RESOLVED, That the American Bar Association opposes legislation to repeal the federal Section 8 low-income housing voucher program or similar legislative proposals that would eliminate the present funding structure based on actual costs for the number of vouchers used and replace it with a state-administered block grant system.

FURTHER RESOLVED, That the American Bar Association urges state, local and territorial bar associations to work within their jurisdictions to promote a better understanding of the Section 8 low-income housing voucher program and to ensure fair administration and access to this program for those entitled to participate in the program.
Introduction

Congressional legislation has been introduced which seeks to transform the country’s primary form of housing assistance to the poor by replacing the Section 8 low-income housing voucher program with a new system of block grants to the states. The proposed transformation would alter the nature of the federal role and commitment to low-income housing. In the present Congress, separate bills that differ slightly have recently been introduced in the House and the Senate (H.R. 1841; S. 947). Both bills authorize the shift from the federally funded and administered voucher program to a state-administered block grant system under the proposed program, Housing Assistance for Needy Families (HANF). These proposals are supported by the Administration.

Although the voucher program is the cornerstone of federal housing assistance for low-income families, senior citizens and people with disabilities, the voucher program presently serves merely a fraction of those in need. In fact, about five million low-income households that receive no housing assistance either pay more than half of their income for rent and utilities or live in severely substandard rental housing. The Administration’s plan to replace the voucher program and its present funding structure based on actual costs for the number of vouchers used with a state-administered block grant would exacerbate this problem by resulting in reduced program funding, stricter participation requirements and weakened federal protections.  

Since the Ford Administration, federal spending on housing related programs has been reduced. The Ford Administration requested over 400,000 Section 8 vouchers in 1976. The 2003 budget request is for 34,000 vouchers. This drastic reduction in funding for housing has resulted in more people on the streets and has most adversely affected the elderly, low-income families with children and the disabled.

Obviously, the need is greater today than ever before and a renewed commitment to federal housing programs is necessary to help those segments of our society that are most likely to “fall through the cracks”. The demand for low income or housing assistance continues to increase despite these cuts in federal housing assistance. A recent study found that 4.8 million low-moderate income working families --- families earning between the full-time minimum wage and 120% of the area median income --- have critical housing needs, spending more than half of their income on rent or living in substandard housing.

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3 Id.
Housing vouchers, commonly referred to as “tenant-based Section 8” vouchers, are the nation’s principal form of assistance to low-income renter families and elderly and disabled people. Voucher holders generally pay 30 percent of their income to live in modestly priced private housing, with the voucher covering the remainder of the rent and utility costs. The voucher program has proven to not only make housing affordable to low-income families and elderly and disabled individuals, but also may reduce welfare receipt and have positive effects on employment, earnings, educational outcomes, and child well-being.  

More than half (53%) of all voucher holders are families with children. Another 40% are seniors or people with disabilities. Only about 1 of every 5 voucher holders receives welfare benefits. Approximately 40% earn wages, while most others rely on disability or retirement income.

The Section 8 program has traditionally received the bipartisan support of policymakers and housing administrators who say that the program helps landlords fill vacancies, offsets the need for expensive public housing projects and serves as a safety net for those at risk of becoming homeless. The bipartisan Millennial Housing Commission concluded in a recent report that the housing voucher program is “flexible, cost-effective, and successful in its mission” and should serve as the “linchpin” of national housing policy.

Since the inception of the Section 8 program nearly thirty years ago, Congress has authorized more than two million housing vouchers. Due to funding limitations and the ever-increasing need for housing assistance, however, the voucher program reaches only a fraction of the low-income households eligible for it. Approximately three-fourths of the low-income households that are eligible for vouchers do not receive any form of federal housing assistance. And, in most locations, eligible households are waitlisted for vouchers for several years.

Replacing the voucher program and its current funding structure that is based on actual costs for the number of vouchers used with a state-administered block grant is likely to result in reduced program funding, stricter participation requirements and weakened federal protections. States will have the “freedom” to change eligibility rules, combine housing and welfare policies, or provide shorter subsidies administered by religious and other nonprofit groups, as well as local housing authorities.

