

From: National Housing Law Project
To: Housing Justice Network
Date: February 24, 2026
Re: Analysis of HUD's Proposed Rule on Mixed Status Families

On February 20, 2026, the U.S. Department of Housing and Urban Development's (HUD) published its proposed rule, Housing and Community Development Act of 1980: Verification of Eligible Status, HUD Docket No. FR-6524-P-01, RIN 2501-AE16,¹ otherwise known as HUD's mixed status families rule ("Proposed Rule"). If finalized, the Proposed Rule will separate families with mixed immigration statuses and evict them from their homes, while worsening the affordable housing crisis by reducing the supply of HUD-assisted housing for everyone.²

This memorandum analyzes the Proposed Rule. It starts with a discussion of the current law, followed by a summary of the Proposed Rule's major provisions. The legal analysis proceeds in two parts: proposed changes that target mixed status families specifically, and proposed changes regarding verification of citizenship and immigration status that impact HUD residents and applicants generally. The memorandum ends with frequently asked questions.

I. Current Law

Until HUD completes the rulemaking process, the current rules will not change. It is critical to communicate this message – that the law has not changed – to mixed status families to counter misinformation about their rights.

A. Mixed Status Families and Their Rights

Section 214 of the Housing and Community Development Act of 1980 ("Section 214")³ governs immigrant eligibility for specific HUD housing programs, including public housing, the Housing Choice Voucher program, and project-based rental assistance.⁴ Section 214 allows certain noncitizens to receive HUD assistance,⁵ while allowing families with mixed immigration status to

¹ Housing and Community Development Act of 1980: Verification of Eligible Status, 91 Fed.Reg. 8151 (Feb. 20, 2026), <https://www.govinfo.gov/content/pkg/FR-2026-02-20/pdf/2026-03405.pdf>.

² HUD, Regulatory Impact Analysis: Housing and Community Development Act of 1980: Verification of Eligible Status 17 (Sept. 30, 2025), <https://www.regulations.gov/document/HUD-2026-0199-0006>.

³ 42 U.S.C. §1436a. The other federal law that limits immigrant eligibility for certain federal housing programs is title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA). This memorandum does not discuss the immigrant eligibility restrictions under PRWORA. For a full discussion, see National Housing Law Project, Immigration Requirements: Assistance Programs for Housing and Homelessness, Energy, Disaster, and Water (ESG, CoC, CDBG, HOME, FEMA, RUSH, LIHEAP) (Dec. 12, 2025).

⁴ The following is a full list of HUD housing programs covered by Section 214: Public Housing; all Section 8 housing assistance (including Vouchers and Project-based Section 8); Section 236 Housing, with or without Supplements (low-income units only); Rent Supplement Housing; Section 235 Homeownership Housing; Housing Development Grants (HoDAG) (low-income units only); Section 23 Leased Housing Assistance Program. 42 U.S.C. §1436a(b)(1); 24 CFR 5.500(a). Section 214 also governs immigrant eligibility for certain USDA housing, which is outside the scope of this memo.

⁵ 42 U.S.C. §1436a(a).

live together in HUD housing.⁶ The Proposed Rule proposes to change HUD regulations that implement these provisions of Section 214.

Under the current regulations, families can live in HUD-assisted housing as long as at least one family member is a U.S. citizen, a U.S. national, or a noncitizen with eligible immigration status.⁷ The typical mixed status family is a two-parent, two-child household. Of the four family members, three are U.S. citizens.⁸ The remaining family members have the right not to contend eligibility.⁹ In other words, they do not say that they are eligible or ineligible; rather, they exercise a third option of not claiming that they are eligible.

Mixed status families receive prorated rental assistance that covers only eligible family members.¹⁰ Family members who “do not contend” eligibility do not receive housing assistance.¹¹ To cover the family members who “do not contend,” the family pays the rest of the rent themselves. These funds help pay for housing assistance and repairs for other HUD-assisted families.

B. Verification of Citizenship and Immigration Status

To receive housing assistance, U.S. citizens, U.S. nationals, and noncitizens with eligible immigration statuses must verify their citizenship and immigration status.¹² The current regulations require U.S. citizens and U.S. nationals to submit a signed declaration of their citizenship or nationality.¹³ Public housing authorities have the discretion to request documents proving citizenship, but this policy must be formally included in the PHA Plan.¹⁴

For noncitizens, the verification requirement depends on the person’s age.

- If a noncitizen is 62 or older, they must submit a signed declaration of their immigration status and a document proving their age.¹⁵ They are not required to submit a document proving their immigration status.
- If a noncitizen is younger than 62, they must submit: (1) a signed declaration of their immigration status, (2) a document proving their immigration status, and (3) a signed verification consent form.¹⁶

⁶ 42 U.S.C. § 1436a(b)(2).

⁷ 42 U.S.C. §1436a(b)(2); 24 CFR § 5.508(e). The categories of noncitizens are: lawful permanent residents, asylees and refugees, persons granted withholding of removal; public interest and humanitarian parolees; and individuals lawfully residing under compacts between the U.S. and Marshall Islands/Micronesia and Palau. 42 U.S.C. §1436a(a). Certain additional groups have the same rights as refugees including human trafficking survivors and self-petitioners under the Violence Against Women Act (VAWA).

