

May 2, 2025

**Submitted via [www.regulations.gov](http://www.regulations.gov)**

Secretary Scott Turner  
Secretary of Housing and Urban Development  
U.S. Department of Housing and Urban Development  
451 7th Street, SW  
Washington, D.C. 20410

**Re: HUD’s Affirmatively Furthering Fair Housing Revisions Interim Final Rule, HUD-2025-03360 (90 FR 11020), Docket No. FR-6519-I-01, RIN 2529-AB08**

Dear Secretary Turner,

Disability Rights Florida appreciates the opportunity to comment on the 2025 Interim Final Rule titled, *Affirmatively Furthering Fair Housing Revisions*<sup>1</sup> (“2025 AFFH IFR”) from the U.S. Department of Housing and Urban Development (“HUD”). Disability Rights Florida strongly opposes the 2025 AFFH IFR.

Disability Rights Florida is Florida’s federally mandated Protection and Advocacy (“P&A”) system<sup>2</sup> organized for the benefit of all Floridians with disabilities through the provision of free and confidential legal and advocacy services. Disability Rights Florida advocates, educates, investigates, and litigates to protect and advance the rights, dignity, equal opportunities, self-determination, and choices for people with disabilities. Integration of people with disabilities into society is central to Disability Rights Florida’s mission and, as we argue in this comment, integration cannot be accomplished without strong rules implementing the obligation to affirmatively further fair housing. Given our experience and expertise in addressing the housing needs of Floridians with disabilities, we strongly oppose the drastic changes HUD seeks to make to the Affirmatively Furthering Fair Housing rule.

Integrated housing offers people with disabilities the choice to live in housing that is not separated from people without disabilities and that affords access to services and opportunities available to the wider community. In *Olmstead v. L.C.*, 527 U.S. 581 (1999), the Supreme Court described the integration mandate of the Americans with

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<sup>1</sup> HUD, Interim Final Rule, *Affirmatively Furthering Fair Housing Revisions*, 90 Fed. Reg. 11020 (Mar. 3, 2025), <https://www.federalregister.gov/documents/2025/03/03/2025-03360/affirmatively-furthering-fair-housing-revisions>.

<sup>2</sup> See *About*, Nat’l Disability Rts. Network, <https://www.ndrn.org/about/> (last visited May 2, 2025) (explaining that the P&A system is the “only legally based advocacy organization established by Congress to protect the rights of all individuals with disabilities” and part of that mandate includes a network of agencies in every state and U.S. territory).

Disabilities Act (“ADA”) and ruled that the unnecessary segregation of individuals with disabilities constitutes disability discrimination that violates the ADA. The Supreme Court explained further that people with disabilities must be offered services in the most integrated setting possible. For many people with disabilities, the most integrated setting is the community. Like the ADA, the Fair Housing Act (“FHA”) has an integration mandate that is codified in 42 U.S.C. § 3608, otherwise known as the Affirmatively Furthering Fair Housing (“AFFH”) section. The AFFH is a crucial part of the FHA in that it requires that all federal agencies and their funding recipients, such as cities, counties, states, public housing authorities and other entities, take active steps to tackle housing inequality and segregation. This mandate includes an obligation to undertake affirmative actions to ensure the integration of people with disabilities into the community. As HUD is aware, there are many barriers to community integration for people with disabilities including, but not limited to, physical accessibility of housing, neighborhoods and services, bias, accessible transportation, and affordable housing.<sup>3</sup>

There is a nationwide affordable housing crisis.<sup>4</sup> The crisis is compounded for people with disabilities<sup>5</sup> because they are more likely to need affordable *and* accessible housing. Less than five percent (5%) of housing in the United States is accessible for people with even moderate mobility impairments and a shocking one percent (1%) is accessible for people who use wheelchairs.<sup>6</sup> Further, people with disabilities are more likely to live in poverty than their non-disabled counterparts and therefore less likely to be able to afford the extremely limited stock of accessible housing that does exist. In Florida, there is a severe housing shortage.<sup>7</sup> There are only 26 rental homes in Florida that are affordable and available for every 100 extremely low-income households that need them.<sup>8</sup> As a result, many low-income renter households in Florida are severely cost burdened, meaning families experience unstable housing situations and have to sacrifice

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<sup>3</sup> See *The Importance of Community Integration for People with Disabilities*, UNITED DISABILITIES SERVICES (Mar. 2, 2021), <https://udservices.org/community-integration-people-with-disabilities/> (discussing community integration and its benefits and barriers).