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8 Memorandum from Barbara Sard to Persons Interested in Voucher Block Grant Legislation (May 6, 2003) (on file with the ABA Commission on Homelessness and Poverty).
The proposed block grant system would be a discretionary program with funding set in the annual appropriations process. Both S. 947 and H.R. 1841 merely authorize the appropriation of “such sums as may be necessary.” (Section 9(c) of H.R. 1841; § 14 of S. 947). Neither bills mention increasing the authorized level of funding to reflect inflation or increases in housing costs.9

Under the proposed legislation, funding would be distributed according to a new formula beginning in FY ’06. Unlike the current fair share statute, 42 U.S.C. §1439, the proposed bills would not require the Secretary of HUD to consider the relative housing needs of the eligible population. Rather, the only specified criteria related to need are the current number of families assisted, housing costs (but not rent burden, overcrowding or homelessness), and poverty. Given the vagueness of the criteria in the bills, it is impossible to determine the likely distributional consequences of a new formula compared with the current fair share formula for distributing most incremental assistance.10

With regards to the administration of the block grant, both bills state that the governor can designate any agency or “instrumentality” of the state to receive the block grant funds from HUD.11 If a state declines to accept the funds or if HUD determines that a state does not have the capacity to administer the program, HUD will select one or more public housing agencies or other entities to receive the state’s share of the funds. Any entity could be selected by HUD, including for-profit or faith-based organizations. Shifting the responsibility to states to handle housing vouchers may prove to be problematic given the fact that 17 states presently have no agency with any experience in the administration of housing vouchers.12

Although the bills specify a number of required performance standards for states, a number of what would seem to be crucial standards are missing. For example, there is no standard for the quality or poverty level of neighborhoods. Furthermore, there is no standard concerning the income of families to be admitted to the program. Finally, there is no performance standard specifically related to outcomes for families with children, nor is there any standard concerning reduction in rent burdens.13

As envisioned by the proposed bills, the new block grant system would provide states with the power to enact new program guidelines and restrictions. For example, states would be free to limit the program to certain parts of the state and to redistribute current voucher allocations among areas. If states opt to exercise this option, remote areas and those areas with higher housing costs may not be served.14

States would also have the authority to define income. As such, the possibility exists that the application of HUD definitions to particular family circumstances would differ from state to state

9 Id.
10 Id.
11 Id.
13 Memorandum from Barbara Sard to Persons Interested in Voucher Block Grant Legislation (May 6, 2003) (on file with the ABA Commission on Homelessness and Poverty).
14 Id.
and from current law. For example, federal law now specifies that the earnings of minors and foster care payments be excluded from the definition of income. States would not be required to continue any HUD policies on such exclusions from income that are not otherwise required by federal law. Furthermore, states could modify or eliminate eligibility and targeting requirements that were established by Congress to ensure that vouchers are provided to the neediest families.15

Under the proposed block grant bills, states are authorized to set requirements for continued eligibility for tenant-based or homeownership assistance. It is by this authority that states would be permitted to set time limits or work requirements, as well as various behavioral standards, for current and future recipients of housing assistance.16

The proposed bills also create a mandatory minimum rent. Under the current system, only 40% of housing agencies impose a minimum rent of $50 in their voucher programs. The new block grant system dictates that states must enforce a minimum rate of $50 or higher.17

The new block grant system will also weaken the standards for housing quality and inspections. Presently, landlords participating in the voucher program are required to meet basic housing quality standards. Under the proposed block grant bills, housing units in many locations would not have to meet federal standards. Furthermore, states would only have to inspect units every three years rather than the current annual inspections that are required by federal law.18

States could transfer the block grant funds intended to replace the Section 8 housing vouchers for other uses. For example, states could use the money to provide subsidies to developers of affordable housing. Although affordable housing is desperately needed, people presently holding Section 8 vouchers and the thousands upon thousands who remain on waiting lists for housing assistance are not in a position to wait years for the development of new housing projects.

Finally, the name of the proposed program, HANF, bears a striking resemblance to another federal program that devolved to state administration: TANF. Some proponents of HANF claim that the new program should be crafted like TANF in order to get tough on people who have become reliant on housing assistance --- just as their predecessors who were perceived as relying on welfare benefits. However, the analogy of housing aid to welfare is misguided. HUD figures show that just 13 percent of the households with Section 8 vouchers depend on welfare, while 35 percent get most of their income from jobs.19 Furthermore, the largest group of Section 8 recipients relies on disability or retirement benefits.20 Thus, the largest Section 8 population has income, but it’s insufficient to afford housing. Finally, the elderly and disabled are necessarily reliant on housing assistance given the fact that they aren’t in a position to find employment to supplement their social security and/or social security disability insurance payments.

