

# AFFIRMATIVELY FURTHERING FAIR HOUSING (AFFH)

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**Administering Agency:** HUD's Office of Fair Housing and Equal Opportunity (FHEO)

**Year Started:** 1968

**Population Targeted:** The "Fair Housing Act's" "protected classes"—race, color, national origin, sex, disability, familial status (in other words, households with children), and religion

**See Also:** *Consolidated Planning Process*, and *Public Housing Agency Plan* sections of this guide.

## Affirmatively Furthering Fair Housing

Title VIII of the "Civil Rights Act of 1968" (the "Fair Housing Act") requires jurisdictions receiving federal funds for housing and urban development activities to affirmatively further fair housing. The Fair Housing Act not only makes it unlawful for jurisdictions to discriminate; the law also requires jurisdictions to take actions that can undo historic patterns of segregation and other types of discrimination, as well as to take actions to promote fair housing choice and to foster inclusive communities. The "protected classes" of the Fair Housing Act are determined by race, color, national origin, sex, disability, familial status, and religion.

This article summarizes the history of AFFH implementation, including the Trump administration's 2025 Interim Final Rule (IFR) "[Affirmatively Furthering Fair Housing Revisions](https://tr.ee/j1sigc)" (<https://tr.ee/j1sigc>). Notably, HUD in 2025 removed many resources on AFFH from the HUD.gov website. An archived version of the AFFH website is available [here](https://tr.ee/VHKkyZ) (<https://tr.ee/VHKkyZ>).

## History

### "THE FAIR HOUSING ACT OF 1968"

Although affirmatively furthering fair housing has been law since the "Fair Housing Act of 1968," meaningful regulations to provide jurisdictions and PHAs with guidance on how to comply had not existed, and even today, resources are scarce to support clear AFFH implementation. The 1974 law creating the Community Development Block Grant (CDBG) program required jurisdictions to certify that they would affirmatively furthering fair housing. Eventually, that certification was defined in CDBG regulations (and later in Consolidated Plan/ConPlan regulations) to mean that the executive of a jurisdiction "certified" (pledged) that the jurisdiction had an Analysis of Impediments (AI) to fair housing choice, that the jurisdiction would take appropriate actions to overcome the effects of the impediments, and that the jurisdiction would keep records of its actions. In addition, the 1990 statute creating the Comprehensive Housing Affordability Strategy; CHAS (the statutory basis of the ConPlan) and the HOME Investment Partnerships Program, as well as the 1998 statute creating the PHA Plan for public housing agencies, each require jurisdictions and PHAs to certify in writing that they are affirmatively furthering fair housing (AFFH) in accord with the Fair Housing Act.

### Obama Administration Takes Steps to Implement AFFH

On July 16, 2015, HUD published the long-awaited [final rule](https://tr.ee/uqgyYw) (<https://tr.ee/uqgyYw>) implementing the Fair Housing Act obligation for HUD to administer its programs in a way that affirmatively furthers fair housing. Details about the 2015 final AFFH rule, are available on NLIHC's [Racial Equity and Fair Housing webpage](https://tr.ee/BbCn3E) (<https://tr.ee/BbCn3E>).

The 2015 rule and process were to be implemented on a staggered basis. Only an estimated 22 CDBG entitlement jurisdictions were required to use this new

rule and process in 2016. Another estimated 105 CDBG entitlement jurisdictions were to begin in 2017. All other CDBG entitlement jurisdictions, states, and public housing agencies were required to use the pre-existing Analysis of Impediments (AI) process.

### **Trump Administration Reduces AFFH Obligations**

HUD under Secretary Ben Carson suspended use of the 2015 AFFH rule on May 23, 2018, for all but 32 jurisdictions. Then, on August 16, HUD published an Advanced Notice of Proposed Rule Making (ANPR) inviting public comment regarding amending the AFFH rule. Subsequently, Secretary Carson published a proposed rule on January 14, 2020 that was not an AFFH rule; in fact, it would gut fair housing by, among other means, falsely equating increasing the housing supply with fair housing choice. Finally, without public review and comment, the Trump administration abruptly issued a final rule, "[Preserving Community and Housing Choice](https://tr.ee/UhgpmK)" (<https://tr.ee/UhgpmK>) on August 7, 2020 repealing the 2015 regulations implementing the statutory obligation to "affirmatively further fair housing" (AFFH).

