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## Using Fair Housing Planning as a Tool to Address Schooling Inequities

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The impact of structural racism in policies and practices on segregation in communities across the country has received more widespread attention in recent years, but the connections between school and housing segregation have received less attention in policy debates in either sector.<sup>1</sup> Yet as Haberle & Tegeler explain, the insidious link between housing and education has maintained unequal access to resources:

Segregation concentrates the effects of discrimination and disinvestment, while sequestering financial and social capital, in both neighborhoods and schools. Segregation is also the mechanism for maintaining the physical and psychological distance that sustains discrimination... questions of access and distance lie at the heart of the housing-schools nexus: following court-ordered school desegregation, residential segregation across local district boundaries became an increasingly important mechanism to preserve the whiteness of schools.<sup>2</sup>

*Serrano v. Priest*, which struck down California's property-tax based school finance system,<sup>3</sup> was an attempt to reduce the impact of unequal property wealth and related local district boundaries on school funding. This decision, however, demonstrates the limitations of any approach without deliberate attention to the underlying complexities in both education and housing given the ways that these have exacerbated not only segregation but

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<sup>1</sup> See generally RICHARD ROTHSTEIN, *THE COLOR OF LAW: A FORGOTTEN HISTORY OF HOW OUR GOVERNMENT SEGREGATED AMERICA* (2017); *FACING SEGREGATION: HOUSING POLICY SOLUTIONS FOR A STRONGER SOCIETY* (Molly W. Metzger & Henry S. Weber eds., 2019); MARIA KRYSAN & KYLE CROWDER, *CYCLE OF SEGREGATION: SOCIAL PROCESSES AND RESIDENTIAL STRATIFICATION* (2017); RICHARD H. SANDER ET AL., *MOVING TOWARD INTEGRATION: THE PAST AND FUTURE OF FAIR HOUSING* (2018); JESSICA TROUNSTINE, *SEGREGATION BY DESIGN: LOCAL POLITICS AND INEQUALITY IN AMERICAN CITIES* (2018).

<sup>2</sup> Megan Haberle & Philip Tegeler, *Coordinated Action on School and Housing Integration: The Role of State Government*, 53 *Univ. Rich. L. Rev.* 949, 955 (2019).

<sup>3</sup> *Serrano v. Priest*, 557 P.2d 929, 957-58 (Cal. 1976).

its impact on unequal access to educational opportunity today. One study of a housing policy in Maryland showed this interconnection as it documented how deliberate efforts to create mixed-income housing developments resulted in socioeconomically integrated schools and higher rates of achievement for low income students.<sup>4</sup> Yet our understanding of how educational policies and housing policies can (or do) align to reduce the resulting inequities in access and outcomes in these and other areas like health, transportation, and employment remains limited. As Holme & Finnigan discussed, while coordination of education and housing policies at local and regional levels is needed more than ever to further equality of educational opportunity, collaboration across these policy areas has been challenging given the multitude of governing bodies, jurisdictions, and aims, as well as local politics that maintain inequitable systems.<sup>5</sup>

This exploratory study calls attention to the importance of alignment between education and housing policies through our analysis of the Assessments of Fair Housing (AFH) plans approved by the U.S. Department of Housing and Urban Development (HUD) through the 2016 Affirmatively Furthering Fair Housing (AFFH) Rule.<sup>6</sup> Given the sparse research regarding when and how education and housing policy actors coordinate, and the more specific policy solutions that connect them, these plans which were developed by local and regional governments present a valuable opportunity to examine the target and intensity of these efforts in communities when prompted by federal guidance. Steil and Kelly (2019) analyzed the overall components of these plans,<sup>7</sup> but, to date, the housing-education policy nexus within the AFH documents has not been explored. Through this article we hope to prompt a new way of thinking about alignment between housing and education policies, as well as the interpretation of action of local leaders in response to the incentives of AFFH.

The plans provide a contemporary window into a policy lever that engages with the spatial foundations of inequality.<sup>8</sup> Our results suggest that in spite of an attempt to promote cross-sector collaboration, the plans contained few

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<sup>4</sup> Heather Schwartz, *Housing Policy is School Policy: Economically Integrative Housing Promotes Academic Success in Montgomery County, Maryland*, in *THE FUTURE OF SCHOOL INTEGRATION* (Richard D. Kahlenberg ed., 2012).

<sup>5</sup> JENNIFER JELLISON HOLME & KARA S. FINNIGAN, *STRIVING IN COMMON: A REGIONAL EQUITY FRAMEWORK FOR URBAN SCHOOLS* (2018).

<sup>6</sup> 24 C.F.R. § 5.150-5.180 (2016).

<sup>7</sup> See generally Justin Steil & Nicholas Kelly, *The Fairest of Them All: Analyzing Affirmatively Furthering Fair Housing Compliance*, 29 HOUS. POL'Y DEBATE 85 (2019).