⁸ Erik Gartland & Sonya Acosta, Administration Plan Targeting Immigrants Would Take Away Rental Assistance, Create New Barriers (Dec. 12, 2025), <https://www.cbpp.org/sites/default/files/12-12-25hou.pdf>.

⁹ 42 U.S.C. §1436a(b)(2); 24 CFR § 5.508(a) (“If one or more family members do not have citizenship or eligible immigration status, the family members may exercise the election not to contend to have eligible immigration status”).

¹⁰ 42 U.S.C. §1436a(b)(2); 24 CFR § 5.520(a) (“An eligible mixed family who requests prorated assistance must be provided prorated assistance.”).

¹¹ 24 CFR § 5.508(e).

¹² See 24 CFR § 5.508.

¹³ 24 C.F.R. § 5.508(b)(1).

¹⁴ *Id.*

¹⁵ 24 CFR § 5.508 (b)(2).

¹⁶ 24 CFR § 5.508(g)(5).

- If a noncitizen does not contend eligibility and is a member of a mixed status family, they are not required to provide any information about their immigration status, regardless of their age.¹⁷

II. Summary of HUD's Proposed Rule

A. Proposed Changes Impacting Mixed Status Families

If finalized, the Proposed Rule will enact changes that will separate mixed status families and evict them from their homes, even though federal law gives these families the right to live together in HUD-subsidized housing.¹⁸ The Proposed Rule would require each household member to be a U.S. citizen, a U.S. national, or a noncitizen with immigration status.¹⁹ As a result, mixed status families would lose their right to live together in HUD-assisted housing. Specifically, the Proposed Rule would take away:

1. The right of mixed status family members not to contend eligibility;²⁰ and
2. The right of mixed status families to receive ongoing prorated rental assistance that covers eligible family members.²¹

In addition, the Proposed Rule would impose an expedited timeline for submitting evidence of citizenship and immigration status that would explicitly single out mixed status families. While other HUD residents could wait until the next annual recertification to submit this evidence,²² members of mixed status families would only have 90 days from the final rule's effective date.²³

B. Proposed Changes Impacting Verification Requirements

The Proposed Rule would impose new verification requirements for millions of HUD tenants.

U.S. citizens and U.S. nationals: The Proposed Rule would overhaul the process for verifying citizenship in the covered HUD housing programs. PHAs and owners would no longer rely on signed declarations of citizenship. Instead, HUD is proposing to require PHAs and owners to verify citizenship status through Systematic Alien Verification for Entitlement (SAVE).²⁴ Located at U.S. Citizenship and Immigration Services (USCIS) at the Department of Homeland Security (DHS), SAVE is the automated system for verifying immigrant eligibility for public benefits. Expanding SAVE as a tool for citizenship verification is subject to public and legal scrutiny.²⁵

With this new use of SAVE, HUD proposes a new verification process that would take part in two stages: (1) primary verification, and (2) secondary verification.²⁶ For primary verification, U.S. citizens and nationals would have to submit both a signed declaration of citizenship and a signed verification consent form, and their PHA or owner would run SAVE to obtain an

¹⁷ 24 CFR § 5.508(e).

¹⁸ 42 U.S.C. §1436a(a).

¹⁹ 91 Fed.Reg. at 8154, 8165 (proposed 24 CFR § 5.506(b)(1)).

²⁰ *Id.* at 8155-56 (discussing the proposed removal of existing 24 CFR § 5.508(e)).

²¹ *Id.* at 8161, 8169 (removing existing 24 CFR 5.516(b)).

²² *Id.* at 8156-57, 8166 (proposed 24 CFR 5.508(f)(2)(ii)).

²³ *Id.* at 8156-57, 8166 (proposed 24 CFR 5.508(f)(2)(i)). Neither the 2019 Proposed Rule nor the 2025 Leaked Draft included this deadline specific to mixed status families.

²⁴ *Id.* at 8157-58, 8167-68 (proposed 24 CFR 5.512).

²⁵ Jen Fifield & Zach Despart, "Not Ready for Prime Time.' A Federal Tool to Check Voter Citizenship Keeps Making Mistakes," ProPublica (Feb. 13, 2026), <https://www.propublica.org/article/save-voter-citizenship-tool-mistakes-confusion>.

²⁶ 91 Fed.Reg. at 8157-58, 8167-68 (proposed 24 CFR 5.512).

automated response.²⁷ If primary verification fails to confirm citizenship, then secondary verification is necessary.²⁸ The individual would have to submit documents proving their citizenship, and either the PHA/owner or SAVE would manually review, depending on the type of document submitted.²⁹

Noncitizens: The Proposed Rule would require all noncitizens, regardless of age, to submit: (1) a signed declaration of eligible immigration status, (2) a document proving their immigration status, and (3) a signed verification consent form.³⁰ Noncitizens age 62 and older would no longer be exempt.³¹

