

September 13, 2021

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Re: Meaningful collaboration between housing and education agencies in the implementation of the Affirmatively Furthering Fair Housing requirement

Dear colleagues,

Along with many of our colleagues in civil rights and housing policy, we have argued for restoration of a strong and effective Affirmatively Furthering Fair Housing rule at HUD.

In this letter, we want to focus on one aspect of the AFFH rule and guidance that is in need of strengthening and improvement – the provision that the Assessment of Fair Housing (AFH) examine access to quality education. Ideally, this element of the Rule and the AFH requires local jurisdictions, PHAs, and states to assess whether families who are members of protected classes have equal access to high performing schools, and if they do not, to analyze the factors contributing to this disparity and to recommend solutions.

The preamble to the 2015 AFFH rule acknowledges the reciprocal, mutually reinforcing impacts of housing and school policy on school and housing segregation, and these impacts are amply described in academic research and lived reality. State and local K-12 education policies are closely related to housing and urban development outcomes, and any analysis of housing segregation must also assess the impact of separate and unequal schools, and the role that education policy can play in addressing fair housing issues.

However, our review of the initial implementation of the AFFH rule in 2015-16 indicates that the rule's requirement to assess the connection between housing and education was less than effective. With a few exceptions, access to high performing schools was not meaningfully addressed in AFH policy analyses or goals,¹ and it does not appear that there was meaningful consultation between state or local housing and education agencies in the jurisdictions participating in this opening phase of the AFFH process.

¹ Kara S. Finnigan, Elizabeth DeBray, Andrew J. Greenlee, Megan Haberle & Heidi Kurniawan, "Using Fair Housing Planning as a Tool to Address Schooling Inequities," *Education Law and Policy Review* (forthcoming 2021)

In order for the AFFH process to more effectively address the connections between housing segregation, school segregation, and unequal access to educational opportunity, HUD should reinstate a standardized AFFH planning process that systematically requires states, local governments, and housing authorities to consult with school authorities and examine education-related issues – with improvements over the 2015 process in the ways that policies, practices, and data are assessed.

In addition, the Department of Education should play an active role in encouraging or requiring its recipients to coordinate with the AFFH process, so that both sides of the housing-schools nexus are addressed in local and state policy decisions.

To ensure meaningful collaboration between housing and education agencies in the AFFH process, we recommend that:

- > HUD include language in the Proposed Rule and the Assessment of Fair Housing requiring consultation with the school district(s) in the area covered by the AFH, and an identification of housing policies that perpetuate school segregation and school policies that perpetuate housing segregation.
- > the Secretaries of Housing, Education, and Transportation reissue the 2016 guidance letter urging state and local housing, education, and transportation agencies to collaborate in support of housing and school integration and in the AFFH process.²
- > the Department of Education include a requirement of meaningful AFFH consultation with state housing agencies and planning departments in the state ESSA plan, and incorporate AFFH consultation with local housing and planning agencies as a required component of each Local Educational Agency's annual Title I plan, including documenting and responding to AFFH education-related findings and goals.

We urge HUD to reinstate an Assessment of Fair Housing process that requires standardized, public examination of key issues and identified solutions. In the reissued Assessments of Fair Housing for jurisdictions, public housing authorities, and states, we recommend inclusion of very clear prompts to identify data, policies, and practices that implicate the housing-education relationship, explicit requirements for consultation and collaboration, and a menu of meaningful goals and actions that participants may consider adopting. For example:

- > Data points: The AFFH process should continue to provide for standardized, publicly available data relating to education. The Department of Education should make available to HUD for inclusion in its AFFH data and mapping tool all relevant education data that bear on fair housing, including school district boundaries and school attendance zones; per pupil spending and other available measures of school resources; NCES data on racial and economic composition of schools and school districts; and degree of racial and economic segregation across school district lines and across school assignment zones within a jurisdiction, PHA area of operation, or state. The HUD tool should specifically

² Letter archived at http://www.prrac.org/pdf/Joint_Letter_on_Diverse_Schools_and_Communities_AFFH.pdf.

correlate distribution of subsidized housing units with school demographics across school districts and schools,³ and add “access to low poverty schools” as an additional metric.

> Local data points: HUD should prompt state and local grantees to obtain data on disparities in school building quality, graduation rates, school discipline and school climate.

> Definitions: The AFFH rule should include a clearer definition of “areas of opportunity” that includes “access to low poverty, proficient schools” as one of the listed elements.

> Policies and practices (aka “contributing factors”): A new AFFH process should require a standardized analysis of policies and practices that impact fair housing, including those connecting to education. This includes the following factors: examination of school assignment zones in relation to areas of minority concentration and subsidized housing units – and recent redistricting or other changes in school assignment policy that increase or decrease access to high performing schools for families in protected classes; flag additional policies to be reviewed, including school district secession, resource disparities across schools and districts, and school discipline disparities across schools and districts. Guidance should clearly explain how to assess each of these factors. We recommend issuing an improved version of the AFFH guidebook that builds on the lessons of early implementation and provides instructions on how to conduct policy/practice assessments and on goal formulation and implementation. The guidebook should include a robust discussion of the connections between housing and school policy, for example drawing upon the extensive work already compiled by HUD in 2016: *Breaking Down Barriers: Housing, Neighborhoods, and Schools of Opportunity* (U.S. Department of Housing and Urban Development, Office of Policy Development and Research, April 2016).⁴

> Consultation and collaboration: Explicitly mandate cross-agency meetings with school districts and education stakeholders, with suggested discussion prompts, and require a report out of agreed cross-agency areas of cooperation. School district staff leadership and school board members should be explicitly listed in 24 CFR §91.100 (“Consultation; local governments”). The new AFFH rule should also ensure robust community stakeholder input, including outreach to students and local educational advocacy and parent organizing groups.

> Goals and actions: Include a specific list of housing-schools goals and actions for jurisdictions, PHAs, and states to consider adopting in the AFH.⁵ Any new rule and new analytical/planning requirements should include a clear emphasis on goals and actions,

³ Cf. Ingrid Gould Ellen & Keren Horn, *Housing and Educational Opportunity: Characteristics of Local Schools Near Families with Federal Housing Assistance* (PRRAC, July 2018), available at <http://www.prrac.org/pdf/HousingLocationSchools2018.pdf>.

⁴ Report archived at http://www.prrac.org/pdf/HUD_housing-schools_report_May_2016.pdf.

⁵ For a useful list of potential goals and policies to promote both AFFH and school integration, *Confronting School and Housing Segregation in the Richmond Region: Can We Learn and Live Together?* (University of Richmond, Virginia Commonwealth University, and HOME, 2017), https://scholarscompass.vcu.edu/edlp_pubs/12/; Philip Tegeler & Michael Hilton, “Disrupting the Reciprocal Relationship Between Housing and School Segregation,” in *A Shared Future: Fostering Communities of Inclusion in an Era of Inequality* (Harvard Joint Center for Housing Studies, 2017); http://www.prrac.org/pdf/Disrupting_the_Reciprocal_Relationship_JCHS_chapter.pdf; and *Breaking Down Barriers: Housing, Neighborhoods, and Schools of Opportunity*, *supra* note 4.

including those relating to the housing-education nexus. HUD guidance and technical assistance resources should include education-related commitments and follow-through by recipients.

Thank you for the opportunity to make these suggestions for cross-agency collaboration in the AFFH process. We would also appreciate the opportunity to meet to discuss these suggestions in more detail and answer any questions you may have.

Sincerely,

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