<sup>8</sup> See George Galster & Patrick Sharkey, *Spatial Foundations of Inequality: A Conceptual Model and Empirical Overview*, 3 RSF, no. 2, 2017, at 1, 2; George C. Galster & Sean P. Killen, *The Geography of Metropolitan Opportunity: A Reconnaissance and Conceptual Framework*, 6 HOUS. POL'Y DEBATE 7 (1995).

quantifiable goals with respect to decreasing racial and socioeconomic segregation. At times, the plans noted the importance of equitable access to schools and improving school quality but did not align these targeted goals with articulated strategies. We suggest that this limited response may be related to long-standing institutional barriers to collaboration between school systems and local government officials. This exploratory work is important in understanding how to alter the racialized opportunity structures that have resulted from segregation in local communities through cross-sector policies.

## **Housing and School Segregation**

Over the last few decades, different policy approaches have attempted to tackle the links between housing and education policies but, like the *Serrano* finance litigation, do so in separate policy arenas. For example, in the South from the late 1960s through the 1980s, countywide systems created the potential for busing plans to achieve racial desegregation in schools (despite segregated housing in communities). Since the 1990s, federal court decisions reversed this progress as it became easier for districts to argue they had met unitary status.<sup>9</sup> During that earlier period, implementation of metropolitan-wide school desegregation plans was shown to disrupt racially segregated housing patterns, as white families had less incentive to tie residential decisions to school attendance zones.<sup>10</sup> For instance, Frankenberg found that Charlotte-Mecklenburg, North Carolina bused thoroughly to achieve racially balanced schools and had lower levels of residential segregation than did Mobile, Alabama, where busing was more limited.<sup>11</sup>

As inter-district racial disparities have increased over the past decades,<sup>12</sup> fragmentation of multiple school districts in metropolitan areas hindered coordination of broader policies aimed at reducing the racial isolation of students.<sup>13</sup> Holme and Finnigan show how even in metropolitan areas with cross-sector planning councils, education is rarely included, and local politics usually thwarts willingness to collaborate and cede the advantages of affluent

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<sup>9</sup> Sean F. Reardon et al., *Brown Fades: The End of Court-Ordered School Desegregation and the Resegregation of American Public Schools*, 31 J. POL'Y ANALYSIS & MGMT. 876, 877, 899 (2012).

<sup>10</sup> GENEVIEVE SIEGEL-HAWLEY, *WHEN THE FENCES COME DOWN: TWENTY-FIRST CENTURY LESSONS FROM METROPOLITAN SCHOOL DESEGREGATION* (2016).

<sup>11</sup> Erica Frankenberg, *The Impact of School Segregation on Residential Housing Patterns: Mobile, Alabama, and Charlotte, North Carolina*, in *SCHOOL RESEGREGATION: MUST THE SOUTH TURN BACK?* 164 (John Charles Boger & Gary Orfield eds. 2005).

<sup>12</sup> Ann Owens et al., *Income Segregation Between Schools and School Districts*, 53 AM. EDUC. RSCH. J. 1159, 1171-74 (2016).

<sup>13</sup> HOLME & FINNIGAN, *supra* note 5, at 27-30.

districts.<sup>14</sup> In many communities, the negative segregative effects of test-based accountability and realtors' reliance on these in marketing schools to parents worsens racially segregative patterns.<sup>15</sup> On the other hand, attendance at racially desegregated schools and higher per-pupil spending has been found to reduce intergenerational transmission of poverty.<sup>16</sup>

## **Power, Geography, and Opportunity**

The enduring impacts of housing and school segregation continue to undermine the democratic nature of our public education system. As Powell<sup>17</sup> pointed out nearly 25 years ago,

The failure to act perpetuates the injury of apartheid in education, housing, and, indeed, in our very psyche. If we are to avoid a fractured society, forever at war with itself, we must make it possible for everyone to participate equally in our communities. We must challenge the racial hierarchy implicit in segregation and remove the barriers to discovering our common humanity, filtered through our differences.<sup>18</sup>

He argued that by linking housing and education we can begin to abolish racial exclusion and hierarchy and radically transform our society.<sup>19</sup> Segregation, as Powell noted, does not just create a racialized hierarchy but limits access to opportunity for people of color in terms of the combined access to health, housing employment, transportation, childcare, education, and so on, resulting in negative consequences and outcomes.<sup>20</sup> While many studies focus on the harms of segregation on people of color because of the inequitable power and resources, research also suggests harm to racially isolated white students, from limiting their capacity to develop a sense of self and others, to reifying false notions of superiority and limiting their ability to work in racially diverse settings.<sup>21</sup>

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<sup>14</sup> *Id.* at 74.

<sup>15</sup> AMY STUART WELLS, *DIVERSE HOUSING, DIVERSE SCHOOLING: HOW POLICY CAN STABILIZE RACIAL DEMOGRAPHIC CHANGE IN CITIES AND SUBURBS* 17-18 (2015), [https://nepc.colorado.edu/sites/default/files/pb-wells\\_housing\\_nexus.pdf](https://nepc.colorado.edu/sites/default/files/pb-wells_housing_nexus.pdf).

<sup>16</sup> RUCKER C. JOHNSON & ALEXANDER NAZARYAN, *CHILDREN OF THE DREAM: WHY SCHOOL INTEGRATION WORKS* (2019).

<sup>17</sup> We are respecting the author's wish to be cited in lower-case.

<sup>18</sup> John A. Powell, *Living and Learning: Linking Housing and Education*, 80 MINN. L. REV. 749, 754 (1996).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> Erika K. Wilson, *Monopolizing Whiteness*, 134 Harv. L. Rev. 2382 (2021).