	Current Law	2026 Proposed Rule
<i>Mixed Status Families</i>	Families can live together in HUD-assisted housing as long as at least one family member is a U.S. citizen or national, or a noncitizen with eligible immigration status.	Families can live together in HUD-assisted housing <i>only if</i> every family member is a U.S. citizen, U.S. national, or a noncitizen with eligible immigration status.
	Other family members have the right not to contend eligibility; these family members do not receive HUD assistance.	Family members will not have the right not to contend eligibility.
	Mixed status families can receive prorated rental assistance that covers only eligible family members. These families pay the rest of the rent themselves.	Ongoing prorated rental assistance would no longer be available.
<i>Verification of Citizenship and Immigration Status</i>	To verify citizenship and nationality, the PHA or owner must obtain a signed declaration of citizenship or nationality from the individual. Public housing authorities have the discretion to request documents proving citizenship.	To verify citizenship and nationality, the PHA or owner must use the Systematic Alien Verification for Entitlements (SAVE) system at DHS. In addition to a signed declaration, the PHA or owner must obtain a signed verification consent form from the individual to access SAVE. If SAVE's automated response does not confirm citizenship or nationality, then the PHA or owner must obtain documents to prove citizenship from the individual.
	To verify eligible immigration status, noncitizens must submit: (i) a signed declaration of their status; (ii) documentary proof of their status; and (iii) a signed verification consent form. Older noncitizens (62+) only have to submit: (i) a signed declaration of their status and (ii) documentary proof of age.	To verify eligible immigration status, all noncitizens, including older noncitizens, must submit: (i) a signed declaration of their status; (ii) documentary proof of their status; and (iii) a signed verification consent form. Older noncitizens would no longer be exempt.

²⁷ *Id.* at 8155, 8169 (proposed 24 CFR § 5.508(b)(1)).

²⁸ *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)).

²⁹ *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(ii)-(iii)).

³⁰ *Id.* at 8153.

³¹ *Id.*

III. Analysis of HUD's Proposed Rule

A. Proposed Changes Impacting Mixed Status Families

If finalized, the Proposed Rule will enact changes that will separate mixed status families and evict them from their homes, even though federal law gives these families the right to live together in HUD-subsidized housing.³² Contrary to HUD's claims that its proposed changes "would bring HUD's Section 214 implementation regulations into greater alignment with the wording and purpose of Section 214," the Proposed Rule is inconsistent with the purpose and text of Section 214.

The Proposed Rule would require every household member to be a U.S. citizen, a U.S. national, or a noncitizen with eligible immigration status.³³ As a result, mixed status families would lose their right to live together in HUD-assisted housing.

1. The Proposed Rule would take away the right of mixed status family members not to contend eligibility.

Members of mixed status families would lose the right not to contend eligibility,³⁴ which is the way families in which some members are eligible for housing assistance and others are not can live together with prorated financial assistance under Section 214. 42 U.S.C. § 1436a(b)(2) specifically states:

*"If the eligibility for financial assistance of at least one family member has been affirmatively established ... and the ineligibility of one or more family members has not been affirmatively established under this section, any financial assistance made available to that family by the applicable Secretary shall be prorated, based on the number of individuals in the family for whom eligibility has been affirmatively established ... as compared to the total number of individuals who are members of the family."*³⁵

Taking away the right not to contend eligibility would therefore force these families either to break up, or move out of their housing in order to remain together. Similarly, although 42 U.S.C. § 1436a(d)(6) requires termination of assistance for individuals who knowingly allow ineligible individuals to live in their unit, it includes a statutory exception for mixed status families:

"This provision does not apply to a family if the ineligibility of the ineligible individual at issue was considered in calculating any proration of assistance provided for the family."

When Congress added these provisions to Section 214, it had two purposes: to limit scarce housing assistance to eligible immigrants and citizens, and to prevent the breakup of mixed status families.³⁶ Both the text and the legislative history make clear Section 214's purpose: to allow mixed status families to stay together in HUD-assisted housing.

³² 42 U.S.C. §1436a(a).

³³ 91 Fed.Reg. at 8154, 8165 (proposed 24 CFR 5.506(b)(1)).

³⁴ As noted in 91 Fed.Reg 8151, 8155-56, the Proposed Rule would remove 24 C.F.R. § 5.508(e), which provides:
If one or more members of a family elect not to contend that they have eligible immigration status, and other members of the family establish their citizenship or eligible immigration status, the family may be eligible for assistance under §§ 5.516 and 5.518, or § 5.520, despite the fact that no declaration or documentation of eligible status is submitted for one or more members of the family.

³⁵ 42 U.S.C. § 1436a(b)(2) (emphasis added).

³⁶ Restrictions on Assistance to Noncitizens, 59 Fed.Reg (page unknown) (Aug. 25, 1994) (HUD explaining that "[t]he general Congressional intent of section 214(c)(1) was to protect ``the sanctity of the family''") (citing remarks of Sen.

