

AFFH FACT Sheet

What “Affirmatively Furthering Fair Housing” Means

The “Affirmatively Furthering Fair Housing” (AFFH) provisions of the Fair Housing Act¹ are part of the original statutory language, included in the Act when it was adopted by Congress in 1968.

Where it comes from: Sec. 3608(d) of the Fair Housing Act requires HUD to “administer its programs in a manner ‘*affirmatively to further* the purposes’” of the Act. Sec. 3608(e) imposes the same obligation on all other federal agencies with programs relating to housing and urban development. Congress also included the AFFH obligation into later laws, including the Housing and Community Development Act of 1974, the Cranston-Gonzalez National Affordable Housing Act, and the Quality Housing and Work Responsibility Act of 1998. Each of these laws requires cities, counties, states and public housing authorities that receive HUD funding to certify that they are affirmatively furthering fair housing in order to be eligible to receive those funds.

What it means: Although the text of the Fair Housing Act itself does not provide a definition of AFFH, its legislative history and subsequent court decisions make it clear.

- When Congress was debating the Fair Housing Act, Senator Phillip Hart, the floor manager for the bill in the Senate, noted that, **“this problem of where a family lives, where it is allowed to live, is inextricably bound up with better education, better jobs, economic motivation, and good living conditions.”** (114 Cong. Rec. 2276-2707 (1968))
- In *Trafficante v. Metro. Life Insurance*. (409 U.S. 205, 211 (1972)), the Supreme Court quoted Senator Walter F. Mondale, one of the original co-sponsors of the Fair Housing Act, who stated that **“The reach of the proposed law was to replace the ghettos by ‘truly integrated and balanced living patterns.’”** (emphasis added.)
- In *NAACP, Boston Chapter v. HUD* (817 F.2d at 154), the First Circuit explained that with this section of the Fair Housing Act, **“Congress intended HUD to do more than simply not discriminate itself; it reflects the desire to have HUD use its grant programs to assist in ending discrimination and segregation, to the point where the supply of genuinely open housing increases.”** (emphasis added.)
- In *Otero v. New York City Housing Authority* (484 F.2d at 1134), the Second Circuit found that Sec. 3608(d) of the Fair Housing Act requires that **“[a]ction must be taken to fulfill, as much as possible, the goal of open, integrated residential housing patterns and to**

¹ 42 U.S.C. 3601 et seq.

prevent the increase of segregation, in ghettos, of racial groups whose lack of opportunity the Act was designed to combat.” (emphasis added.)

To summarize: HUD provided an excellent summary of the AFFH mandate that Congress imposed on HUD in the preamble to the 2015 AFFH regulation, (See 80FR 42274), which explains that, with the Fair Housing Act, Congress wanted to make sure that HUD and its grantees:

- **Do not discriminate** in their housing and community development programs; AND
- **Take active steps to undo historic patterns of segregation** and other types of discrimination, as often reflected in racially or ethnically concentrated areas of poverty; AND
- **Afford access to opportunity** for those to whom it has been denied, including access to better education, jobs and living conditions.

Any regulation that HUD adopts to implement the AFFH provision of the Fair Housing Act must accomplish these three goals; if not, it fails to carry out the job that Congress intended for HUD to do.