Scholars of spatial inequality like Tate and Drier et al. point to the racialized geographic structure of opportunity that extends beyond education to other aspects of health care, housing, and employment.<sup>22</sup> More recent work by Green considers not just the problems resulting from racial isolation and concentrated poverty in low-opportunity areas but also the assets in these areas (including faith-based organizations, grocery stores, local businesses, and community-based organizations), many of which are culturally significant to people of color living in these communities and can be leveraged to improve school and community outcomes.<sup>23</sup>

To achieve spatial justice, we must both understand the unequal geographic distribution of resources, such as access to affordable housing or well-resourced schools, and address decisions that are made over the use and design of spaces.<sup>24</sup> In most locales, public policy and private actors have created racialized spaces that undercut the kinds of coalitions and regional solutions necessary to create equitable distribution of resources and result in more equitable outcomes.<sup>25</sup> As a result, policy tools at the state or federal level can be a useful strategy to incentivize local policy change.

### **Using AFFH as a Policy Tool**

For something as deeply entrenched as housing and school inequities, policy tools are frequently considered to bring about change in behavior. As Schneider and Ingram (1990) argue, “public policy almost always attempts to get people to do things that they might not otherwise do; or it enables people to do things that they might not have done otherwise.”<sup>26</sup> The Obama administration’s rule concerning the Affirmatively Furthering Fair Housing (AFFH) component of the Fair Housing Act of 1968 represented a policy tool to explicitly address some of the barriers to structural and institutional dimensions of inequity, of which schools are still a major one.<sup>27</sup>

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<sup>22</sup> William F. Tate IV, “*Geography of Opportunity*”: *Poverty, Place, and Educational Outcomes*, 37 *EDUC. RESEARCHER* 397, 397 (2008); PETER DREIER ET AL., *PLACE MATTERS: METROPOLITICS FOR THE TWENTY-FIRST CENTURY* (3d ed., rev. 2014).

<sup>23</sup> Terrance L. Green, *Places of Inequality, Places of Possibility: Mapping “Opportunity in Geography” Across Urban School-Communities*, 47 *URB. REV.* 717, 721 (2015).

<sup>24</sup> EDWARD W. SOJA, *SEEKING SPATIAL JUSTICE* (2010).

<sup>25</sup> Holme & Finnigan, *supra* note 5, at 78.

<sup>26</sup> Anne Schneider & Helen Ingram, *Behavioral Assumptions of Policy Tools*, 52 *J. POL.* 510, 513 (1990).

<sup>27</sup> Raphael W. Bostic & Arthur Acolin, *Affirmatively Furthering Fair Housing: The Mandate to End Segregation*, in *THE FIGHT FOR FAIR HOUSING: CAUSES, CONSEQUENCES AND FUTURE IMPLICATIONS OF THE 1968 FEDERAL FAIR HOUSING ACT 189* (Gregory D. Squires ed. 2018); EDWARD G. GOETZ, *THE ONE-WAY STREET OF INTEGRATION: FAIR*

The 1968 Fair Housing Act prohibits discrimination in the sale, rental, and financing of dwellings, and in other real estate-related transactions because of race, color, religion, sex, familial status, national origin, or disability.<sup>28</sup> The Act requires that HUD administer programs and activities relating to housing and urban development in a manner that affirmatively furthers the policies of the Act.<sup>29</sup> The *affirmatively furthering* mandate of the Act requires the recipients of federal funds to do more than simply not discriminate – recipients also must go deeper to address segregation and other more systemic and spatial issues driving housing inequity.

This legal framework to enforce the Fair Housing Act has expanded over time, but enforcement relies largely on individual housing consumers filing complaints.<sup>30</sup> Attempts at more systematic legal tests have been interpreted unevenly in legal proceedings,<sup>31</sup> meaning that fifty years following the passage of the Fair Housing Act, affirmatively furthering fair housing remains a policy mandate with few actual teeth.

On July 16, 2015, HUD published a Final Rule on AFFH to create a unified, externally monitored, and enforced framework.<sup>32</sup> The AFFH rule discusses fair housing choice as follows: “Fair housing choice encompasses (1) actual choice, which means the existence of realistic housing options; (2) protected choice, which means housing that can be accessed without discrimination; and (3) enabled choice, which means realistic access to sufficient information regarding options so that any choice is informed.”<sup>33</sup> The rule encourages assessments of fair housing that emphasize the evaluation and support of place-based and mobility-based strategies to increase fair housing choice.<sup>34</sup> Place-based strategies involve strategic government investments in segregated, high poverty neighborhoods, and preservation of the existing affordable rental housing stock.<sup>35</sup> Mobility-based strategies are designed to

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HOUSING AND THE PURSUIT OF RACIAL JUSTICE IN AMERICAN CITIES 140 (2018); Katherine M. O’Regan, *The Fair Housing Act Today: Current Context and Challenges at 50*, 29 HOUS. POL’Y DEBATE 704, 708-09 (2019).

<sup>28</sup> 42 U.S.C. §§ 3604-3606.

<sup>29</sup> 42 U.S.C. § 3608(d), (e)(5).

