



Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street SW
Room 10276
Washington, DC 20410-0500

Re: Docket No. FR–6250–P–01, Affirmatively Furthering Fair Housing

We write to you on behalf of the National Alliance to End Homelessness (herein referred to as the Alliance) in response to the U.S. Department of Housing and Urban Development’s (HUD’s) Proposed Rulemaking: Affirmatively Furthering Fair Housing (AFFH), which was published in the Federal Register on February 9, 2023. We support the proposed regulations to implement the obligation to affirmatively further fair housing required by the Fair Housing Act. We consider the proposed rule an improvement of the 2015 AFFH rule.

The Alliance is a nonpartisan, nonprofit organization whose sole purpose is to prevent and end homelessness. According to the 2022 Annual Homeless Assessment Report (AHAR), on any given day 585,462 people experience homelessness, with 40 percent of them being unsheltered and sleeping on the streets or in other places not meant for human habitation. The impacts of federal, state, and local policies and practices that led to discriminatory practices against people of color and marginalized groups shows up in federal homelessness data. While homelessness impacts people of all ages, races, physical and cognitive abilities, ethnicities, gender identities, and sexual orientations, it disproportionately impacts some groups and populations. People of color, for example, are especially overrepresented with Black Americans being represented at a rate of 3 to 1 compared to the general population, American Indians and Alaska Natives being represented as high as 5 to 1, and Latinos and Native Hawaiian and Pacific Islanders also experience homelessness at very high rates.

There is a national shortage of affordable housing which both results in people becoming homeless and hampers their ability to exit homelessness quickly. Compounding this crisis is the discrimination that marginalized households face due to factors including race, ethnicity, sexual orientation and gender identity, familial status, disability status, source of income, criminal records, and credit history. The lack of affordable housing that is also accessible makes it even harder for people with disabilities to find housing that will meet their needs¹.

The Alliance applauds many of the proposed regulatory provisions. We highlight six for particular attention:

¹ The American Housing Survey of 2011 found that less than five percent of housing in the U. S. is accessible for individuals with moderate mobility difficulties and less than one percent of housing is accessible for wheelchair users. [Accessibility of America’s Housing Stock: Analysis of the 2011 American Housing Survey \(AHS\) | HUD USER](#)



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1. **Enhanced community engagement provisions.** We are very pleased that the proposed rule requires program participants to hold at least three public “meetings” during the development of a fair housing Equity Plan, plus two more public meetings each year to obtain public input regarding a program participant’s progress toward meeting its fair housing goals from the previous year.
2. **Greater public transparency.** We endorse requiring HUD to post on a HUD-maintained website, submitted Equity Plans, Annual Progress Evaluations, and relevant communications between HUD and program participants.
3. **Public complaint process.** We are very pleased that the rule would enable the public to directly submit complaints to HUD regarding allegations that a program participant is failing to comply with the AFFH regulations and that HUD would be obliged to process complaints and open a compliance review if warranted.
4. **A stronger link between Equity Plan goals and Consolidated Plans and PHA Plans.** More directly requiring an Equity Plan’s fair housing goals to be incorporated in Consolidated Plans and PHA Plans will better ensure that a program participant’s programs, activities, and services, along with HUD and other federal, state, and local funds used to implement them, are consistent with the obligation to affirmatively further fair housing.
5. **An annual evaluation of progress toward achieving fair housing goals.** Requiring at least two annual meetings to obtain public input regarding a program participant’s performance toward achieving its fair housing goals can foster any necessary corrections in the upcoming year.
6. **Clarification and emphasis on the need for a balanced approach to AFFH.** It is important that a program participant use a combination of place-based and mobility strategies and actions, such as preserving existing affordable housing in racially or ethnically concentrated areas of poverty, while also initiating policies that remove barriers (such as zoning ordinances) preventing people from obtaining affordable housing in well-resourced neighborhoods.

Although the Alliance is supportive of the proposed rule, we do have some concerns and suggestions that we urge HUD to seriously consider strengthening the final rule.