15 Id.
16 Id.
17 Id.
18 Id.
20 Id., at A1.
Replacing the Section 8 housing voucher program with state-administered block grants will jeopardize the housing security for those who are most in need of housing assistance: current participants in the voucher program, children in low-income families, people with disabilities, victims of domestic violence, and people experiencing homelessness.

Current participants in the voucher program may be at risk of becoming homeless since tenants’ share of the rent could go up if housing vouchers are block-granted. Under the proposed block-grant system, even individuals without any income would be required to pay at least $50 per month. They may be less secure in their housing since states may impose time limits on vouchers and rules against unfair evictions may be weakened. States may choose to eliminate housing vouchers for families that lose welfare benefits. Finally, the right to participate in making policy decisions for the voucher program through the Resident Advisory Board would be eliminated.\(^{21}\)

Children in low-income families would also be affected if housing vouchers are block-granted. More children would live in poor quality housing, exposing them to lead poisoning and respiratory disease as housing units in many locations would no longer be required to meet the federal standards for basic housing quality. In fact, states would only be required to inspect units every three years rather than annually.\(^{22}\)

If states impose time limits on vouchers, then families would be forced to move more often. Consequently, children would be forced to change schools more frequently --- a condition that has been found to impede educational success. Furthermore, if the tenants’ share of the rent is increased, then families may have to divert money for food to pay rent. Finally, more children would be homeless since a block-grant program would cause homeless families to wait longer for vouchers.\(^{23}\)

People with disabilities would be adversely affected if housing vouchers are block-granted. Fewer vouchers would be available to assist people with disabilities move from institutions or inadequate housing as funding levels will inevitably fall further behind actual housing costs. Furthermore, some vouchers that are presently set aside for people with disabilities could be available to the general public since a block-grant system could eliminate restrictions on “special purpose” vouchers. People with disabilities may also be placed at risk of becoming homeless if states choose to lower the amount of rent covered by a voucher.\(^{24}\)

Victims of domestic violence would be affected if housing vouchers are block-granted. Fewer vouchers would be available to help women and children escape abusive situations, as funding


\(^{23}\) Id.

levels would fall behind actual costs. Domestic violence victims would have to wait longer for housing assistance, as vouchers will be in short supply. Finally, families with vouchers may be at risk of becoming homeless if states place time limits on vouchers or weaken rules against unfair evictions, both of which are possible under a block-grant system.25

People experiencing homelessness would remain homeless for longer periods of time, creating greater risks to their health and safety. Under a block-grant system, states would be able to fund fewer vouchers, causing long waiting lists for housing assistance. Additionally, fewer vouchers would be available to prevent homelessness. Longer waiting lists would make the voucher program less responsive to families who are at risk of losing their homes. Finally, people who need housing assistance the most would be less likely to receive vouchers. Program rules currently require three out of four vouchers to go to applicants with the lowest incomes, a group that includes many people who are homeless or at risk of becoming homeless. Under the proposed block-grant system, states would only be required to allocate roughly half of their vouchers to those with the lowest incomes.26

Finally, the proposed block-grant system would be harmful to fair housing. For example, fewer vouchers would be available to enable families to escape residential segregation. States could bar people with vouchers from certain neighborhoods and place other restrictions on where voucher holders can live. Currently, housing agencies must allow eighty percent of vouchers to be used in the location of the tenant’s choice. Under a block grant system, this rule could be changed, allowing states to require that most or all vouchers be used in specified buildings. In some states, there would undoubtedly be political pressure to direct vouchers to high-poverty neighborhoods with predominantly minority populations. States could also declare certain neighborhoods “off limits” to voucher holders.27

Conclusion

The American Bar Association has a long history of improving access to justice for all persons, especially those who are least able to protect their own rights: children in low-income families, people with disabilities, victims of domestic violence, and people experiencing homelessness. The Association has demonstrated this commitment by advocating in support of adequate funding for, timely access to and due process in all levels of the justice system. The Association has also advocated for adequate funding for, timely access to and due process in the administration and receipt of public benefits and housing programs.28