<sup>30</sup> Charles Connerly, *Fair Housing in the U.S. and the U.K.*, 21 HOUS. STUD. 343, 348 (2006).

<sup>31</sup> See, e.g., David M. Bonelli, Note, *If You Build It They Will Come: Intentional Discrimination and Disparate Impact Theory in Buckeye Community Hope Foundation v. City of Cuyahoga Falls – Does a Municipality’s Use of Referendum to Block an Approved Housing Project Violate Equal Protection and Title VIII?*, 26 HAMLINE L. REV. 631, 654-55 (2002).

<sup>32</sup> 24 C.F.R. §§ 5.150-5.180 (2016).

<sup>33</sup> U.S. DEP’T OF HOUS. & URB. DEV., AFFH RULE GUIDEBOOK 4 (2015), <https://www.nhlp.org/wp-content/uploads/HUD-AFFH-Rule-Guidebook-Dec.-2015.pdf>.

<sup>34</sup> *Id.* at 12.

<sup>35</sup> *Id.*

help households move to areas of increased opportunity, including support for housing mobility programs.<sup>36</sup> As Goetz suggested, the AFFH rule was an attempt by the federal government to require local governments to spend federal housing and community development resources in alignment with fair housing goals.<sup>37</sup> At the same time, however, civil rights groups took note the rule did “not provid[e] leverage to obtain the resources that poor communities most need (in education, transportation, employment, and public health).”<sup>38</sup>

The AFFH tool supplies index scores for school proficiency, labor market engagement and jobs proximity, transit quality, environmental health, and poverty concentration.<sup>39</sup> Scores are arrayed by geographic area with the ability to overlay the demographic analysis of neighborhood race/ethnicity and placement of subsidized housing.<sup>40</sup> In contrast to many past HUD planning and accountability instruments (such as the Analysis of Impediments to Fair Housing), this indicates recognition that strategies to increase access to opportunity require resources for more than just housing and attention to geography.<sup>41</sup> Far more demographic data was made publicly available, and municipalities were required to use these in goal-setting.<sup>42</sup>

The Obama administration recognized the housing-education policy linkage as part of its larger push for interagency efforts to enhance integration.<sup>43</sup> The AFH process required by the 2015 rule was designed to replace the Analysis of Impediments to Fair Housing and specifically included requirements for intergovernmental consultation and community participation.<sup>44</sup> In fact, AFH was designed to encourage local conversations and collaborations around solving major structural problems.<sup>45</sup> Of the types of government entities potentially involved in AFHs, school systems represent one such system of spatially mediated opportunity;<sup>46</sup> schools have historically

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<sup>36</sup> *Id.*

<sup>37</sup> GOETZ, *supra* note 26, at 140.

<sup>38</sup> Philip D. Tegeler, *Affirmatively Furthering Fair Housing and the Inclusive Communities Project Case: Bringing the Fair Housing Act into the Twenty-First Century* 82, in *FACING SEGREGATION: HOUSING POLICY SOLUTIONS FOR A STRONGER SOCIETY* (Molly W. Metzger & Henry S. Weber eds., 2019).

<sup>39</sup> *Id.* at 85.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> See generally U.S. Hous. & Urb. Dev., U.S. Dep’t of Educ. & U.S. Dep’t of Transp., Joint Letter on Schools and Communities, AFFH (June 3, 2016), [https://www2.ed.gov/documents/press-releases/06032016-dear-colleagues-letter.pdf?utm\\_content=&utm\\_medium=email&utm\\_name=&utm\\_source=govdelivery&utm\\_term](https://www2.ed.gov/documents/press-releases/06032016-dear-colleagues-letter.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term).

<sup>44</sup> See U.S. DEP’T OF HOUS. & URB. DEV., *supra* note 32, at 7, 15.

<sup>45</sup> *Id.* at 7.

<sup>46</sup> Joint Letter on Schools and Communities, *supra* note 43, at 2.



been used to perpetuate inequalities associated with residential segregation, and have also been part of the remedy for longstanding patterns of spatial difference. In addition, because of the education system's roles in both perpetuating inequality and in mutually reinforcing residential segregation, "Access to proficient schools" was one of the prompts under Contributing Factors (CFs) in the guidance for the AFH plans.<sup>47</sup>

In July 2020, HUD officially terminated AFFH, eliminated the AFH, and removed the cross-sectional multidimensional index data from the HUD website, returning accountability for the advancement of fair housing back to localities.<sup>48</sup> In that same month, President Trump touted the termination of the Rule as a means to protect the "Suburban Lifestyle Dream", assuring residents that they will "no longer be bothered or financially hurt by having low income housing built in your neighborhood."<sup>49</sup> As Gramlich points out, increasing the supply of housing does not address discriminatory practices and segregation.<sup>50</sup> Despite the rescinding of guidance, accountability, and coordination under AFFH, some communities remained committed to continuing to plan and coordinate following the Rule's guidance. Its absence meant that many communities lacked the imperative to systematically study, coordinate, and plan to address fair housing outside of regulatory compliance within the housing and real estate sectors. President Biden's recent executive order highlights the racial inequality in land use and housing, discusses the need to undo patterns of discrimination and segregation, and enlists the new HUD Secretary to examine the impact of these regulatory actions under the prior administration,<sup>51</sup> suggesting this exploratory study might inform a renewed policy-driven approach by HUD that reinvigorates these prior attempts to address segregation through joint planning and policy change by the housing and education sector.

