

April 17, 2023

Regulations Division  
Office of General Counsel  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street, SW, Room 10276  
Washington, DC 20410-0500

RE: Proposed Rule, “Affirmatively Furthering Fair Housing,” 88 Fed. Reg. 8516 (February 9, 2023); strengthening housing-schools analysis and collaboration

Dear colleagues,

The undersigned researchers and civil rights organizations have been working together for the past several years to encourage actionable connections between housing and school policy, and to promote increased racial and economic integration in communities and schools. The value of cross-agency collaboration was recognized by HUD and its sister agencies in a 2016 guidance letter urging state and local education, transportation and housing agencies to work together to support housing and school integration.<sup>1</sup> The proposed Affirmatively Furthering Fair Housing rule presents an important opportunity to strengthen this kind of interagency collaboration, and these comments are submitted in that spirit.

A review of the initial implementation of the AFFH rule in 2016 (conducted by some of the undersigned parties) found the previous requirement to assess the connection between housing and schools was not fully effective. There did not appear to be significant consultation between housing and education agencies within participating jurisdictions, and access to high performing schools was not meaningfully addressed in most of the Assessment of Fair Housing policy analyses or goals.<sup>2</sup>

We commend HUD for its recognition of the housing-schools connection in the preamble to the 2023 proposed rule, but we urge HUD to also include these references in the rule itself, not just in the preamble. For example, the preamble states that “[t]his rule acknowledges the direct link between housing opportunities and access to equal educational opportunity and prompts program participants to address and eliminate discriminatory housing policies that lead to segregation among schools,” and that “the housing-school segregation relationship can be disrupted through meaningful yet realistic actions by program participants within their control.”<sup>3</sup> The preamble also makes positive reference to PHAs and school districts working together,<sup>4</sup> and gives an example of how a fair housing “goal” might include school district actions to address lack of access to high-performing schools for children in protected classes:

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<sup>1</sup> U.S. Department of Housing and Urban Development, U.S. Department of Education, and U.S. Department of Transportation, *Dear Colleague Letter on Affirmatively Furthering Fair Housing Rule*, June 3, 2016, <https://www2.ed.gov/documents/press-releases/06032016-dear-colleagues-letter.pdf>.

<sup>2</sup> 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 & Policy Review* 6:73-89 (2021), <https://pracc.org/pdf/using-fair-housing-planning-as-a-tool-to-address-schooling-inequities-ed-law-policy-review-v6.pdf>.

<sup>3</sup> 88 Fed. Reg. at p. 8552.

<sup>4</sup> 88 Fed. Reg. at p. 8523.

A fair housing goal to overcome inequitable access to high-performing schools could consist of realignment of school district boundaries, school zones, or school feeder patterns and increasing the funding for schools in R/ECAPs to ensure that members of historically underserved protected class groups have equitable access to educational opportunities regardless of where they live; such a goal could require multiple parts of the jurisdiction to work together to advance equity and may require leaders in the community to provide the political will for such a goal to be established and implemented.<sup>5</sup>

We strongly support these observations and recommendations, and hope that they will encourage HUD grantees to reach out to state and local school districts and education agencies and include education-related recommendations in their Equity Plans. But to ensure that this takes place, these types of cross-agency collaborations, analyses, and goals need to be mandated in the rule itself. We recommend that:

> Consultation and collaboration: School district staff leadership and school board members should be explicitly listed in 24 CFR §91.100 (“Consultation; local governments”) and state education agencies should be included in 24 CFR §91.110 (“Consultation; States”). The new AFFH rule should also ensure robust community stakeholder input, *including outreach to students and educational advocacy and parent organizing groups*.

> The Equity Plan should require an identification of housing policies that perpetuate school segregation and school policies that perpetuate housing segregation, including an examination of school assignment zones in relation to areas of high poverty, racial isolation, and subsidized housing unit concentration – and recent redistricting or other changes in school assignment policy that increase or decrease access to high performing schools for families in protected classes; 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.<sup>6</sup>

> HUD should include very clear prompts to identify data, policies, and practices that implicate the housing-education relationship. For example:

- The AFFH data and mapping tool should provide up to date, standardized and publicly available data relating to education, including school district boundaries; per pupil spending and other available measures of school resources by district; NCES data on racial and economic composition of schools and school districts; and the degree of racial and economic segregation across school district lines and across school assignment zones within a jurisdiction, PHA area of operation, or state.

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<sup>5</sup> 88 Fed. Reg. at p. 8566.

<sup>6</sup> See, e.g., *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), report archived at [http://www.prrac.org/pdf/HUD\\_housing-schools\\_report\\_May\\_2016.pdf](http://www.prrac.org/pdf/HUD_housing-schools_report_May_2016.pdf). See also, *Improving Outcomes for All Students: Strategies and Considerations to Increase Student Diversity* (U.S. Department of Education, January 2017), <https://www2.ed.gov/about/offices/list/oese/oss/technicalassistance/finaldiversitybriefjanuary2017.pdf>.

- The HUD data tool should specifically correlate distribution of subsidized housing units with school demographics across school districts and schools,<sup>7</sup> and add “access to low poverty schools” as an additional metric. HUD should also prompt state and local grantees to obtain local data on disparities in school performance across different demographics,<sup>8</sup> physical building quality, graduation rates, school discipline and school climate.

> Goals and actions: The rule should include a specific list of housing-schools goals and actions for jurisdictions, PHAs, and states to consider adopting in the Equity Plan.<sup>9</sup>

State and local education policies and housing outcomes are closely linked. An adequate analysis of housing segregation must address disparities in education and the role education policy plays in exacerbating housing segregation. The AFFH process presents state and local level stakeholders with the opportunity to work together to address housing and education disparities in their communities, with federal support. Stakeholders will benefit from a clear instruction to collaborate across sectors and exercise the full potential of the AFFH planning and goal-setting process.

Thank you for the opportunity to make these suggestions for the final rule. We welcome any future opportunities to meet to discuss these suggestions and answer any questions you may have. We are excited for the possibilities the new proposed AFFH rule presents, and we eagerly await implementation of the final rule.

Sincerely,

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<sup>7</sup> 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>.

<sup>8</sup> For example, the Every Student Succeeds Act requires tracking progress for students experiencing homelessness, students in foster care, migrant students, and students with disabilities.

<sup>9</sup> 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/](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](http://www.prrac.org/pdf/Disrupting_the_Reciprocal_Relationship_JCHS_chapter.pdf); and *Breaking Down Barriers: Housing, Neighborhoods, and Schools of Opportunity*, *supra* note 6.

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