28 See ABA Resolution No. 1 (August 1977); ABA Resolution No. 126A (August 1986); ABA Resolution No. 122 (August 1992); ABA Resolution No. 110 (February 1994); ABA Resolution No. 111 (August 1995); ABA Resolution No. 110 (February 1997); ABA Resolution No. 105B (August 2001).
At a time when more than 3.5 million men, women and children will experience homelessness in the United States this year (1.35 million of whom are children), it is crucial that the housing rights of the most poor and vulnerable be protected. Homeless shelters are already overburdened. Affordable housing is tough to come by. In fact, nowhere in America can a person making minimum wage afford the market rent on an apartment. The Section 8 housing voucher program is the cornerstone of low-income housing in the United States. Replacing the present system of needs-based funding with a state-administered block grant will alter the federal role and commitment to low-income housing across the country and will ultimately place thousands of poor families, senior citizens and people with disabilities at risk of becoming homeless.

Respectfully Submitted,

William H. Hoch
Chair, Commission on Homelessness and Poverty
August, 2003

GENERAL INFORMATION FORM

Submitting Entity: Commission on Homelessness and Poverty

Submitted By: William H. Hoch, Chair

1. **Summary of Recommendation(s).**

The recommendation states the American Bar Association’s opposition to replacing the Section 8 low-income housing voucher program --- the cornerstone of federal housing assistance for low-income families, senior citizens and people with disabilities --- with a state-administered block grant system. The recommendation also urges state, local and territorial bar associations to promote a better understanding of the Section 8 housing voucher program and to ensure fair administration and access to this program for those entitled to participate.

2. **Approval by Submitting Entity.**

Approved by the Commission on Homelessness and Poverty on May 14, 2003.

3. **Has this or a similar recommendation been submitted to the House or Board previously?**

No.

4. **What existing Association policies are relevant to this recommendation and how would they be affected by its adoption?**

The American Bar Association has a long history of improving access to justice for all persons, especially those who are least able to protect their own rights: children in low-income families, people with disabilities, victims of domestic violence, and people experiencing homelessness. In the past, the Association has supported initiatives and legislation concerning homeless and impoverished people, including policy in support of an increase in the availability of affordable transitional and permanent housing (housing and community economic development, 1999 Annual Meeting; affordability and availability of housing, 1995 Annual Meeting; and funding for public housing, 1992 Annual Meeting), as well as policy in support of access to justice and legal aid for indigent people (legal representation for indigent defendants, 1998 Annual Meeting; access to justice, 1995 Midyear Meeting; free legal representation to those at risk of becoming homeless, 1994 Annual Meeting; indigent defense services, 1991 Midyear Meeting; equal access to justice, 1990 Annual Meeting).

Adoption of this recommendation would enhance the Association’s policy concerning public housing and allow the Association to lend its voice to protect the successful Section 8 housing voucher program and housing aid for low-income families, people with disabilities, victims of domestic violence, and people experiencing homelessness.
5. What urgency exists which requires action at this meeting of the House?

Congressional legislation has been introduced which seeks to transform the country’s primary form of housing assistance to the poor by replacing the Section 8 low-income housing voucher program with a new system of block grants to the states. The proposed transformation would alter the nature of the federal role and commitment to low-income housing and place thousands of low-income families with children, senior citizens and people with disabilities at risk of becoming homeless.

Two bills were introduced in the House and Senate on April 29, 2003: H.R. 1841 and S. 947. Action by the House at this meeting will enable the Association to comment on the legislation prior to thorough consideration and action by the Congress.

6. Status of Legislation (If applicable.)

Two bills were introduced in the House and Senate on April 29, 2003: H.R. 1841 and S. 947. H.R. 1841 was referred to the House Committee on Financial Services. S. 947 was referred to the Committee on Banking, Housing, and Urban Affairs. Neither bill has any cosponsors at this time.

7. Cost to the Association (Both direct and indirect costs.)

There is no direct cost to the Association.

8. Disclosure of Interest (If applicable.)

N/A

9. Referrals.

The recommendation has been referred to the following ABA entities:
  - Commission on Domestic Violence
  - Commission on Law and Aging
  - Commission on Mental and Physical Disability Law
  - Forum on Affordable Housing
  - Section of Family Law
  - Section of Real Property, Probate and Trust Law
  - Senior Lawyers Division
  - Standing Committee on Legal Aid and Indigent Defendants
  - Standing Committee on Pro Bono and Public Service
  - Steering Committee on the Unmet Legal Needs of Children
  - Young Lawyers Division
10. **Contact Person**  (Prior to the meeting.)

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11. **Contact Person**  (Who will present the report to the House.)

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