## Review of AFH Plans

Our exploratory analysis is based upon 15 locales (out of 22 for jurisdiction year 2016) that included education issues in the goal sections of their plans

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<sup>47</sup> U.S. DEP'T OF HOUS. & URB. DEV., *supra* note 32, at 153.

<sup>48</sup> See, e.g., ED GRAMLICH, SUMMARY AND ASSESSMENT: HUD'S PROPOSED AFFH RULE 1 (2020), <https://nlihc.org/sites/default/files/NLIHC-Summary-and-Analysis-of-2020-Proposed-AFFH-Rule.pdf>.

<sup>49</sup> Kriston Capps, *What Does Trump Think the 'Suburban Lifestyle Dream' Means?*, BLOOMBERG CITYLAB (July 30, 2020), <https://www.bloomberg.com/news/articles/2020-07-30/the-suburbs-are-not-what-trump-thinks-they-are>.

<sup>50</sup> Gramlich, *supra* note 48.

<sup>51</sup> Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies, 2021 DAILY COMP. PRES. DOC. 90 (Jan. 26, 2021).

and were approved by HUD. Table 1 provides contextual information for these locales. We focused on goals and whether/how they related to addressing housing and education issues. When such goals were included, we explored whether they targeted improving access to schools, quality of schools, school integration and/or the deconcentration of poverty. We were interested in: What exactly was the local government planning to do? What measures would be used to evaluate progress? Was funding to support the plans discussed (e.g., Community Development Block Grants)? We also examined the “contributing factors” criterion for evidence of argumentation linking schools and housing. Finally, we identified institutional and governmental partners referenced in the plans as evidence of some degree of joint work or collaboration.

As seen below, the locales in this review were geographically dispersed across the country and varied in size from one census tract and just under 6,000 people to 426 tracts and a population over 1.6 million. We include a few of the measures of opportunity indices. For example, the poverty rate and proportion of the population that are communities of color ranged from a low of 6% poverty and 10% communities of color in Dauphin, Pennsylvania to a high of nearly 27% poverty in Harrisonburg, Virginia and 94% communities of color in Paramount, California. The locales show a range of “quality” schools based upon 4th grade proficiency on statewide math and reading tests from a low of 23% in Philadelphia to a high of 72% in Dauphin, but in many ways this measure is just duplication of the other columns given the high correlation between race/ethnicity and income and test scores and limitation of test scores as a measure of quality.<sup>52</sup>

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<sup>52</sup> See JACK SCHNEIDER, *BEYOND TEST SCORES: A BETTER WAY TO MEASURE SCHOOL QUALITY* (2017).

**Table 1: Characteristics of AFH Locations**

<b>AFH Location</b>	<b>State</b>	<b>Tracts (N)</b>	<b>Population</b>	<b>Poverty Rate (%)</b>	<b>Non-White Population (%)</b>	<b>School Proficiency Index</b>
Jonesboro	AR	16	92,138	22	22	39
Apple Valley and Victorville	CA	47	321,516	24	59	35
Cathedral City	CA	23	82,409	19	57	46
Long Beach	CA	146	606,456	19	70	36
Paramount	CA	24	121,049	21	94	27
El Paso County	CO	149	683,979	13	27	57
Kansas City	KS / MO	360	1,255,202	16	34	48
New Orleans	LA	207	436,019	26	64	53
Wilmington	NC	37	165,400	19	25	66
Hamilton City	OH	26	132,818	16	16	51
Clackamas County	OR	113	535,728	11	18	61
Dauphin	PA	1	5,998	6	10	72
Philadelphia	PA	426	1,692,717	25	61	23
Harrisonburg	VA	17	68,919	28	25	38
Seattle	WA	153	693,567	14	34	62

## **Table 1: Characteristics of AFH Locations (cont.):**

**Non-White Population (%)** <sup>53</sup>  
**School Proficiency Index** <sup>54</sup>

### **Infrequent Delineation of Education Goals in AFH Plans Despite Emphasis in Template**

The Contributing Factors' sections of the plans reveal a wide range of depth in their analyses of school inequalities. New Orleans's plan elaborates on eight factors pertaining to racial disparities in access to high-quality schools, from the geographic concentration of those schools in white neighborhoods to the disparate impact of the OneApp application system giving preference to families to choose schools closer to home and the disproportionate impacts of minority suspensions and expulsions in what was the Recovery School District.<sup>55</sup> The following excerpt reflects New Orleans planners' knowledge of spatial justice, specifically focusing on how transportation, race, and choice are interconnected in the school system:

[The RSD]'s application and enrollment processes are demanding on parents' schedules and require access to transportation. These schools often expect parents to deliver parts of the application during school hours and also require parent meetings and student exams...The Data Center study notes that Whites are concentrated in schools with selective admission tests authorized by the Orleans Parish School Board.<sup>56</sup>

On the other end of the continuum, Jonesboro, Arkansas discusses location and type of affordable housing as a contributing factor, but schools are only perfunctorily mentioned: "This concentration of affordable housing has a disproportionate impact on protected classes and impacts their housing choice, their ability to access neighborhoods with community amenities like good

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<sup>53</sup> Non-white is the variable in the AFFH data that is the summation of all households except for non-Hispanic white households divided by the total population.

