



February 13, 2026

SUBMITTED VIA REGULATIONS.GOV

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

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

Dear Sir or Madam,

Disability Rights Florida appreciates the opportunity to comment on the U.S. Department of Housing and Urban Development's ("HUD") Notice of Proposed Rulemaking ("Notice") regarding the removal of HUD's Fair Housing Act's ("FHA") discriminatory effects regulations from the Code of Federal Regulations, in furtherance of HUD's policy of refusing to fully enforce the Fair Housing Act with respect to disparate impact. Disability Rights Florida strongly opposes HUD's implementation of the FHA's disparate impact standard.

Disability Rights Florida is Florida's federally mandated Protection and Advocacy ("P&A") system¹ organized for the benefit of all Floridians with disabilities through the provision of free and confidential legal and advocacy services. Disability Rights Florida advocates, educates, investigates, and litigates to protect and advance the rights, dignity, equal opportunities, self-determination, and choices for people with disabilities. Disability Rights Florida firmly believes that all Florida residents deserve to have access to the housing they need without facing unfair discrimination. This is equally true whether that discrimination takes the form of *disparate treatment*, the more apparent and blatant form

¹ See *About*, Nat'l Disability Rts. Network, <https://www.ndrn.org/about/> (last visited May 2, 2025) (explaining that the P&A system is the "only legally based advocacy organization established by Congress to protect the rights of all individuals with disabilities" and part of that mandate includes a network of agencies in every state and U.S. territory).

of discrimination based on disability, race, national origin, or other protected class characteristics, or whether it takes the form of *disparate impact*, which is manifested in the kinds of hidden, often more subtle forms of discrimination.

The FHA prohibits discrimination on the basis of disability in all types of housing transactions, and Congress understood that just outlawing obvious discrimination was not enough to ensure its eradication. The disparate impact standard is codified in HUD's current regulation and is based in over 50 years of legal precedent. The existing disparate impact standard is a vital tool to ensure that our local housing market operates in a manner that is free from discrimination. This, in turn, is fundamental to the social and economic vitality of our community. Given our experience and expertise in addressing the housing needs of Floridians with disabilities, we strongly oppose the drastic changes HUD seeks to make to the FHA's disparate impact standard.

Disability Rights Florida opposes HUD's proposed removal of its discriminatory effects regulations, which furthers HUD's policy of refusing to fully enforce the FHA with respect to claims based on discriminatory impact and other claims that the current administration disfavors. Maintaining HUD's clear articulation of the disparate impact standard in the current regulations, fully investigating all HUD-filed complaints² that allege disparate impact discrimination, and adhering to Supreme Court³ and other judicial precedent are essential to our efforts to address housing discrimination in our community. HUD's refusal to recognize binding Supreme Court precedent confirming that disparate impact is part of the FHA makes it more difficult for us and our residents to challenge policies and practices that appear neutral on their face but are unjustified and have a disparate impact on people with disabilities.

The disparate impact standard is a critical tool because discrimination is often not obvious. Housing providers, mortgage lenders, insurance companies, and other industry actors will rarely openly put into writing a policy or rule that says it is specifically designed to make it harder for people with disabilities to obtain housing. Instead, the policies and rules are written so they appear neutral on their face, but when put into practice they have a discriminatory *impact*. Take for example a housing policy that says something like "all

² In 2024, the majority of complaints filed with fair housing organizations, HUD, and Fair Housing Assistance Program agencies were complaints alleging discrimination based on disability. There was a total of 17,986 reports filed alleging disability discrimination. L. Augustine et al. at 9, *2024 Fair Housing Trends Report*, Nat'l Fair Hous. All. (July 2024), https://nationalfairhousing.org/wp-content/uploads/2023/04/2024-Fair-Housing-Trends-Report-FINAL_07.2024.pdf.

