



AFFH FACT SHEET:

THE DUTY TO AFFIRMATIVELY FURTHER FAIR HOUSING

WHAT IS THE DUTY TO AFFIRMATIVELY FURTHER FAIR HOUSING?

From its inception, the Fair Housing Act (and subsequent laws reaffirming its principles) not only prohibited discrimination in housing related activities and transactions but also imposed a duty to affirmatively further fair housing (AFFH). The AFFH rule sets out a framework for local governments, States, and public housing agencies (PHAs) to take meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The rule is designed to help program participants better understand what they are required to do to meet their AFFH duties and enables them to assess fair housing issues in their communities and then to make informed policy decisions.

For purposes of the rule, affirmatively furthering fair housing "means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development."

For purposes of the rule, meaningful actions "means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity."

WHAT IS THE PROCESS PROGRAM PARTICIPANTS MUST FOLLOW?

Under the AFFH rule, an "Assessment of Fair Housing" (AFH) will replace the current "Analysis of Impediments" (AI) process. The AFH Assessment Tool, which includes instructions and data provided by HUD, consists of a series of questions designed to help program participants identify, among other things, fair housing issues pertaining to patterns of integration and segregation; racially and ethnically concentrated areas of poverty; disparities in access to opportunity; and disproportionate housing needs, as well as the contributing factors for those issues.

- The Assessment Tool is intended to help communities understand and identify local barriers to fair housing choice. The AFH provides an approach that will help program participants more effectively affirmatively further the purposes and policies of the Fair Housing Act.
- HUD will review the AFH within 60 calendar days after the date of submission. An AFH submission is deemed accepted 61 days after submission unless HUD provides notification on or before that it is not accepted. Non-acceptance notifications will explain the reasons for non-acceptance and how a program participant may remedy deficiencies.
- The AFFH rule establishes specific requirements for the incorporation of the AFH into subsequent Consolidated Plans and PHA Plans in a manner that connects housing and community development policy and investment planning with meaningful actions to AFFH.
- The AFFH rule links existing community participation and consultation requirements to the AFH process to ensure program participants give the public opportunities for involvement in the development of the AFH and in its incorporation into the Consolidated Plan and PHA Plan.

HUD Rule on Affirmatively Furthering Fair Housing

The U.S. Department of Housing and Urban Development (HUD) has released a final rule to equip communities that receive HUD funding with the data and tools that will help them to meet long-standing fair housing obligations in their use of HUD funds. HUD will provide publicly open data for grantees to use to assess the state of fair housing within their communities and to set locally-determined priorities and goals. The rule responds to recommendations of the Government Accountability Office and stakeholders for HUD to enhance its fair housing planning obligations by providing greater clarity and support to jurisdictions receiving HUD funding, and facilitating local decision-making on fair housing priorities and goals.

For more than forty years, HUD funding recipients have been obligated by law to reduce barriers to fair housing. Established in the Fair Housing Act of 1968, the law directs HUD and its program participants to affirmatively further the Act's goals of promoting fair housing and equal opportunity. The final rule on affirmatively furthering fair housing (AFFH) aims to provide all HUD grantees with clear guidelines and the data that will help them to achieve those goals, because no child's ZIP code should determine her opportunity to achieve.

HUD's rule clarifies and simplifies existing fair housing obligations for HUD grantees to analyze their fair housing landscape and set locally-determined fair housing priorities and goals through an Assessment of Fair Housing (AFH). To aid communities in this work, HUD will provide open data to grantees and the public on patterns of integration and segregation, racially and ethnically concentrated areas of poverty, disproportionate housing needs, and disparities in access to opportunity. This improved approach provides a better mechanism for HUD grantees to build fair housing goals into their existing community development and housing planning processes. In addition to providing data and maps, HUD will also provide technical assistance to aid grantees as they adopt this approach.

Key features of this final rule include:

- Clarifying existing fair housing obligations. Existing patterns of meeting AFFH obligations have been undermined by limited access to data about fair housing conditions and access to opportunity. A Government Accountability Office report from 2010 also cited a lack of clarity, standards, and transparency for communities under the current process. HUD's rule clarifies and standardizes this process.
- Publicly open data on fair housing and access to opportunity. HUD will provide publicly open data and mapping tools to aid community members and local leaders in setting local fair housing priorities and goals.
- A balanced approach to fair housing. The final rule helps to facilitate communities relying on local knowledge and local decision-making to determine best strategies for meeting their fair housing obligations at the local level – including making place-based investments to revitalize distressed areas, or expanding access to quality affordable housing throughout a community.

- Expanding access to opportunity. The strength of America's economy, the stability and security of its neighborhoods, and the ability for all to prosper depends on all Americans having equal access to opportunity – no matter what they look like or where they come from. This rule facilitates local decision-making by HUD grantees to expand equal access to opportunity for all Americans.
- Valuing local data and knowledge. HUD is providing grantees with publicly open data to assist with their assessment of fair housing, but grantees will also use local data and knowledge to inform local decision-making, including information obtained through the community participation process.
- Customized tools for local leaders. Recognizing that one size does not fit all grantees, given their differing responsibilities and geographic areas served, HUD will be providing fair housing assessment tools specific to local jurisdictions, public housing authorities (PHAs), and states and Insular Areas.
- Collaboration is encouraged. Many fair housing priorities transcend a grantee's boundaries. Actions to advance these priorities often involve coordination by multiple jurisdictions. The final rule encourages grantees to collaborate on fair housing assessments to advance regional fair housing priorities and goals.
- Community voice. The rule facilitates community participation in the local process to analyze fair housing conditions and set local priorities and goals.
- A phased-in approach. The final rule provides for additional time for communities to adopt this improved process for setting local fair housing priorities than originally proposed.
- Additional time for small grantees and recent regional collaborations. Local jurisdictions receiving a CDBG grant of \$500,000 or less and qualified PHAs will have more time to submit their first AFH. Grantees that recently submitted a Regional Analysis of Impediments in connection with HUD's Sustainable Communities competition have additional time to submit their first AFH than originally proposed.