<sup>54</sup> The school proficiency index used in the AFH plans are based upon proportion of students proficient on 4th grade statewide reading and math exams (see: <https://www.nhlp.org/wp-content/uploads/HUD-AFFH-Rule-Guidebook-Dec.-2015.pdf>)

<sup>55</sup> CITY OF NEW ORLEANS, OFFICE OF COMMUNITY DEVELOPMENT, 2016 ASSESSMENT OF FAIR HOUSING, 48 (2016), <http://www.nola.gov/community-development/documents/2016-updated-afh-plan-090516/afh-plan-090516-final/>

<sup>56</sup> *Id.* at 51.

schools and proximity to jobs.”<sup>57</sup> In writing its Contributing Factors section, Seattle’s authors were the only public housing authority in the sample to directly engage an education entity, coordinating with Seattle Public Schools as well as the City of Seattle.<sup>58</sup> Their AFH plan describes school assignment policies in the wake of the *Parents Involved in Community Schools* ruling (2007), including the achievement gap between Black and white students.<sup>59</sup> The analysis describes geographic and racial disparities within the jurisdiction, and cites residents’ desires (gathered from public meetings) to live near “good” schools.<sup>60</sup>

Our review of the AFH plans indicates that more than half of the plans, nine of the 15, explicitly discussed goals related to K-12 education (these nine are shaded in Table 1) with eight of them specifically mentioning education in a goal. For example, Philadelphia’s plan aims to “Expand educational attainment, economic development, and self-sufficiency efforts;”<sup>61</sup> Seattle’s, “to address inequities to access to proficient schools in areas where there is likely a negative impact on people in protected classes; and to provide resources for low-income families in public housing to improve educational outcomes.”<sup>62</sup> Clackamas, Oregon’s plan references a school quality index in one of its comprehensive housing goals, but does not set a specific goal relating to this index.<sup>63</sup> Since this HUD process specifically requires jurisdictions to set goals to address significant contributing factors, that nearly half of the AFH plans did not do this is clearly a planning and implementation gap.

In spite of the guidance, many locales failed to set goals relating to education even though they noted educational inequities as contributing factors. The AFH for El Paso County, Colorado, for example, discusses disparities in access to proficient schools, citing limited public transportation

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<sup>57</sup> JONESBORO, 2017-2021 CONSOLIDATED AND ACTION PLAN, 54 (2021), <http://www.jonesboro.org/DocumentCenter/View/3615/2017-2021-Consolidated-Plan-and-2017-Action-Plan>

<sup>58</sup> CITY OF SEATTLE AND SEATTLE HOUSING AUTHORITY, JOINT ASSESSMENT OF FAIR HOUSING, 8-10 (2017), <https://www.seattle.gov/Documents/Departments/HumanServices/CDBG/2017%20AFH%20Final.4.25.17V2.pdf>

<sup>59</sup> *Id.* at 182.

<sup>60</sup> *Id.* at 33.

<sup>61</sup> CITY OF PHILADELPHIA AND THE PHILADELPHIA HOUSING AUTHORITY, ASSESSMENT OF FAIR HOUSING, 328 (2016), <https://www.phila.gov/media/20190502115754/afh-2016-for-web.pdf>

<sup>62</sup> CITY OF SEATTLE AND SEATTLE HOUSING AUTHORITY, JOINT ASSESSMENT OF FAIR HOUSING, (2017) at 370.

<sup>63</sup> CLACKAMAS COUNTY, 2017-2021 ASSESSMENT OF FAIR HOUSING REPORT (2021), <https://dochub.clackamas.us/documents/drupal/8a025c94-2eff-4b44-a228-c95229b25878>

as well as the district's limited open enrollment period as contributing factors.<sup>64</sup> The authors write that "families who want to get their children into a better school district must be both lucky and financially equipped to provide transportation."<sup>65</sup> Importantly, the AFH plan listed no goals to address these issues. Similarly, in the AFH plan for Jonesboro, Arkansas, the authors highlight education issues in the jurisdiction including school proficiency and race and poverty, integration, and school enrollment.<sup>66</sup> Yet neither education nor schools are mentioned in their AFH goals.

### **Most Education Goals Focused on Improving School Quality or Access**

The most common target for those that did discuss education was school quality, with six of the nine targeting this area. For example, the New Orleans plan had a goal to "Prioritize public investments in transit, **quality schools** (emphasis added), housing, parks, and other amenities in underserved communities."<sup>67</sup> Paramount, California, however, simply stated this goal as "Improve access to educational support services needed to seek higher education and improved employment opportunities,"<sup>68</sup> and specified providing after-school programs and supporting a local educational partnership. Perhaps not surprising given how quality was defined (i.e., by 4<sup>th</sup> grade test scores) these were quite broad sweeping and somewhat generic goals.