2. The Proposed Rule would take away ongoing prorated rental assistance from mixed status families.

Under the Proposed Rule, mixed status families would no longer receive ongoing prorated rental assistance to cover eligible family members.³⁷ The Proposed Rule limits the availability of prorated rental assistance to two narrow circumstances: (1) while final verification of citizenship or immigration status is pending,³⁸ and (2) for a small number of mixed status families who were receiving assistance in June 19, 1995 and who qualify for continued assistance.³⁹ These proposed changes conflict with 42 U.S.C. § 1436a(b)(2), which provides that assistance to mixed status families “shall be prorated.”⁴⁰

This provision will reduce the amount of HUD housing assistance available for everyone. According to HUD’s regulatory impact analysis, if the Proposed Rule is finalized, then HUD would take away housing assistance from 55,100 U.S. citizens and eligible immigrants who are currently members of mixed status families. HUD acknowledges that it would not be able to replace that assistance on a one-for-one basis. Instead, the number of U.S. citizens and eligible immigrants who would receive HUD assistance would drop to 24,100 – cutting available HUD housing assistance by more than half.⁴¹

3. The Proposed Rule makes procedural changes that target mixed status families.

In addition to taking away the substantive rights of mixed status families to live together in HUD-assisted housing, the Proposed Rule proposed changes to notice requirements and the timeline for verifying citizenship and immigration status in what appears to be an attempt to facilitate the prompt removal of mixed status families from the HUD housing programs.

a) Notice of Section 214 Requirements

Under the current law, PHAs and owners must give tenants notice of the Section 214 requirements (“Section 214 Notice”) concurrently with notice of the family’s annual recertification.⁴² Under the Proposed Rule, PHAs and owners must give the Section 214 notice within 30 days of the final rule’s effective date to any tenants who have not yet submitted evidence of citizenship or immigration status.⁴³

The Proposed Rule also adds problematic language to the Section 214 notice:

[T]he PHA or owner, as applicable, must inform DHS immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act. The PHA or owner may meet the reporting requirement

William Armstrong, 133 Cong. Rec. S18615, December 21, 1987.), <https://www.govinfo.gov/content/pkg/FR-1994-08-25/html/94-20710.htm>.

³⁷ 91 Fed.Reg. at 8161, 8169 (removing existing 24 CFR 5.516(b)).

³⁸ *Id.* at 8154, 8165 (proposed 24 CFR 5.506(b)(3)); *Id.* at 8161, 8170 (proposed 24 CFR 5.520(a)(1)).

³⁹ *Id.* at 8161, 8169-70 (proposed 24 CFR 5.518(a)).

⁴⁰ See text accompanying footnote 35.

⁴¹ HUD, Regulatory Impact Analysis: Housing and Community Development Act of 1980: Verification of Eligible Status 17 (Sept. 30, 2025), <https://www.regulations.gov/document/HUD-2026-0199-0006>.

⁴² 24 CFR 5.508(f)(1)(ii).

⁴³ 91 Fed.Reg. at 8156, 8166 (proposed 24 CFR § 5.508(e)(1)(ii))

by conforming with applicable *Federal Register* notices, including Interagency Notices, providing guidance for compliance with PRWORA section 404.⁴⁴

The proposed language misrepresents the scope of the reporting requirement imposed by PRWORA, *i.e.*, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. First, PRWORA's reporting requirement only applies to HUD and PHAs, not owners.⁴⁵ There is no statutory basis for HUD to include owners in this provision. Second, PRWORA does not require PHAs to inform DHS "immediately whenever personnel determine that any member of a household is present in the U.S. in violation of the Immigration and Nationality Act."⁴⁶ PRWORA's reporting requirement is narrower than HUD's proposed language suggests. It appears that the intended impact of this misleading language is to deter mixed status families from exercising the limited rights they may have and to push them toward self-eviction.⁴⁷

b) 90-Day Deadline for Mixed Status Family Members to Submit Evidence of Citizenship or Immigration Status

The Proposed Rule would require members of mixed status families to submit evidence of citizenship or eligible immigration status within 90 days of the final rule's effective date.⁴⁸ With this expedited timeline, the Proposed Rule explicitly singles out mixed status families. As for other tenants who have not submitted evidence of citizenship or eligible immigration status as of the final rule's effective date, the Proposed Rule does not require them to do so until the next annual recertification following the final rule's effective date.⁴⁹ Tenants can ask for an extension of time for a maximum of 30 additional days.⁵⁰

⁴⁴ 91 Fed.Reg. at 8156, 8166 (proposed 24 CFR § 5.508(e)(2)(vi))

⁴⁵ 42 U.S.C. § 1437y.

⁴⁶ Section 404 of PRWORA requires HUD to provide information of any individual that the HUD Secretary "knows" is not lawfully present in the United States at least four times annually. 42 U.S.C. § 1437y. The HUD Secretary must also "ensure that each contract for assistance entered into under Section 1437d or 1437f of this title with a public housing agency provides that the public housing agency shall furnish such information at such times with respect to any individual who the public housing agency *knows* is not lawfully present in the United States. *Id.* (emphasis added). Because PRWORA does not define "knows," multiple federal agencies, including HUD, issued a joint agency notice defining "knows" for purposes of this reporting requirement. Responsibility of Certain Entities to Notify the Immigration and Naturalization Service of Any Alien Who the Entity "Knows" Is Not Lawfully Present in the United States, 65 Fed.Reg. 58301 (Sept. 28, 2000).

