

FACT SHEET:

AFFIRMATIVELY FURTHERING FAIR HOUSING



What is fair housing?

Fair housing is the right to choose housing free from unlawful discrimination. The federal Fair Housing Act and Michigan laws protect people from discrimination in housing based on race, color, religion, sex, national origin, familial status, disability, marital status, and age. Discrimination is illegal in housing transactions such as rentals, sales, lending, and insurance.

What is affirmatively furthering fair housing (AFFH)?

Affirmatively furthering fair housing is a **requirement** to use Federal financial assistance and other housing program resources in a manner that counteracts historic and contemporary forces that created or perpetuate housing segregation, overcomes barriers to fair housing choice, and promotes equal housing opportunity. AFFH “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.”

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The main origins of this requirement lie within the Fair Housing Act (42 USC §3608(e)(5)) and Executive Order 12892, which require federal agencies to “affirmatively further fair housing” in their programs and activities, and provide that the Secretary of the U.S. Department of Housing and Urban Development (HUD) will be responsible for coordinating the effort. HUD announced a final rule on AFFH in July 2015.

What is the AFFH Rule?

The AFFH rule sets out a framework for local governments, States, and public housing agencies (PHAs) to take significant 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 programs 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. It will equip communities that receive HUD funding with data and tools to help them meet long-standing fair housing obligations in their use of HUD funds. HUD will also provide technical assistance to aid grantees as they adopt this approach.

Who must comply with the AFFH requirements?

Grantees or sub-grantees of Community Planning and Development programs operated by HUD must affirmatively further fair housing. These programs include:

- Community Development Block Grant (CDBG) and other Title I programs
- Home Investment Partnership (HOME)
- Emergency Shelter Grant (ESG)
- Housing Opportunities for Persons with AIDS (HOPWA)
- Public Housing Agencies (PHAs) Housing Choice Voucher and Project-Based Voucher
- McKinney-Vento homeless assistance
- Supportive housing for the elderly and persons with disabilities (202 and 811)
- FHA-insured housing

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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 process begins with the provision of data, guidance, and an assessment tool that will help program participants identify fair housing issues and related contributing factors in their jurisdiction and region. Program participants are required to set goals to overcome fair housing issues and related contributing factors; those goals must inform subsequent housing and community development planning processes. HUD has provided the following overview:

Part 1: HUD provides each program participant with data and an AFH assessment tool to use in assessing fair housing issues in its community; HUD will provide technical assistance to aid in the submittal process.

Part 2: Using HUD data, local data and knowledge, the required community participation process, and the assessment tool, each program participant prepares/submits a complete AFH, including fair housing goals.

Part 3: HUD reviews each AFH within 60 days after receipt to determine whether the program participant has met the requirements for providing its analysis, assessment, and goal setting. HUD either accepts the AFH or provides the program participant written notification of why the AFH was not accepted and guidance on how the AFH should be revised in order to be accepted. An AFH that is substantially incomplete or inconsistent with fair housing or civil rights requirements will not be accepted.

Part 4: The goals identified in the AFH must inform the strategies and actions of the Consolidated Plan, the Annual Action Plan, the PHA Plan, and the Capital Fund Plan.

The AFH may be conducted and submitted by an individual program participant (individual AFH), or may be a single AFH conducted and submitted by two or more program participants (joint AFH), or two or more program participants at least two of which are consolidated plan program participants (regional AFH).

Where is the AFH Assessment Tool located?

HUD published a draft AFH Assessment Tool Template designed for CPD entitlement jurisdictions and collaborations between entitlements and PHAs on September 26, 2014, that is available here:

http://www.huduser.org/portal/affht_pt.html#affhassess-tab. HUD is in the process of developing templates for different types of program participants however no program participant will be required to submit their AFH until at least 9 months after the publication of the Assessment Tool. HUD will publish the Assessment Tool for another 30-day comment period before publishing a final Assessment Tool.

Who must conduct an AFH?

Jurisdictions and Insular Areas that are required to submit consolidated plans for the following programs:

- The Community Development Block Grant (CDBG) programs
- The Emergency Solutions Grants (ESG) program
- The HOME Investment Partnerships (HOME) program;
- The Housing Opportunities for Persons With AIDS (HOPWA) program;

And public housing agencies (PHAs) receiving assistance under sections 8 or 9 of the U.S. Housing Act of 1937.

When does a program participant have to submit their first Assessment of Fair Housing?

The due date for an AFH is based on each program participant’s Consolidated Plan cycle or PHA Plan cycle. HUD is providing additional time for smaller jurisdictions (less than \$500,000 in CDBG funds in FY2015), States, insular areas, and qualified PHAs to begin the new AFH process. *Until AFH submission is required, program participant must continue to conduct an AI in accordance with existing HUD regulations.* For more on timelines: <https://www.hudexchange.info/resources/documents/CPD-AFFH-Timeline-Infographic.PDF>

Resources

U.S. Department of Housing & Urban Development

http://www.huduser.gov/portal/affht_pt.html; <https://www.hudexchange.info/programs/affh/>

Housing Development: A Fair Housing Tool Kit

<http://content.knowledgeplex.org/kp2/cache/documents/68549.pdf>