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### **FHCCI CONDEMNS HUD'S CHANGES TO VITAL FAIR HOUSING RULE**

INDIANAPOLIS – Today, the U.S. Department of Housing & Urban Development (HUD) published in the Federal Register its proposed rulemaking regarding the Discriminatory Effects Standard (also known as Disparate Impact). These changes would dismantle key longstanding civil rights protections built on preventing housing discrimination. The Fair Housing Center of Central Indiana (FHCCI) joins the National Fair Housing Alliance and a diverse array of civil rights, consumer protection, and community development groups to challenge these proposed changes.

If the proposed rule is finalized, it would be virtually impossible to challenge covert discriminatory practices by financial institutions, insurance companies, and housing providers, and open the floodgates for widespread discrimination against millions of people, particularly communities of color, women, immigrants, families with children, people of faith, LGBTQ people, and people with disabilities. HUD's proposed rule adds new standards and makes drastic changes that institute dangerous exceptions to the disparate impact tool, which has been used for almost 50 years to combat discrimination.

“The Fair Housing Act bars not only intentional discrimination, but also the use of policies that appear neutral on their face but have the effect of creating unnecessary ‘disparate impact’ on underserved groups such as people of color, women, and people with disabilities,” stated Amy Nelson, Executive Director of the FHCCI. “Disparate impact is a foundational fair housing principle and an essential part of the fabric of fair housing enforcement.”

As stated so eloquently by the Poverty & Race Research Action Council, the “Discriminatory Effects Standard (commonly known as Disparate Impact) of the Fair Housing Act of 1968 upholds our societal obligation to fairness by respecting and protecting equal opportunity. The goal of the Disparate Impact standard is to root out unjustified practices that discriminate against groups protected by the Fair Housing Act, even where there is no specific evidence of discriminatory intent. The standard is based on an understanding of how hidden, stubborn prejudice can result in needless, facially neutral policies that discriminate against protected classes in practice. Without clear support for this standard from the federal government, as well as both public and private actors will be given virtual license to design and implement discriminatory policies.”

Key proposed changes in the proposed rule include:

- **Overwhelming obstacles to prove discrimination:** Victims of discrimination will face a drastically higher burden to prove a disparate impact claim under the Fair Housing Act, making it virtually impossible to succeed. Victims are asked to play a rigged game of whack-a-mole, trying to guess what justifications a defendant might invoke and preemptively debunk them.
- **Profits above all else:** Language in the proposed rule suggests that a practice or policy that is profitable could be immune from challenge for its discriminatory impact—with the burden on victims of discrimination to show that a company can make at least as much money without discriminating.
- **Discrimination by algorithm:** The proposed rule would provide special defenses for business practices that rely on statistics or algorithms. Disparate impact is a critical tool to rein in discrimination in the use of algorithmic models—such as credit scoring, pricing, marketing, and automated underwriting systems. They can have starkly discriminatory effects but can operate as a hidden box, making those discriminatory effects difficult to attribute to any person’s intentional discrimination. HUD’s proposed rule could effectively immunize such covert discrimination by algorithm.
- **No data, no records, no accountability:** Businesses are disincentivized in the proposed rule to collect important data that can reveal discrimination. This means that victims of discrimination will be unable to identify whether discrimination is happening and lack the ability to challenge it if they do detect discrimination.

Learn more about Disparate Impact at: <https://nationalfairhousing.org/disparateimpact/>

#DefendCivilRights #FairHousing #DisparateImpact

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The Fair Housing Center of Central Indiana (FHCCI) is a private, non-profit fair housing organization founded in 2011 and based in Indianapolis, Indiana. Its mission is to ensure equal housing opportunities by eliminating housing discrimination through advocacy, enforcement, education and outreach. For more information, visit: [www.fhcci.org](http://www.fhcci.org)