requirements place undue stress on the family unit. Further, amenity restrictions affect minority families by interfering with the basic enjoyments in which families like to participate.

Occupancy requirements are regularly disputed because they are often overly restrictive. While at one time, there was a two-person limit per bedroom, that restriction has been lifted in most states; it is examined by a case-by-case basis whether a room is big enough to house more than two individuals.[[27]](#footnote-27) The law requires other factors be considered before denying housing to a potential renter because of size, such as whether or not there is a den, or dining area.

With the Proposed Rule, however, it would be easier for landlords to re-implement that and other occupancy requirements, and advocates will have a harder time proving discrimination as the reason why the minority client was denied housing. Furthermore, these occupancy requirements may further perpetuate segregation because landlords can claim the potential tenant was denied because the family was too large for the home/apartment, when in fact, the denial was due to race. If the Rule as written is replaced by the Proposed Rule, minorities will have a harder time finding permanent, adequate housing because landlords will discriminate with little consequence.

Amenity restrictions are those that heavily limit the use of pools, playgrounds, and other activity areas tenants enjoy; amenities tend to make the quality of life in any given place better. Restricting youth from playing on the playground after a certain time, for example, can be discriminating against children because of their age since they are more likely to play on the playground than an adult. As with an occupancy requirement, restricting the use of amenities will negatively affect minorities with children because the restriction will dissuade families with children from moving to those areas out of fear from eviction as a result of breaking the restriction. The amenity restriction often has a stifling and discriminator effect on family life.

1. The Proposed Rule has an adverse effect on disabled individuals.

Disabled individuals are in great danger of homelessness due to the high housing costs, and their limited income. There are 4.8 million disabled individuals not institutionalized that rely on Supplemental Security in order to live. The average income per year for a receiver of these benefits is $9,156 per year, which limits the type of housing a disabled individual may receive without further assistance from the government.[[28]](#footnote-28)

Disabled people generally need specific features in their homes, which will raise the cost of rent; those accessibility features are out of the price range for many disabled individuals. The majority of disabled people living independently are in housing that is inadequate for someone without disabilities, let alone an individual who has special needs that must be met in order to make a home comfortable.

With the Disparate Impact Rule as it is written, CLC, and other advocates, are able to advocate for individuals with disabilities, and ensure they receive housing that caters to their needs without the risk of future discrimination by their landlord. With the Proposed Rule, disabled individuals will be discriminated against, and CLC will have a difficult time proving it. In turn, the disabled will end up living in inadequate housing, which can negatively affect their health, value of life, and life expectancy. The disabled party also has a great chance of becoming homeless as a result of the high cost of housing coupled with their limited economic strength.

1. **Conclusion**

HUD’s Proposed Rule removes the protections the current Disparate Impact Rule grants to homeless youth, and their families. HUD’s mission is to ensure all citizens have fair, and equal housing. With the Proposed Rule, HUD’s mission is not going to be acknowledged or fulfilled; landlords will undermine all of the work HUD has done to make fair housing possible for citizens, and there will be little advocates can do about it.

Children’s Law Center does not stand by the Proposed Rule; CLC entreats HUD to withdraw the Proposed Rule in order to continue furthering HUD’s mission throughout Kentucky and Ohio. CLC asks HUD to strengthen housing policies rather than weakening them, which will be of great appreciation to the youth who are fighting daily to stay off the streets. With the Proposed Rule, homelessness will become a reality for many more youth. We ask that HUD give our youth a chance to prosper. It starts with a home.

Please do not hesitate to contact Children’s Law Center to provide further information.

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