In its final form, the Preserving Community and Housing Choice rule in essence was reduced to three lines, two of which were in a definition section. One line defined "fair housing" to mean "housing that, among other attributes, is affordable, safe, decent, free of unlawful discrimination, and accessible as required under civil rights laws." The other line defined "affirmatively further" to mean "to take **any** action rationally related to promoting **any** attribute or attributes of fair housing" (emphasis added). Theoretically, to "affirmatively further fair housing" a city could merely donate one abandoned building in a disinvested neighborhood to a developer to rehabilitate and rent to low-income households, some of whom might use Housing Choice Vouchers to make it affordable.

States, local governments, and PHAs receiving HUD funds ("program participants") had to certify that they were affirmatively furthering fair housing. The third line stated that such a certification "is sufficient if the program participant takes **any** action that is rationally related to promoting one or more attributes of fair housing." (emphasis added) Although the final rule was

voluminous, the bulk of the document simply removed from all HUD regulations, reference to the Assessment of Fair Housing (AFH) that the 2015 rule required.

### **Biden Administration Restores AFFH, But Fails to Finalize**

On January 26, 2021, the Biden White House issued a Memorandum to the Secretary of Housing and Urban Development, which declared that the affirmatively furthering fair housing provision in the Fair Housing Act, "...is not only a mandate to refrain from discrimination but a mandate to take actions that undo historic patterns of segregation and other types of discrimination and that afford access to long-denied opportunities." The Memorandum ordered HUD to examine the effects of the previous administration's actions against the AFFH Rule and the effect that it has had on HUD's statutory duty ensure compliance with the Fair Housing Act and the duty to affirmatively further fair housing.

HUD published the Interim Final Rule (IFR), "[Restoring Affirmatively Furthering Fair Housing Definitions and Certifications](https://tr.ee/36mBNa)" (<https://tr.ee/36mBNa>) in the *Federal Register* on June 10, 2021, becoming effective on July 31. The IFR restored definitions from the 2015 AFFH rule and the certifications that were removed by the previous administration.

Advocates sent [recommendations](https://tr.ee/PbDbCn) (<https://tr.ee/PbDbCn>) for a renewed AFFH regulation to HUD's Office of Fair Housing and Equal Opportunity (FHEO) on August 27, 2021. In October 2021, FHEO held listening sessions with stakeholders to gather thoughts that might inform drafting of a proposed AFFH rule. In addition to detailed suggestions made during the listening sessions, advocates, including NLIHC sent a [letter](https://tr.ee/3hQSdt) (<https://tr.ee/3hQSdt>) to FHEO highlighting suggestions made during those listening sessions.

HUD subsequently published a complete, [proposed AFFH rule](https://tr.ee/7i2sRw) (<https://tr.ee/7i2sRw>) on February 9, 2023, taking as its starting point the fair housing planning process created by the 2015 AFFH Rule and proposing refinements informed by lessons HUD learned from implementation of the 2015 AFFH Rule and by feedback provided by stakeholders. The 2023 proposed rule would provide a framework under which program participants would set and implement meaningful fair

housing goals that would determine how they would leverage HUD funds and other resources to affirmatively further fair housing. In short, program participants would identify fair housing issues, prioritize the issues that they would focus on, and develop fair housing goals they would implement to overcome fair housing issues over the next three to five years (depending on their ConPlan cycle). NLIHC was generally pleased with the proposed rule, but had concerns about the community engagement provisions and the failure to define “affordable housing” as housing that requires a household to spend no more than 30% of its adjusted income on rent or mortgage plus utilities. (This definition is known as the “Brooke Rule”.) NLIHC’s [formal comment letter](https://tr.ee/EOhllid) (<https://tr.ee/EOhllid>) to the proposed rule offered a number of suggestions to further improve the draft rule and raised serious concerns regarding several provisions. Advocates are urged to go to NLIHC’s [Racial Equity and Fair Housing webpage](https://tr.ee/e51p5p) (<https://tr.ee/e51p5p>) for more detailed analyses of the 2023 proposed rule.

A new final AFFH rule was sent to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) on December 22, 2023, where it languished. With the election of Donald Trump for a second term in 2024, the Biden administration [withdrew the final AFFH rule](https://www.govinfo.gov/content/pkg/FR-2025-01-16/pdf/2025-00981.pdf) (<https://www.govinfo.gov/content/pkg/FR-2025-01-16/pdf/2025-00981.pdf>) on January 16, 2025. If a final rule had been published this late, it is possible that the Trump administration would have used the “Congressional Review Act” (CRA) to challenge it in both houses of Congress. A successful CRA challenge would mean that in the future, an administration that viewed fair housing, and especially affirmatively furthering fair housing, more favorably could not propose a new AFFH rule that seemed substantially similar to the one Congress challenged through the CRA.

