



May 1, 2025

To Whom It May Concern:

Thank you for the opportunity to comment in opposition to the U.S. Department of Housing and Urban Development's (HUD) 2025 Interim Final Rule titled *Affirmatively Furthering Fair Housing Revisions* (2025 AFFH IFR). The 2025 AFFH IFR adjusts implementation of the Affirmatively Furthering Fair Housing (AFFH) provision of the Fair Housing Act and rescinds the 2021 Interim Final Rule (2021 AFFH IFR).

In its 2025 Interim Final Rule, HUD has issued a weakened approach to affirmatively furthering fair housing; the IFR stands to worsen our country's fair and affordable housing crisis by dismantling the proactive intent of AFFH, removing requirements, and taking key tools away from states and localities to implement effective fair housing protocols and enforcement actions.

Through the Interim Final Rule's reinterpretation of fair housing-related definitions and withdrawal of critical implemental and enforcement tools, HUD is taking actions that will only decrease housing opportunity for the people of America. We therefore oppose HUD's 2025 AFFH Interim Final Rule and urge HUD to recommit to fostering inclusive communities and addressing longstanding patterns of segregation and discrimination.

#### **About LeadingAge**

We represent more than 5,400 nonprofit aging services providers and other mission-driven organizations serving older adults that touch millions of lives every day. Alongside our members and 36 partners in 41 states, we use advocacy, education, applied research, and community-building to make America a better place to grow old. Our membership encompasses the entire continuum of aging services, including skilled nursing, assisted living, memory care, affordable housing, retirement communities, adult day programs, community-based services, hospice, and home-based care. We bring together the most inventive minds in the field to lead and innovate solutions that support older adults wherever they call home. For more information visit [leadingage.org](https://leadingage.org).

#### **Dismantling the Proactive Intent of AFFH**

Even as everyday people in America struggle to access safe and affordable housing, HUD's IFR reverses accepted definitions of affirmative approaches to fair housing. HUD's 2025 AFFH IFR uses the following definitions:

(a) The phrase "fair housing" in [42 U.S.C. 5304\(b\)\(2\)](#), [5306\(d\)\(7\)\(B\)](#), [12705\(b\)\(15\)](#), and [1437c-1\(d\)\(16\)](#) means housing that, among other attributes, is affordable, safe, decent, free of unlawful discrimination, and accessible as required under civil rights laws.

(b) The phrase "affirmatively further" in [42 U.S.C. 5304\(b\)\(2\)](#), [5306\(d\)\(7\)\(B\)](#), [12705\(b\)\(15\)](#), and [1437c-1\(d\)\(16\)](#) means to take any action rationally related to promoting any attribute or attributes of fair housing as defined in the preceding subsection.

By contrast, HUD's 2021 AFFH IFR used the following definition:

*"Affirmatively furthering fair housing" means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially or ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.*

Thus, HUD's 2025 AFFH IFR acknowledges the Fair Housing Act's first purpose regarding nondiscrimination, but guts the second purpose regarding creating healthy, thriving, and inclusive communities. HUD's 2025 AFFH IFR deletes the critical language from the 2021 AFFH IFR regarding:

- Overcoming patterns of segregation;
- Fostering inclusive communities;
- Addressing significant disparities in housing needs and in access to opportunity;
- Replacing segregated living patterns with truly integrated and balanced living patterns; and
- Transforming racially or ethnically concentrated areas of poverty into areas of opportunity.

### **Eliminating Meaningful AFFH Requirements and Enforcement**

In the midst of America's fair and affordable housing crisis, HUD's 2025 AFFH IFR removes meaningful requirements and enforcement for affirmatively furthering fair housing activities. The 2025 AFFH IFR states:

*A HUD program participant's certification that it will affirmatively further fair housing is sufficient if the participant takes, in the relevant period, any action that is rationally related to promoting one or more attributes of fair housing as defined in section 5.150(a).*

In addition, HUD's 2025 AFFH IFR defines "affirmatively further" as "any action rationally related to promoting any attribute or attributes of fair housing." Thus, HUD's 2025 AFFH IFR forgoes any meaningful requirements or guidance for developing thriving, inclusive communities and instead issues a certification requirement without meaningful enforcement, effectively gutting the rule.

In contrast to the 2021 AFFH IFR's requirement of "meaningful action," this rule's "rational relationship" standard is a very low bar. Moreover, given the rule's definition of fair housing, the "certification" could be unrelated to overcoming segregation and creating healthy, thriving, and inclusive communities.

### **Removing Meaningful Structure and Support for States and Localities**

In addition to watering down fair housing-related definitions, HUD's 2025 IFR fails to empower localities with a meaningful framework to develop healthy, thriving, and inclusive communities as the Fair Housing Act intended. This approach is out of touch with the reality on the ground – including successful state and local programming that relies on federal support – and misses ever-present opportunities to affirmatively further fair housing.

HUD's 2025 AFFH IFR provides no guidance to localities seeking to develop healthy, thriving, and inclusive communities. Under the rule, localities will no longer be required to undertake any kind of fair housing planning. They will not be asked to consider any data, analysis, or public input on local patterns of segregation and disparities in access to community resources. Localities will not have to establish fair housing goals, chart a strategy for achieving them, or keep records that document those efforts.

Finally, HUD's 2025 AFFH IFR deletes the requirement for HUD to provide technical assistance to program participants at a time when state and local jurisdictions want guidance. Also, HUD will not monitor the program participants' – including state and local governments, as well as Public Housing Authorities – performance, oversee their compliance with their fair housing obligations, or provide them with tools and resources to conduct the analysis. In other words, with this regulation, HUD has effectively abdicated its responsibility to ensure that its programs affirmatively further fair housing, as intended by Congress and interpreted by the courts.

While our Multifamily Housing provider members don't themselves engage directly with the AFFH plans and approaches that were required of Public Housing Authorities, HUD's 2021 IFR made it easier for Multifamily Housing providers to collaborate with state and local governments and with Public Housing Authorities to help set meaningful goals for fair housing outcomes. Removing those structures makes it much more difficult for our membership to partner with jurisdictions to ensure the success of AFFH.

Our strength as a nation depends on ensuring that all communities are safe, healthy, and thriving. HUD's 2025 AFFH IFR is a step in the wrong direction and will only hinder meaningful efforts to promote housing opportunity for all. Please direct any questions to Juliana Bilowich, LeadingAge's Senior Director of Housing Operations and Policy, at [jbilowich@leadingage.org](mailto:jbilowich@leadingage.org).

Sincerely,

Juliana Bilowich  
LeadingAge