⁴⁷ For example, even if the Proposed Rule eliminates ongoing prorated assistance, approximately 130 mixed status families could qualify to receive prorated "continued assistance." Section 214 only makes "continued assistance" available to existing families who were receiving assistance on June 19, 1995. HUD acknowledges this right but at the same time suggests that the reporting provision will keep families from exercising this right: "HUD notes that while this limited set of mixed families may continue to receive prorated assistance under the existing preservation assistance provision, under other elements of this proposed rule family members who cannot provide documentation of any eligible status may be subject to reporting by PHAs, in compliance with PRWORA, and owners ..."

⁴⁸ 91 Fed.Reg. at 8156-57, 8166 (proposed 24 CFR 5.508(f)(2)(i)). Neither the 2019 Proposed Rule nor the 2025 Leaked Draft included this deadline specific to mixed status families.

⁴⁹ 91 Fed.Reg. at 8156-57, 8166 (proposed 24 CFR 5.508(f)(2)(ii)).

⁵⁰ 91 Fed.Reg. at 8157, 8166-67 (proposed 24 CFR 5.508(g)).

Here is a summary of the timeline described in this subsection:

Deadline	Action Due
Within 30 days of the final rule's effective date	PHA or owner sends a Section 214 notice to all tenants who have not submitted evidence of citizenship and immigration status as of the final rule's effective date.
Within 90 days of the final rule's effective date	Members of mixed status families who have not yet submitted evidence of citizenship and immigration status must submit this evidence to their PHA or owner. They may request an extension of time for a maximum of 30 days.
By the next annual recertification after the final rule's effective date	All other tenants who have not yet submitted evidence of citizenship and immigration status must submit this evidence to their PHA or owner.

B. Proposed Changes Impacting Verification Requirements

In addition to changes impacting mixed status families, the Proposed Rule would impose new verification requirements for millions of HUD tenants.

1. The Proposed Rule would overhaul the process for verifying citizenship for U.S. citizens.

Currently, to establish eligibility for Section 214 housing assistance, U.S. citizens and U.S. nationals only need to provide a signed declaration of their citizenship or nationality status.⁵¹ Public housing authorities have the discretion to request documents proving citizenship, but this policy must be formally included in the PHA Plan.⁵²

The Proposed Rule would overhaul the process for verifying citizenship in the covered HUD housing programs. PHAs and owners would no longer rely on signed declarations of citizenship. Instead, HUD is proposing to require PHAs and owners to verify citizenship status through the Systematic Alien Verification for Entitlement (SAVE) system.⁵³

Located at the U.S. Citizenship and Immigration Services (USCIS) in the Department of Homeland Security (DHS), SAVE is the automated system that federal benefits agencies have historically used to verify immigrant eligibility. Before 2025, SAVE could not verify citizenship status. Last year, the administration overhauled SAVE to add this function,⁵⁴ which is relatively

⁵¹ 24 C.F.R. § 5.508(b)(1).

⁵² *Id.*

⁵³ 91 Fed.Reg. at 8157-58, 8167 (proposed 24 CFR 5.512).

⁵⁴ The Brennan Center has published a useful brief that explains the history of SAVE and the risks of using SAVE to verify citizenship for voting purposes, which parallel the concerns about its use in the HUD housing context. Jasleen Singh, Homeland Security's "SAVE" Program Exacerbates Risks to Voters (July 21, 2025), <https://www.brennancenter.org/our-work/research-reports/homeland-securitys-save-program-exacerbates-risks-voters>.

new, carries a high risk of error, and is currently the subject of litigation.⁵⁵ HUD itself acknowledges SAVE's limited capacity in the preamble."⁵⁶

With this new use of SAVE, HUD proposes a new verification process that proceeds in two stages: (1) primary verification, and (2) secondary verification.⁵⁷ The process is complicated by SAVE's limited capability to review documents verifying citizenship. These complications will likely burden HUD applicants and tenants as well as PHAs and owners. Indeed, PHAs and HUD residents are experiencing in real time the burdens that come from relying on SAVE to verify citizenship under HUD's recent verification directive to PHAs.⁵⁸ Furthermore, it is questionable whether any benefits outweigh these burdens in light of HUD's assumption "that there are relatively few noncitizens who falsely declare citizenship under its current rules because individuals who are not eligible citizens or noncitizens have the opportunity to elect 'do not contend.'"⁵⁹