### ***Trump Administration Releases Weakened AFFH Rule***

On March 3, 2025, HUD Secretary Scott Turner [announced](https://www.hud.gov/news/hud-no-25-034) (<https://www.hud.gov/news/hud-no-25-034>) the termination of the 2023 Affirmatively Furthering Fair Housing (AFFH) rule, replacing it with an Interim Final Rule (IFR) “[Affirmatively Furthering Fair Housing Revisions](https://tr.ee/)” <https://tr.ee/>

[hfkq8c](https://tr.ee/)) that merely requires HUD grantees to take “any action during the relevant period rationally related to promoting fair housing.”

In response, House Financial Services Committee Ranking Member Maxine Waters (D-CA) and Senate Banking, Housing and Urban Affairs Committee Ranking Member Senator Elizabeth Warren (D-MA) released a [statement](https://tr.ee/WPDctD) (<https://tr.ee/WPDctD>) denouncing the change, stating Secretary Turner had “[abandoned] HUD’s legal obligation to eliminate housing discrimination in the United States.” NLIHC submitted a comment [letter](https://tr.ee/yMAzdB) (<https://tr.ee/yMAzdB>) with the National Fair Housing Alliance urging Secretary Turner to immediately withdraw the 2025 AFFH Interim Final Rule, and reinstate the 2021 AFFH Interim Final Rule.

PolicyLink has a helpful [explainer](https://tr.ee/iMtNBJ) (<https://tr.ee/iMtNBJ>) on the new AFFH rule.

## **THE NEED FOR THE AFFH RULE**

The pre-existing system based on the Analysis of Impediments (AI) to fair housing was not effective, as noted by the [Government Accountability Office \(GAO\)](https://tr.ee/3MkQ8f) (<https://tr.ee/3MkQ8f>). There were numerous limitations of the pre-existing AFFH system, beginning with the absence of regulatory guidance (HUD published a booklet in 1996, the [Fair Housing Planning Guide](https://tr.ee/UXewzO); archived copy available at <https://tr.ee/UXewzO>, but it did not have the authority of regulation, policy notice, or policy memorandum). Consequently, there was no authoritative source to suggest what might constitute impediments to fair housing choice, nor was there guidance to indicate what actions to overcome impediments might be adequate.

Without guidance, many jurisdictions did not take meaningful actions to overcome impediments to fair housing. A classic abuse on the part of some jurisdictions was to assert that they were taking actions to overcome impediments to fair housing by placing fair housing posters around public places during Fair Housing Month. Without guidance and because public participation was not required in the preparation of an AI, many wholly inadequate AIs were drafted. Although some AIs were quite extensive, they seemed destined to sit on a shelf in case HUD asked to see them (AIs were

not submitted to HUD for review). In addition, AIs were not directly linked to a jurisdiction's ConPlan or Annual Action Plan, or to a PHA's Five-Year PHA Plan and Annual Plans. AIs also had no prescribed schedule for renewal; consequently, many were not updated in a timely fashion.

## BRIEF HIGHLIGHTS OF KEY PROVISIONS OF THE 2023 PROPOSED RULE

Below is a high-level overview of some of the 2023 rule's key provisions. For a more detailed analysis, see [NLIHC's 2024 Advocates' Guide article \(https://tr.ee/rYmZkQ\)](https://tr.ee/rYmZkQ).

Even though the proposed 2023 AFFH rule was not issued in a final form by the Biden administration, advocates can use the proposed 2023 AFFH rule as the baseline for updating and strengthening AFFH regulations in the future:

- **Greatly Increased Community Engagement Requirements.** In general, the proposed rule would have required program participants to “actively engage with a wide variety of diverse perspectives within their communities” and to “proactively facilitate” community engagement “during the development” of the “Equity Plan,” enabling the public to identify fair housing “issues” and set fair housing “goals,” taking into consideration views and recommendations received from the community.
- **Greater Public Transparency.** The proposed rule would have provided the public with more opportunities to directly engage with HUD and provided HUD with regulatory ability to respond to the public and to encourage program participants to take necessary actions. All Equity Plans (see below) submitted to HUD for review would be posted to a HUD webpage, and the public would be able to directly provide HUD with additional information about an Equity Plan still under HUD review, information that HUD would use in its review.
- **Equity Planning.** Every five years, program participants would be required to develop and submit an Equity Plan to overcome local fair housing “issues” by conducting an analysis in their “geographic area of analysis” that identified fair housing issues, and the circumstances and factors that cause, contribute to,

maintain, increase, or perpetuate those fair housing issues. After engaging the community, program participants would be required to prioritize the identified fair housing issues in order to set one or more fair housing goals to overcome the prioritized fair housing issues. Examples of potential goals included: siting future affordable housing outside of segregated areas; expanding mobility programs; reducing land use and zoning restrictions; removing nuisance or crime-free ordinances; enacting and enforcing source of income laws; enhancing housing accessibility features for people with disabilities; enacting protections for LGBTQ+ people; and revising PHA eviction, admissions, and prior criminal records policies.