³ For example, in *Texas Dep't of Hous. & Cmty. Affs. v. Inclusive Communities Project, Inc.*, the Supreme Court held that recognition of disparate-impact claims is consistent with the FHA's central purpose and held that disparate impact claims are cognizable under the act. 576 U.S. 519, 539, 135 S. Ct. 2507, 2521, 192 L. Ed. 2d 514 (2015).

applicants must have a job.” The policy does not explicitly say that “people with disabilities are not allowed to obtain housing” but when this policy is implemented, it has a disproportionately negative impact on people with disabilities because labor force participation rates for people with disabilities are significantly lower than for those without disabilities.⁴ Another example commonly faced by people with disabilities are maximum occupancy limits. While these limits applied to all tenants appear neutral on their face, they disproportionately impact individuals who require live-in caregivers, preventing them from enjoying equal access to housing.

There is already a nationwide affordable housing crisis.⁵ In Florida, there is a severe housing shortage.⁶ The crisis is compounded for people with disabilities⁷ because they are more likely to need affordable *and* accessible housing. Less than five percent (5%) of housing in the United States is accessible for people with even moderate mobility impairments and a shocking one percent (1%) is accessible for people who use wheelchairs.⁸ Further, people with disabilities are more likely to live in poverty than their non-disabled counterparts and therefore less likely to be able to afford the extremely limited stock of accessible housing that does exist. Thirteen percent (13%) of the extremely low-income renter households in Florida are people with disabilities.⁹ As it currently stands, people with disabilities are disproportionately impacted by housing discrimination that limits their ability to access housing.¹⁰ If HUD’s existing disparate impact rule is eliminated, people with disabilities will continue to face an increasing lack of housing that

⁴ [research_data_brief_labor_force_snapshot_people_with_disabilities-2025-october.pdf](#)

⁵ See *No State Has an Adequate Supply of Affordable Rental Housing for the Lowest-Income Renters*, NAT’L LOW INCOME HOUS. COAL., <https://nlihc.org/gap> (last visited May 1, 2025) (explaining that the U.S. has a shortage of 7.1 million rental homes affordable and available to renters with extremely low incomes). See also Drew Desilver, *A look at the state of affordable housing in the U.S.*, PEW RSCH. CTR. (Oct. 25, 2024), <https://www.pewresearch.org/short-reads/2024/10/25/a-look-at-the-state-of-affordable-housing-in-the-us/> (showing that 31.3% of American households and about half of renting households were cost burdened in 2023).

⁶ *2025 Florida Housing Profile*, NAT’L LOW INCOME HOUS. COAL. (Mar. 2025), https://nlihc.org/sites/default/files/SHP_FL.pdf.

⁷ See *The Affordable Housing Gap: A Crisis for Low-Income Renters*, NAT’L ALL. TO END HOMELESSNESS, <https://endhomelessness.org/a-shortage-of-affordable-housing/> (last visited May 1, 2025) (stating that the severe shortage of rental homes affordable to the nation’s lowest-income renters disproportionately impacts groups like people with disabilities).

⁸ J. Lake et al., *Recognizing and Addressing Housing Insecurity for Disabled Renters*, CTR. FOR AM. PROGRESS (May 27, 2021).

⁹ *Id.*

¹⁰ In 2024, the majority of complaints filed with fair housing organizations, HUD, and Fair Housing Assistance Program agencies were complaints alleging discrimination based on disability. There was a total of 17,986 reports filed alleging disability discrimination. L. Augustine et al. at 9, *2024 Fair Housing Trends Report*, NAT’L FAIR HOUS. ALL. (July 2024), https://nationalfairhousing.org/wp-content/uploads/2023/04/2024-Fair-Housing-Trends-Report-FINAL_07.2024.pdf.

is affordable, accessible, and free from both clear and inconspicuous forms of discrimination.

Disparate impact's focus on less discriminatory alternatives encourages housing providers and others to adopt less arbitrary and restrictive practices while still meeting their business needs. Accordingly, HUD's existing rule should not be eliminated. Instead, HUD must return to full enforcement of the FHA as required by law, including disparate impact claims, to remove unnecessary and discriminatory barriers to housing choice for Floridians with disabilities.

Sincerely,

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