1. **Strengthening the community engagement process.**
 - a. The current community engagement process described in the proposed rule calls for three stages in developing an Equity Plan, however, there is no direction tying the public engagement process to what is submitted to HUD. Although HUD will allow for the public to provide new information to HUD while it is reviewing a program participant’s plan, the scope HUD will consider will be limited. The program participant should be accountable to the community’s input and there should be an opportunity for the public to review and provide further comments on the Equity Plan prior to it being sent to HUD to review. Therefore, we urge HUD to add language that requires a fourth stage to the community engagement process to reflect a stage for a public comment period that must be open for at least 10 days prior to submission to HUD.



- b. While the Alliance appreciates the connection with other community plans, we urge HUD to eliminate the provisions which would allow AFFH community engagement to be combined with Consolidated Plan and PHA Plan participation which have much more limited community engagement rules.
 - c. The Alliance recommends that the final rule explicitly allows for meeting formats that would allow for a virtual engagement to ensure participation from members of protected classes and underserved communities such as those with childcare or eldercare responsibilities, people with a disability that makes attending in-person meeting difficult, and those who lack affordable or reliable transportation. This is particularly important for rural communities.
 - d. The rule should make clear that program participants must engage with those people whose lives and experiences are most directly impacted by fair housing issues, including people experiencing homelessness. Other organizations that should be explicitly included in the community engagement process should include: fair housing organizations and others involved in fair housing outreach and enforcement; organizations that provide housing, health, social services and other services to members of protected classes, including homeless services providers; and, groups representing different segments of the housing industry (e.g., lending, insurance, real estate sales and rentals).
2. **Greater public transparency and accountability is needed.** The final rule should require program participants to post on their own website draft Equity Plans, submitted Equity Plans, Annual Progress Evaluations, and key communications between HUD and a program participant. In addition, the program participant must also provide a summary of the community input that was provided along with how that input was utilized in the Equity Plan submitted to HUD.
3. **Local fair housing outreach and enforcement capacity should be a fair housing goal category.** The proposed rule leaves out an important component of the fair housing infrastructure, which is the local fair housing outreach and enforcement capacity. While outreach and education help ensure that community residents and housing providers understand their fair housing rights and responsibilities, enforcement capacity ensures that residents' fair housing rights are protected, and when those rights are violated, that the affected people are made whole and corrective measures are put in place. As part of their Equity Planning process, program participants should be required to assess the condition of the fair housing outreach and enforcement infrastructure in their communities, and then encouraged to provide support for these organizations where they exist and help to establish them where they do not.
4. **Definitions.** The Alliance urges HUD to make the following amendments to definitions:
 - a. Define “affordable” housing as housing that requires a household to spend no more than 30 percent of their adjusted income on housing expenses and utilities.



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- b. Replace the use of “low- and moderate-income” to “Is affordable to households at a range of income levels: ‘extremely low-income’ (less than 30% AMI or the federal poverty level), ‘very low-income’ (less than 50% AMI and greater than 30% AMI), and ‘low-income’/‘moderate-income’ (less than 80% AMI and greater than 50% AMI).”
- c. Replace “basic habitability requirements” with “Housing that meets Housing Quality Standards (HQS) regulations for the Housing Choice Voucher program and the NSPIRE regulations for other HUD programs (or any future modifications or substitutions for those programs), and state or local habitability requirements for housing not assisted with a federal program. Basic habitability standards for HUD-assisted housing also includes full compliance with all lead-based, carbon monoxide, radon, and environmental quality hazard regulations.”

The proposed rule is a much-needed step to fight housing discrimination and segregation in the U.S. It will improve housing opportunities for people most in need, including people experiencing homelessness—especially people of color, people with disabilities, and LGBTQ+ people.

We commend HUD for upholding its commitment to affirmatively furthering fair housing and support the proposed rule.

If you have any questions about our comments, please contact Marcy Thompson, Vice President for Programs and Policy, [REDACTED]