- **More Direct Incorporation of the New Fair Housing Equity Plan into ConPlans and PHA Plans.** After HUD “accepted” an Equity Plan, a program participant would be required to incorporate the Equity Plan’s fair housing goals, strategies, and actions necessary to implement the goals into its ConPlan, Annual Action Plans of the ConPlan, or PHA Plan. In addition, program participants would be required to identify specific, expected allocations of HUD funds (as well as other federal, state, local, and charitable funds) that would be used to carry out a program participant’s programs, activities, and services in ways consistent with the obligation to affirmatively further fair housing.
- **Clarification and Emphasis on the Need for a Balanced Approach.** The proposed rule provided a detailed definition of “balanced approach” to affirmatively furthering fair housing. It meant an approach to community planning and investment that balances a variety of actions to eliminate housing-related disparities using a combination of place-based and mobility actions and investments.
- **Annual Evaluation of Progress Toward Achieving Fair Housing Goals.** While an Equity Plan was in effect, program participants would be required to conduct and submit to HUD for posting on a HUD website, Annual Progress Evaluations regarding the status of each fair housing goal. Program participants would be required to assess whether to establish a new fair housing goal(s) or whether to modify an existing fair housing goal because it could not be achieved in the amount of time previously anticipated. In addition, an Equity Plan

would be required to include a summary of a program participant's progress in meeting its fair housing goals set in prior-year Equity Plans.

- **Phased Implementation for Program Participants Based on Size.** When a state, local jurisdiction, or a PHA would be required to have an Equity Plan would be phased in over many years, starting with the largest jurisdictions or PHAs. When a PHA must have an accepted Equity Plan would depend on the combined number of public housing and Housing Choice Vouchers they administer.
- **Complying with the AFFH Planning and Certification Requirements (of the IFR) Until the First Equity Plan Is Due.** It would be years before most program participants would have to develop and submit an Equity Plan. However, they would still have to meet their AFFH obligations.
- **HUD Review of Equity Plans.** Program participants would be required to submit an Equity Plan for HUD review. HUD would post a submitted Equity Plan on a HUD-maintained website and the public could submit comments regarding it within 60 days from the date the Equity Plan was submitted to HUD. HUD would have 100 days to determine whether the Equity Plan included the required fair housing issue analysis, had identified fair housing issues, and had established fair housing goals in order to accept the Equity Plan. HUD would not accept an Equity Plan if it was not in compliance with any of the provisions of the AFFH rule.

## Tips for Local Success

Advocates should organize to convince their local jurisdictions and PHAs to follow the lead of the 2015 AFFH rule or voluntarily follow some or all of the 2023 proposed AFFH rule to create an Equity Plan and incorporate its fair housing goals, strategies, and actions into their ConPlans or PHA Plans. AFFH implementation must be required, and by incorporating AFFH implementation into ConPlans or PHA Plans, advocates can be assured that the Fair Housing Act of 1968 is not treated as optional.

PRRAC and PolicyLink have released a [policy brief](https://tr.ee/Rr9ouj) (<https://tr.ee/Rr9ouj>), "Affirming Belonging" that provides guidance to states and localities on how they can affirmatively further fair housing in response to the federal government's abandonment of its role in implementing and enforcing the Fair Housing Act.

## Forecast for 2026

Given experience with the first Trump administration, it is likely that the second Trump administration will continue to negate the civil rights movement and downplay any evidence behind fair housing. Follow NLIHC's [Memo to Members and Partners](https://nlihc.org/explore-issues/publications-research/memo-to-members) (<https://nlihc.org/explore-issues/publications-research/memo-to-members>) for updates.

## What to Say to Legislators

Be prepared to oppose any harmful Trump administration proposal or action to further undermine fair housing laws, regulations, and programs, including cuts to critical funding through the annual appropriations process.

## For More Information

NLIHC's page, "Racial Equity and Fair Housing" <https://tr.ee/wLcAbS>, particularly a webpage containing archived information, <https://tr.ee/Kszn4E>

National Fair Housing Alliance's AFFH webpage, <https://tr.ee/ltil8C>

Poverty & Race Research Action Council's AFFH webpage, <https://tr.ee/KSKVbH>

National Housing Law Project, <https://tr.ee/4wH5YY>

The Trump administration's Interim Final Rule, <https://tr.ee/hfkq8c>