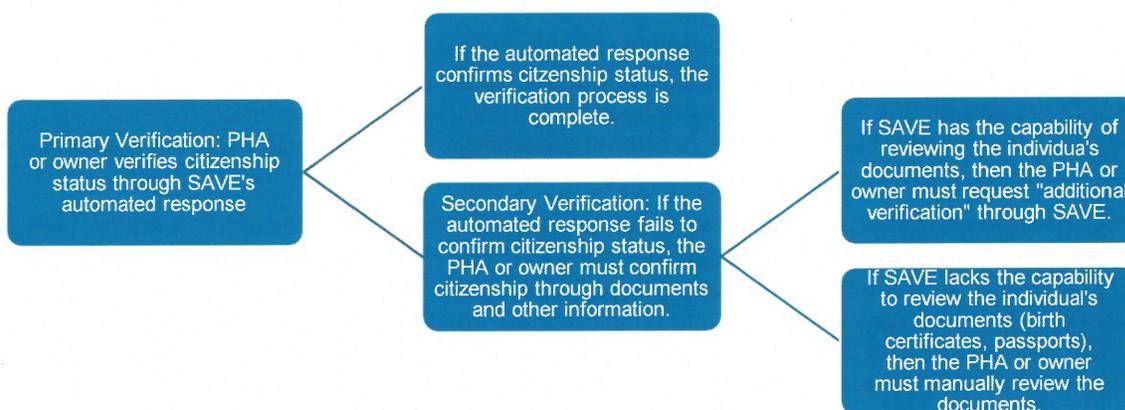


Figure 1. Primary & Secondary Verification of Citizenship Status under the Proposed Rule

Primary Verification: With the introduction of SAVE to verify status, U.S. citizens and U.S. nationals would be required to submit a signed verification consent form in addition to their

⁵⁵ According to USCIS, the overhaul of SAVE to allow agencies to verify citizenship status through Social Security numbers presented the "risk that [it] may share inaccurate information [about citizenship] with registered agencies [such as HUD], which could in turn impact [the] agency's eligibility determination for an individual." First Amended Supplemental Complaint, *League of Women Voters v. U.S. Dep't. of Homeland Security*, Case No. 25-cv-3501-SLS, 33 ¶ 112 (Jan. 21, 2026) https://www.citizensforethics.org/wp-content/uploads/2026/01/LWW-v.-DHS-Amended-Complaint-ECF-61_R.pdf.

⁵⁶ See, e.g., 91 Fed.Reg. at 8159 (noting that "[c]urrently, SAVE has limitations on the types of documents and information it can review"); see *id.* (recognizing "the limitations with the SAVE program and the potential need for manual record searches, which may take significant time").

⁵⁷ *Id.* at 8158-59, 8167 (proposed 24 CFR 5.512).

⁵⁸ See Memorandum from National Housing Law Project to Housing Justice Network, HUD Directive to Public Housing Authorities to Re-Verify Citizenship and Immigration Status (Feb. 3, 2026), <https://www.nhlp.org/wp-content/uploads/HUD-PHA-Directive-Immigration-Re-Verification.pdf>; Letter from National Association of Housing and Redevelopment Officials to Ben Hobbs, Asst. Secretary, Office of Public and Indian Housing, U.S. Dep't of Hous. & Urban Dev. (Feb. 13, 2026), <https://www.nahro.org/wp-content/uploads/2026/02/EIV-SAVE-Letter-to-HUD-2-13-2026-final.pdf>.

⁵⁹ 91 Fed.Reg. at 8152 fn. 14.

signed declaration of citizenship.⁶⁰ After inputting the individual's information into SAVE, the PHA or owner should receive an automated response. If the SAVE automated response confirms the individual's status, then the verification process is complete.⁶¹

For instances where primary verification does not confirm an individual's citizenship, the Proposed Rule would require a new notice from the PHA or owner to the individual. The written notice must:⁶²

- Describe the results of the primary verification and the need for secondary verification;⁶³
- Identify acceptable documentation and/or additional information that the PHA or owner needs to conduct the secondary verification and explain why the documentation or information is needed;⁶⁴ and
- Notify the individual that they can pursue a records correction with any agency that issued or maintained the records relevant to verification,⁶⁵ rather than with HUD directly.

Secondary Verification: If the SAVE automated response fails to confirm an individual's citizenship status, the PHA or owner would be required to perform a secondary verification.⁶⁶ Secondary verification calls for a manual review of documents, so the Proposed Rule would require U.S. citizens and U.S. nationals to submit acceptable documentation and any needed additional information not in document form to the PHA and owner.⁶⁷

The PHA or owner's responsibilities under secondary verification differs depending on the type of document that the individual submits. If the individual submits documents that SAVE cannot review or process, such as birth certificates or passports, the PHA or owner is responsible for manually reviewing the document to confirm citizenship.⁶⁸ If the individual submits documents that SAVE can review and process, such as naturalization and citizenship certificates, then the PHA or owner would request "additional verification" through SAVE.⁶⁹ To account for the fact that "SAVE is an evolving program with an evolving system which may be able to utilize certain information or documents in the future," HUD is leaving the details about when and in what instances PHAs and owners must request "additional verification" through SAVE to future guidance that HUD may release at some unspecified time.⁷⁰

If the secondary verification fails to confirm U.S. citizenship, then the PHA or owner would have to notify the individual that:

⁶⁰ *Id.* at 8155, 8169 (proposed 24 CFR § 5.508(b)(1)).

⁶¹ *Id.* at 8158.

⁶² *Id.* at 8158, 8167 (proposed 24 CFR § 5.512(d)(1)).

⁶³ *Id.* at 8158, 8167 (proposed 24 CFR § 5.512(d)(1)(ii)).

⁶⁴ *Id.* at 8158, 8167 (proposed 24 CFR § 5.512(d)(1)(iii)).

⁶⁵ *Id.* at 8158, 8167 (proposed 24 CFR § 5.512(d)(1)(iv)).

⁶⁶ *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)).

