



July 12, 2021

Regulations Division  
Office of General Counsel  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW, Room 10276  
Washington, DC 20410-0001

Re: Affirmatively Furthering Fair Housing, Docket No. FR-6249-I-01

To Whom It May Concern:

The National Council of State Housing Agencies (NCSHA) appreciates this opportunity to provide comments on HUD's proposed Interim Final Rule to restore Affirmatively Furthering Fair Housing (AFFH) definitions and certifications. NCSHA and our state Housing Finance Agency (HFA) members are committed to upholding the 1968 Fair Housing Act, including its obligation that HUD and its program grantees affirmatively further fair housing. Central to NCSHA's vision of an affordably housed nation is the goal of removing obstacles that impede anyone from accessing the affordable housing of their choice.

NCSHA is a nonprofit, nonpartisan organization representing the nation's state HFAs.<sup>1</sup> HFAs administer a wide range of affordable housing and community development programs, including the HOME Investment Partnerships program, the Housing Trust Fund, Section 8 rental assistance, the Emergency Solutions Grant, the Community Development Block Grant, and Housing Opportunities for Persons with AIDS. HFAs also administer down payment assistance, home-buyer education, loan servicing, state housing trust funds, and the Low Income Housing Tax Credit (Housing Credit) and issue tax-exempt private activity Housing Bonds to finance affordable housing for renters and home buyers.

NCSHA supports HUD's repeal of the 2020 Preserving Community and Neighborhood Choice Final Rule, which we believe did not adequately enforce the obligation of HUD grantees to affirmatively further fair housing as required by the Fair Housing Act. We also support the

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<sup>1</sup> NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

Interim Rule's reinstatement of the definition of "Affirmatively Furthering Fair Housing" and other related definitions.

NCSHA strongly supports HUD's intention to publish a separate Notice of Proposed Rule Making on amending the 2015 AFFH Rule to achieve both burden reduction and material positive change that affirmatively furthers fair housing. Prior to its 2018 decision to pause implementation of the 2015 AFFH Rule, HUD had issued multiple drafts of the AFFH Assessment Tool for States and Insular Areas (state Tool), on which NCSHA consistently offered comments. Our recommendations to HUD throughout this process focused on how the proposed state Tool could be improved to reduce burdens while still allowing state agency grantees to comply with their AFFH obligations in a meaningful and robust manner.

The last draft of the state tool, published September 28, 2016, incorporated some of NCSHA's recommendations but, in our opinion, still needed further modification to reduce certain unnecessarily burdensome requirements. NCSHA's comment letter, dated October 27, 2016, on the draft AFFH Assessment Tool for States and Insular Areas can be found [here](#).

As HUD once again considers modifications to the 2015 AFFH Rule, which we assume extends to related documents such as the state Tool, we urge the department to consider the following core principles:

1. Grantees' AFFH activities should focus directly on facilitating the goals of the Fair Housing Act, including eliminating discrimination, removing barriers to housing faced by protected classes, and promoting fair housing choice.
2. HUD guidance should provide grantees with a clear framework that sets forth HUD's expectations and holds grantees to a high standard while not being overly burdensome.
3. Grantees' AFFH planning efforts should be based in large part on the best data already available about the fair housing needs and obstacles in their communities and not require extensive additional research or costly consultants.
4. AFFH planning should not require grantees to have or obtain expertise in policy areas unrelated or merely peripheral to affordable housing and fair housing.
5. HUD's requirements should be tailored by type of grantee as states, local governments, tribal entities, and local public housing authorities have different capacities, resources, and geographic scopes.
6. HUD oversight of grantees' AFFH planning should ensure that grantees are upholding the objectives of the Fair Housing Act.

We look forward to picking up where we left off working with HUD towards the goal of establishing a system by which state grantees can meaningfully and productively undertake fair housing planning and actions, while minimizing to the greatest extent feasible the burden associated with implementation of the regulations.

Thank you for your consideration of our comments. Please contact me if we can provide additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Garth Rieman". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Garth Rieman  
Director, Housing Advocacy and Strategic Initiatives