Three of the nine plans discussed goals related to improving access to schools. For instance, Long Beach's Goal 4 was: "Reduce disparities in access to opportunity through a comprehensive, holistic, place-based, community-led, data-driven strategy."<sup>69</sup> Their metric was to replicate Long Beach Promise Zone's collective impact efforts to racially/ethnically-concentrated areas of poverty (R/ECAP) neighborhoods to improve access to opportunities.

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<sup>64</sup> EL PASO COUNTY, COLO., ASSESSMENT OF FAIR HOUSING PLAN (2021), [https://cdn.ymaws.com/www.nacced.org/resource/resmgr/Resource\\_Library\\_Files/El\\_Paso\\_County\\_AFH\\_2017-2021.pdf](https://cdn.ymaws.com/www.nacced.org/resource/resmgr/Resource_Library_Files/El_Paso_County_AFH_2017-2021.pdf)

<sup>65</sup> *Id.* at 23.

<sup>66</sup> JONESBORO, 2017-2021 CONSOLIDATED AND ACTION PLAN (2021), <http://www.jonesboro.org/DocumentCenter/View/3615/2017-2021-Consolidated-Plan-and-2017-Action-Plan>

<sup>67</sup> CITY OF NEW ORLEANS OFFICE OF COMMUNITY DEVELOPMENT, 2016 ASSESSMENT OF FAIR HOUSING, (2016) at 4.

<sup>68</sup> CITY OF PARAMOUNT, ASSESSMENT OF FAIR HOUSING, 47 (2016), <https://www.paramountcity.com/home/showpublisheddocument?id=2719>

<sup>69</sup> CITY OF LONG BEACH, ASSESSMENT OF FAIR HOUSING, 4 (2016), <https://www.longbeach.gov/globalassets/lbds/media-library/documents/housing--neighborhood-services/homebuyer/final-afh-reduced--1->

There was no discussion of how to improve access, e.g., through school assignment policies, or what measure would be used.

### **Inattention to Integration, Reduction of Poverty, or Regional Inequities**

As described above, both New Orleans and Seattle elaborated on residential and school-level racial segregation and connections to spatial inequality in their contributing factors sections. However, only one of the AFH plans, for the City of Paramount, California, even vaguely mentioned strategies to reduce of poverty. Unfortunately, its approach did not address the problems delineated. Instead, Goal 1 included a Youth Commission to “better address educational outcomes and address generational poverty”<sup>70</sup> by providing: “a voice for Paramount’s high school students to express their concerns, learn about programs and initiatives available to them, and help foster a sense of community spirit while providing insight to community leaders about the issues and needs of the youth population.”<sup>71</sup> In essence, Paramount discusses addressing a structural problem – generational poverty – through a youth commission suggesting that this would provide their voice and insights to community leaders. We do not suggest that voice is not important, but this type of youth commission would likely have limited impact on these deep issues without a more deliberate policy target.

Another example of the lack of focus on integration or regional inequity solutions despite attention to these issues is Mid-America Regional Council’s plan.<sup>72</sup> This plan analyzed access to proficient schools in its five jurisdictions, describing key findings for the region, including that Black and Hispanic residents are more likely to live in low-proficiency school areas than any other racial/ethnic group, and that in some jurisdictions there is a high concentration of low-proficiency schools based on index scores. However, education was only mentioned in one regional goal—promoting the use of Kansas City (KC) Scholars to help adults in protected classes return to and complete college—as well as two jurisdiction goals (e.g., supporting City Education initiatives and promoting services to better prepare students for careers). The plans included no regional or systemic solutions to the geographic, racial, and socio-economic educational inequities described.

### **Cross-Sector Engagement**

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<sup>70</sup> CITY OF PARAMOUNT ASSESSMENT OF FAIR HOUSING, (2016) at 48.

<sup>71</sup> *Id.*

<sup>72</sup> MID-AMERICA REGIONAL COUNCIL, PLAN FOR AFFIRMATIVELY FURTHERING FAIR HOUSING (2016), <https://www.marc.org/Regional-Planning/Housing/pdf/ExecutiveSummaryFinal.aspx>

While the design of AFFH held promise for collaboration between education and housing sectors, most of the approved plans were weak in specificity of related goals and collaborations. With the exception of Seattle, no local educational agencies (LEAs) were mentioned as collaborators or partners. Linkages to transportation plans as part of student assignment policies was another tool available to planners but not utilized in their plans.<sup>73</sup> Cross-sector engagement was a central aspect of the AFFH guidance but locales did not provide evidence to indicate that this was central to either their plan development or their delineated strategies.

### **Implications for Policy**

We have several observations about the lack of joint housing and education problem-solving. First, the tenuous link between identifying issues and specifying goals is likely not merely a technical planning problem. Challenging long-established patterns of segregation requires significant political commitment, as well as the legal pursuit of remedies of school finance inequalities at both local and at state levels. The New York Advisory Committee to the U.S. Commission on Civil Rights (USCCR) recently released a report stating that New York's inequitable school funding formula discriminates against Black and Latinx children because of the funding inequities between districts but raised concerns about how long it would take a case to make its way through the legal system.<sup>74</sup> The report calls for USCCR to issue a finding of a civil rights violation and recommend that the New York State legislature address both the funding inequity, including exponential costs of concentrated poverty, and racial segregation. As Holme and Finnigan describe the political challenges of addressing structural racism and systemic inequities resulting from segregation require either policy incentives or mandates.<sup>75</sup> In this case USCCR could recommend cross-sector attention to these issues by both education and housing agencies and legislative committees in NY State to promote deeper and more systemic attention to these education-housing issues in alignment with the AFFH guidance.