⁶⁷ *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(i)).

⁶⁸ *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(ii)).

⁶⁹ *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(iii)). HUD explains that "'additional verification' describes a SAVE-specific process that utilizes various approaches such as manual process, manual records searches, and electronic processes, including resubmission of new information and documents." *Id.* at 8159.

⁷⁰ *Id.* at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(2)(iii)); *see also id.* at 8519 ("This guidance *may* provide information on how to proceed depending on the documentation and information received by responsible entities from individuals declaring U.S. citizenship or U.S. nationality, when to request additional verification through the SAVE program, and what responsible entities should do where secondary verification fails.") (emphasis added).

- The individual can pursue a records correction with any agency that issued or maintained the records relevant to verification, rather than with HUD directly; and
- The individual has a right to request an informal hearing with the PHA or owner.⁷¹

2. The Proposed Rule would impose new verification requirements for noncitizens who are 62 and older.

Under the current rules, the verification requirement for noncitizens depends on the person's age. Older noncitizens (62+) submit a signed declaration of their immigration status and a document proving their age.⁷² Noncitizens submit (1) a signed declaration of their immigration status, (2) a document proving their immigration status, and (3) a signed verification consent form.⁷³ If a family member does not contend eligibility, there is no verification requirement, regardless of their age, because they are not receiving HUD assistance.⁷⁴

The Proposed Rule would remove the exemption for older noncitizens and instead require all noncitizens, regardless of age, to provide the three documents listed above.⁷⁵

Unlike the overhaul of the citizenship verification process, the Proposed Rule only makes one change specific to the process for verifying immigration status, specifically with respect to secondary verification. Under the current rules, if primary verification fails to confirm an individual's immigration status, then the PHA or owner must initiate secondary verification within 10 days.⁷⁶ The Proposed Rule removes this provision and instead requires PHAs and owners to request additional verification in the SAVE program within 30 days of receiving the results of primary verification.⁷⁷

Note that although SAVE has historically been used to verify immigration status for the covered HUD housing programs, there is a high risk of human error because PHA and owner staff generally lack expertise in the dozens of immigration statuses available.⁷⁸ In a recent letter, HUD also noted that SAVE responses may not be enough on its own and recommend that PHAs also consider Class of Admissions codes to determine immigration status for eligibility purposes.⁷⁹

3. The Proposed Rule would remove a provision regarding appeals to the INS.

The Proposed Rule would remove an existing provision that gives an individual 30 days to appeal to the INS when secondary verification does not confirm their immigration status.⁸⁰ The Proposed Rule does not include a corresponding provision to allow appeals to SAVE because

⁷¹ *Id.* at 8159-60, 8167.

⁷² 24 CFR § 5.508 (b)(2).

⁷³ 24 CFR § 5.508(g)(5).

⁷⁴ 24 CFR § 5.508(e).

⁷⁵ 91 Fed.Reg. at 8153.

⁷⁶ 24 CFR § 5.512(d)(1).

⁷⁷ 91 Fed.Reg. at 8158-59, 8167 (proposed 24 CFR § 5.512(d)(3)).

⁷⁸ See Letter from Benjamin R. Hobbs, Principal Deputy Assistant Secretary, Office of Public and Indian Housing, U.S. Dep't of Housing & Urban Dev. to Executive Directors of Public Housing Authorities 7 app. A "Crosswalk of SAVE System Responses and Section 214 Eligibility for HUD Assistance" (undated), <https://www.hud.gov/sites/dfiles/PIH/documents/PHA-Letter-on-Citizenship-and-Immigration-Status-Verification.pdf>

⁷⁹ *Id.* at 7 fn. 2.

⁸⁰ 91 Fed.Reg. at 8160-61, 8168 (proposed 24 CFR § 5.514(e)).

“SAVE does not offer an appeal process, and the SAVE program does not issue or maintain immigration documents and records.”⁸¹

Note that whereas current law pauses PHA proceedings pending the outcome of the DHS appeal,⁸² any termination or eviction process would not be stayed pending the outcome of any process that individuals will have to undertake to correct their records through SAVE, thus raising potential due process issues.

IV. Frequently Asked Questions

How does the Proposed Rule differ from the 2019 proposed rule?

The Proposed Rule is similar to the 2019 proposed rule. Both rules would take away the ability of mixed status families to live together in HUD-assisted housing as well as change the requirements for verifying citizenship and immigration status.

The Proposed Rule differs from the 2019 proposed rule in two significant ways:

1. Whereas the 2019 proposed rule required U.S. citizens to prove their citizenship status through documentary proof (e.g., birth certificate), the 2026 Proposed Rule introduces a two-stage verification process that first relies on automated responses from the Systematic Alien Verification for Entitlements (SAVE) system and then, if necessary, on a manual review of documentary proof by SAVE or the PHA/owner.
2. The 2026 Proposed Rule adds language to the Notice of Section 214 Requirements about reporting requirements by PHAs and owners. The 2019 proposed rule did not refer to these requirements.

How does the Proposed Rule differ from the 2025 leaked draft of the proposed rule?

The Proposed Rule is similar to the draft rule that ProPublica leaked in September 2025.

