

Discriminatory Regulations Harm the Health of Children

In the midst of a pandemic and economic crisis that has exacerbated and exposed inequities across our nation, the Trump Administration has finalized two discriminatory and racist rules that will further harm communities of color and our nation's immigrants. These rules – which include changes to the Fair Housing Act's disparate impact standard, and resumed enforcement of the new public charge rule – are an imminent threat to the health and well-being of families. We at Children's HealthWatch are extremely concerned about the impact of these rules, particularly in the context of current medical and economic crises, and urge the Administration to rescind these changes immediately.

On September 3, the U.S Department of Housing and Urban Development (HUD) issued a [final rule](#) that weakens the Fair Housing Act (FHA) by dismantling decades of policy embodied in the 2013 disparate impact standard, a key enforcement tool for holding parties responsible for not only intentional discrimination but also for practices that have an adverse impact on the basis of race, ethnicity, and other protected classes. Specifically, the rule establishes a new burden-shifting framework that sidelines disparate impact as a usable legal tool and undermines the core intent of the FHA and HUD's long-held recognition that discriminatory practices – whether intentional or not – should be prohibited. This makes it harder to bring disparate impact discrimination claims under the FHA and thus more difficult to combat systemic housing discrimination. As a result of this change, insurance companies, financial institutions, developers, and other major corporations will be free to engage with near impunity in discriminatory practices that deprive people of color, families with children, and others of housing opportunities. This will, in turn, [threaten the health of America's children and their families](#) by increasing risk of housing discrimination, a practice that has led to concentrations of poor quality housing and housing instability. Each of these is associated with adverse population health outcomes, household hardships, and racial and ethnic inequities in child health.

The continued presence of these disparities in our society and the [urgent need](#) to recognize and address them through tools that dismantle and prevent systemic racism, including the disparate impact standard, have been thrown into stark relief throughout the past seven months of the COVID-19 crisis. While we were relieved to see the court [issue a stay and nationwide preliminary injunction](#) on October 25 halting the overhaul of the disparate impact protections on the day implementation was set, we continue to urge the Administration to rescind the rule immediately. As we face both a pandemic and an ever-worsening housing crisis, it is imperative that we protect all members of our communities and continue to combat barriers to housing opportunity.

The Administration's recent attacks on immigrants and communities of color do not stop there; on September 11, the Second Circuit Court of Appeals stayed a lower court's nationwide injunction of the Department of Homeland Security (DHS) public charge rule, thus allowing U.S. Citizenship and Immigration Services to implement the DHS public charge regulations in all jurisdictions. This forces immigrant families to choose between providing basic necessities that keep children healthy, like food, shelter, and medical care, and having their family remain together in the United States. After the initial publication of this rule change prior to the pandemic, out of [fear and confusion](#) immigrant families were unenrolling from programs or forgoing benefits for which they were eligible. Now, immigrants in households with low incomes are [avoiding COVID-19 relief](#) programs – potentially life-saving support



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services for which they are entitled – because of immigration concerns. We are deeply troubled by these reported chilling effects and the re-implemented penalization of participation in programs with demonstrated positive health and developmental outcomes given their critical importance during the economic crisis and increased rates of hardship.

Ensuring that all families can afford basic needs and that all children live in homes and communities that promote health is not just a wise choice for today – it is an investment in our future economic stability and national prosperity. These rule changes are at odds with caring for our whole population during a pandemic and economic crisis, and put thousands of families at a greater risk for COVID-19 and long term financial instability. Census data released this month show that [one in three adults](#) in the US are having difficulty affording basic needs. Coupled with extensive data showing that the level of hardship has deepened among families of color and immigrants, these figures underscore the urgent need for comprehensive and inclusive policy to stabilize families, not policies that further drive inequities and destabilize families. As experts in pediatric health and development, we oppose in the strongest term the above rule changes.