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<sup>73</sup> Bierbaum, Gamble, Karner, & Barajas, *Research Roundtable Summary: Exploring the Intersection Between Transportation Justice and Student Travel*, ARIEL H. BIERBAUM (Jan. 12, 2019), <https://static1.squarespace.com/static/59210299c534a58e9b1c82d2/t/5c6cb2f96e9a7f2505fe7a2c/1550627579855/TranspEdEquity-RoundtableSummary-Final-Feb2019.pdf>

<sup>74</sup> N.Y. ADVISORY COMM. TO THE U.S. COMM'N ON CIV. RTS., *EDUCATION EQUITY IN NEW YORK: A FORGOTTEN DREAM* (Feb. 10, 2020), <https://www.usccr.gov/pubs/2020/02-10-Education-Equity-in-New%20York.pdf>.

<sup>75</sup> HOLME & FINNIGAN, *supra* note 5.



Second are problems of incentives or inducements and capacity. The limited examples of integrated education-housing policies or practices in light of the noted Contributing Factors suggests several possible problems in the development of these plans, from insufficient consultation with educational experts to a lack of understanding of the guidelines. In addition, a noteworthy policy barrier to overcome is that the AFFH process uses housing and community development funding as leverage. The process is therefore run by municipal or regional departments that administer those funds (e.g., Community Development Block Grants) and do not have leverage over school districts. Districts are not incentivized to collaborate or make policy or funding commitments. Furthermore, as Immergluck observed, HUD's metrics and milestones were open-ended; specific, comparable, and objective measures will be necessary to hold groups accountable.<sup>76</sup>

Even in the limited number of cases where educational entities were included in the fair housing planning process, the housing-education nexus remains largely absent from proposed policy interventions to further regional fairness. This suggests a need not only for more robust planning processes, but also more holistic theoretical frameworks for engaging with the housing-education nexus. The AFH holds potential for increasing public engagement around new measures and analyses that will be crucial for bridging the gap between housing and education policy in the future. For example, the Century's Foundation recently announced Bridges Collaborative, a partnership of school districts pursuing economic and racial integration including through housing policy, would require this type of holistic framework.<sup>77</sup> President Biden's Secretary of Housing and Urban Development, Marcia Fudge, might be uniquely positioned to bring this kind of holistic framework to these efforts given she was a sponsor of the Strength in Diversity Act, aimed at fostering school integration and is expected to be a strong advocate for the enforcement of fair housing policies.<sup>78</sup>

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<sup>76</sup> Dan Immergluck, *The Devils in the Details: Key Issues in Implementing the New AFFH Rule*, SHELTERFORCE (July 5, 2016), <https://shelterforce.org/2016/07/05/the-devils-in-the-details-key-issues-in-implementing-the-new-affh-rule/>.

<sup>77</sup> Kalyn Belsha & Sarah Darville, *A New National Effort to Promote School Integration is Underway. More Than Two Dozen School Districts Want in.*, <https://www.chalkbeat.org/2020/10/9/21509770/new-national-effort-school-integration-bridges-collaborative-desegregation>.

<sup>78</sup> Rich Cosgrove, *Marcia Fudge to Focus on Fair Housing Policies*, TRIB. CHRON. (Feb. 6, 2021), <https://www.tribtoday.com/news/local-news/2021/02/marcia-fudge-to-focus-on-fair-housing-policies/>.

## Implications for Research

States are often the policy level used to disrupt segregative patterns by targeting attendance boundaries, allowing inter-district transfer, or reducing exclusionary zoning.<sup>79</sup> But the AFH planning process was a unique federal attempt to assert accountability amongst local governments, public housing authorities, and educational leaders to identify specific local patterns of segregation and their institutional structure and set goals to remedy them.

This exploratory analysis considers whether the housing-education link resulted from the AFFH/AFH guidance with the plans indicating weak initial responses to this policy inducement. Yet they do not provide an understanding of who was involved in crafting the document, what evidence decisions were based upon, whether some areas were discussed but not included, what kind of relationships exist between policy actors, and other areas. Schneider and Ingram's social construction of target populations framework, and its emphasis on policy beneficiaries, holds potential for further analyzing the connections and disconnections among planners and housing and education authorities.<sup>80</sup>

Future research requires a mixed methods approach with observations of planning discussions, interviews with policy actors, and analysis of data relating to housing access and education outcomes, particularly related to geographic indicators. A new line of cross-sector research could unite the expertise of urban planning, housing, and education policy in an effort to reduce the long-standing disparities in equitable access to fair housing and educational opportunity.

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<sup>79</sup> See, e.g., Haberle & Tegeler, *supra* note 2, at 952.

<sup>80</sup> Elizabeth DeBray, *The Politics of Fair and Affordable Housing in Metropolitan Atlanta: Challenges for Educational Opportunity*, 10 BERKELEY REV. EDUC. (forthcoming Spring 2021).