

February 21, 2023

Secretary Pete Buttigieg
U.S. Department of Transportation
1200 New Jersey Ave., SE
Washington, DC 20590

Re: Reissuance of interagency guidance on housing and school integration

Dear Secretary Buttigieg,

In 2016, your predecessor at the Department, Secretary Anthony Foxx, joined the Secretaries of Housing and Education in signing a joint letter to state and local housing, transportation and education agencies all across the country, urging them to work together to help to promote racial and economic integration in schools and communities. This joint letter was framed around HUD's 2015 Affirmatively Furthering Fair Housing rule, but it was also premised on the commitments that all three agencies shared.

We are writing to urge you to again join your fellow Secretaries in a renewed letter urging your state, regional, and local counterpart agencies to work together to promote more equitable and integrated communities and schools. The Department of Transportation is obligated to avoid policies that perpetuate segregation under Title VI of the Civil Rights Act of 1964 and in the ensuing 59 years has specified how the agency and its many departments can fulfill this obligation through DOT, FTA, FHA, and Environmental Justice regulations and guidance. These obligations have been reinforced by President Biden's recent Executive Orders on racial equity¹ and by earlier administrations' Executive Orders, including Executive Order 12892, January 17, 1994.² Since the Department of Transportation's work is involved with and impacts housing and urban development, it shares a mandate with other federal agencies to affirmatively further fair housing under the Fair Housing Act, which includes taking steps to dismantle segregation and promote integration. In addition, the 2021 Infrastructure Investment and Jobs Act increases the Department of Transportation's potential role in regional housing planning, by creating authority for Metropolitan Planning Organizations to develop housing coordination plans and align the transportation planning process with regional affordable housing systems.³

The Department of Transportation has a particularly important role to play in supporting efforts to dismantle segregation and build more inclusive and diverse communities. Historically, DOT programs have helped to construct our segregated regions,⁴ and current Department policies can have the effect of perpetuating or reinforcing these divisions.⁵ Many current department programs need to be changed and conditioned on real progress in breaking down patterns of

¹ Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government" (January 20, 2021); "Executive Order on Further Advancing Racial Equity and Support for Underserved Communities Through The Federal Government" (February 16, 2023).

² <https://www.govinfo.gov/content/pkg/WCPD-1994-01-24/pdf/WCPD-1994-01-24-Pg110.pdf>.

³ 23 USC §134 (k)(4).

⁴ See Joseph Biden, "Memorandum on Redressing Our Nation's and the Federal Government's History of Discriminatory Housing Practices and Policies" (January 26, 2021), <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/26/memorandum-on-redressing-our-nations-and-the-federal-governments-history-of-discriminatory-housing-practices-and-policies/>; See generally Deborah N. Archer, "Transportation Policy and the Underdevelopment of Black Communities," 106 *Iowa L. Rev.* 2125 (2021).

⁵ See Heather R. Abraham, "Segregation Autopilot: How the Government Perpetuates Segregation and How to Stop It," 107 *Iowa L. Rev.* 1963 (2022).

segregation. While some of these changes will require Congressional action, others do not, and one of the most important steps that DOT can take now is to urge its state, regional, and local grantees to work together with their counterparts in state, regional, and local housing and education agencies to promote racial and economic integration.

In addition to the excellent 2016 recommendations made by your predecessor at DOT, Secretary Foxx, there are several additional actions that you could urge your state, regional, and local transportation partners to adopt in the areas of planning, data and research, and enforcement:

<p>Planning</p>	<ul style="list-style-type: none"> • Direct Metropolitan Planning Organizations to conduct fair share housing studies as part of their regional housing coordination plan,⁶ to determine an equitable plan for regional sharing of affordable housing responsibilities.⁷ • Encourage collaboration with state and local housing agencies to ensure that new affordable housing development is adequately served by public transportation. • Encourage data sharing and interagency collaboration with state and local housing departments in their development of Equity Plans under the Affirmatively Furthering Fair Housing rule. • Urge metropolitan planning organizations and transit agencies to study public transit access to schools, and to ensure that bus service routes extend to all middle and high schools in a metro area. • Engage with local school districts involved in inter- or intra-district educational choice systems (including states with “open enrollment” systems) to improve transportation access to schools of choice, helping to ensure that school choice systems are not linked to further segregation.
<p>Data Collection and Analysis</p>	<ul style="list-style-type: none"> • Urge states and metropolitan planning organizations to improve the collection of school-related data through the development of school-specific transportation surveys or through existing household travel surveys. • Urge Metropolitan Planning Organizations to incorporate school-related metrics in their analyses of accessibility benefits in their regional transportation plans, including school-related commute times and access to high-quality and low-poverty schools. • Request qualitative experiential data from state, regional, and local transportation agencies that includes student and family testimonials, longitudinal surveys, etc. that surfaces daily opportunities and challenges in navigating transportation systems and infrastructure for school access.

⁶ 23 USC §134 (k)(4)

⁷ Cf. the Obama Administration’s Sustainable Communities Initiative “Fair Housing and Equity Assessments,” <https://www.hudexchange.info/programs/sci/>.

Enforcement	<ul style="list-style-type: none"> Encourage state and regional transportation authorities to collaborate with housing or education agencies in supporting resolution of Title VI, Title VIII or AFFH compliance investigations.
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In addition to these exhortations and directives to DOT’s state, regional, and local grantees, the Department can take several regulatory steps that would support local housing and school integration efforts. For example, we would urge DOT to expand the “Thriving Communities” partnership between DOT and HUD to include ED, as a vehicle for interagency technical assistance and coordination in implementing the three agencies’ mandates to affirmatively further fair housing and avoid policies that perpetuate segregation. The Department should also revisit the “tripper” regulation that prohibits transit agencies from providing school bus service in competition with private school bus operators and explore options for enhanced transit service to support school travel,⁸ and identify ongoing DOT funding that could be used to support free transit passes for public school students in localities that use public transit agencies for school travel. The Department can also provide information and technical assistance to Metropolitan Planning Organizations about newly-created housing coordination authorities, and encourage Metropolitan Planning Organizations to “develop regional goals for the integration of housing, transportation, and economic development strategies.”⁹

Thank you for your consideration of these recommendations, and we would welcome further dialogue with you and other Department staff.

Sincerely,

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⁸ See 49 CFR §605.3; 64 Fed. Reg. 23590 (May 3, 1999), <https://www.govinfo.gov/content/pkg/FR-1999-05-03/pdf/99-10996.pdf>.

⁹ See 23 USC §134 (k)(4).

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