The Proposed Rule differs from the draft rule in two significant ways:

1. Whereas the 2025 draft rule required U.S. citizens to prove their citizenship status through documentary proof (e.g., birth certificate), the 2026 Proposed Rule introduces a two-stage verification process that first relies on automated responses from the Systematic Alien Verification for Entitlements (SAVE) system and then, if necessary, on a manual review of documentary proof by SAVE or the PHA/owner.
2. Although both rules included language about reporting requirements by PHAs and owners, the 2025 leaked draft rule proposed to include this language in the verification consent form, while the 2026 Proposed Rule includes this language in the notice of Section 214 requirements.

How does the Proposed Rule relate to HUD’s recent directive to public housing authorities to re-verify citizenship and immigration status?

Weeks before publishing the Proposed Rule, on January 22, 2026, HUD’s Office of Public and Indian Housing sent an undated letter to public housing authorities (PHAs), instructing them to

⁸¹ *Id.* at 8160.

⁸² 24 CFR 5.514(c)(ii)(B).

re-verify the citizenship and immigration status of a subset of HUD residents within 30 days.⁸³ This directive raises several issues, which NHLP discusses in a separate memorandum.⁸⁴ Notably, one such concern is that this directive wrongly assumed that HUD and PHAs have broad authority to ask for documentary proof of citizenship and immigration status from U.S. citizens and older noncitizens (62+) and to run SAVE inquiries on these individuals without their consent. Indeed, through the Proposed Rule, HUD seeks to change the regulations to give HUD and PHAs the authority that it currently lacks.

In addition, implementation of the directive has raised a lot of unanswered questions about implementation for PHAs⁸⁵ and caused panic among immigrant families. Residents and PHAs who are experiencing challenges due to the HUD directive should consider discussing these challenges in their comments about HUD's mixed status rule.

I work with mixed status families. What should I communicate to these families?

To mitigate against the chilling effect of the Proposed Rule on mixed status families, it is important to communicate that the laws have not yet changed and that tenants and advocates are fighting to prevent HUD from making these changes.

HUD has not changed which immigrants are eligible for HUD housing,⁸⁶ and mixed status families continue to have the same rights.

- **Mixed status families have the right to stay in HUD-assisted housing** as long as one family member is a U.S. citizen or has eligible immigration status.⁸⁷ These families will continue to receive prorated rental assistance that covers only eligible family members.⁸⁸
- **Other family members have the right not to contend eligibility.**⁸⁹ These family members should not share their immigration status with their HUD housing provider, and they have no legal obligation to do so. For more information, see NHLP's [know-your-rights resource for tenants about sharing immigration status in HUD housing, available in English and Spanish.](#)

Some families may want to know the process that leads to the law change and how they can fight back. Here is some potential language that we have modified from our know-your-rights materials that you are welcome to use:

⁸³ Letter from Benjamin R. Hobbs, Principal Deputy Assistant Secretary, Office of Public and Indian Housing, U.S. Dep't of Housing & Urban Development, to Executive Directors of Public Housing Authorities, 1 (undated), <https://www.hud.gov/sites/default/files/PIH/documents/PHA-Letter-on-EIV-Report.pdf>.

⁸⁴ See Memorandum from National Housing Law Project to Housing Justice Network, HUD Directive to Public Housing Authorities to Re-Verify Citizenship and Immigration Status (Feb. 3, 2026), <https://www.nhlp.org/wp-content/uploads/HUD-PHA-Directive-Immigration-Re-Verification.pdf>.

⁸⁵ Letter from National Association of Housing and Redevelopment Officials to Ben Hobbs, Asst. Secretary, Office of Public and Indian Housing, U.S. Dep't of Hous. & Urban Dev. (Feb. 13, 2026), <https://www.nahro.org/wp-content/uploads/2026/02/EIV-SAVE-Letter-to-HUD-2-13-2026-final.pdf>.

⁸⁶ For a discussion on immigrant eligibility requirements under Section 214 of the Housing and Community Development Act of 1980, see NHLP, Immigration Requirements: Assistance Programs for Housing and Homelessness, Energy, Disaster, and Water 4 (ESG, CoC, CDBG, HOME, FEMA, RUSH, LIHEAP), https://www.nhlp.org/wp-content/uploads/Immigration-Restrictions_Other-Programs.pdf.

⁸⁷ 42 U.S.C. §1436a(b)(2); 24 CFR § 5.508(a).

⁸⁸ 42 U.S.C. §1436a(b)(2); 24 CFR § 5.520(a).

⁸⁹ 42 U.S.C. §1436a(b)(2); 24 CFR § 5.508(a).

HUD cannot change the rule until it completes the rulemaking process. This process takes time and will not happen overnight. On February 20, 2026, HUD published its proposal and give the public 60 days to submit comments and objections. You can submit comments through www.keep-families-together.org. The deadline for submitting comments is Tuesday, April 21, 2026. After the 60-day period, HUD will review the comments, which could take weeks, possibly months. After reviewing these comments and objections, HUD may publish a final rule, but it usually does not take effect until 30 days later. During those 30 days, a court may stop the rule if it finds that HUD did not properly consider the comments and objections.