<sup>4</sup> See *No State Has an Adequate Supply of Affordable Rental Housing for the Lowest-Income Renters*, NAT’L LOW INCOME HOUS. COAL., <https://nlihc.org/gap> (last visited May 1, 2025) (explaining that the U.S. has a shortage of 7.1 million rental homes affordable and available to renters with extremely low incomes). See also Drew Desilver, *A look at the state of affordable housing in the U.S.*, PEW RSCH. CTR. (Oct. 25, 2024), <https://www.pewresearch.org/short-reads/2024/10/25/a-look-at-the-state-of-affordable-housing-in-the-us/> (showing that 31.3% of American households and about half of renting households were cost burdened in 2023).

<sup>5</sup> See *The Affordable Housing Gap: A Crisis for Low-Income Renters*, NAT’L ALL. TO END HOMELESSNESS, <https://endhomelessness.org/a-shortage-of-affordable-housing/> (last visited May 1, 2025) (stating that the severe shortage of rental homes affordable to the nation’s lowest-income renters disproportionately impacts groups like people with disabilities).

<sup>6</sup> J. Lake et al., *Recognizing and Addressing Housing Insecurity for Disabled Renters*, CTR. FOR AM. PROGRESS (May 27, 2021).

<sup>7</sup> *2025 Florida Housing Profile*, NAT’L LOW INCOME HOUS. COAL. (Mar. 2025), [https://nlihc.org/sites/default/files/SHP\\_FL.pdf](https://nlihc.org/sites/default/files/SHP_FL.pdf).

<sup>8</sup> *Id.*

other important necessities to be able to pay rent.<sup>9</sup> As previously explained, people with disabilities are more likely to be poor. In fact, thirteen percent (13%) of the extremely low-income renter households in Florida are people with disabilities.<sup>10</sup> People with disabilities are also disproportionately impacted by housing discrimination that limits their ability to access housing.<sup>11</sup> The combination of a lack of affordable and accessible housing, financial disparities, and housing discrimination means that people with disabilities face an incredible struggle to remain in the community. Strong implementation of the FHA's integration mandate through the AFFH is critical to ensure that accessible and affordable housing is available to people with disabilities and that they are not stymied in their pursuit of integrated housing by the scourge of discrimination.<sup>12</sup>

The FHA prohibits discrimination on the basis of disability in all types of housing transactions, but Congress understood that just outlawing obvious discrimination was not enough to ensure its eradication. This is why Congress not only prohibited disability discrimination but also required that agencies, cities and states *affirmatively* act to combat disability discrimination, overcome patterns of segregation, and foster inclusive and integrated communities. Government actors must act proactively to end housing inequities. The 2025 AFFH IFR fails to meet the FHA's mandate to end segregation and

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<sup>9</sup> In Florida, 90% of extremely low-income renter households are cost burdened, meaning they spend more than 30% of their income on housing costs and utilities, and 82% of extremely low-income renter households are severely cost burdened, spending more than half of their income on housing costs and utilities. *Florida*, NAT'L LOW INCOME HOUS. COAL., <https://nlihc.org/housing-needs-by-state/florida> (last visited May 1, 2025).

<sup>10</sup> *Id.*

<sup>11</sup> In 2024, the majority of complaints filed with fair housing organizations, HUD, and Fair Housing Assistance Program agencies were complaints alleging discrimination based on disability. There was a total of 17,986 reports filed alleging disability discrimination. L. Augustine et al. at 9, *2024 Fair Housing Trends Report*, NAT'L FAIR HOUS. ALL. (July 2024), [https://nationalfairhousing.org/wp-content/uploads/2023/04/2024-Fair-Housing-Trends-Report-FINAL\\_07.2024.pdf](https://nationalfairhousing.org/wp-content/uploads/2023/04/2024-Fair-Housing-Trends-Report-FINAL_07.2024.pdf).

<sup>12</sup> The FHA's AFFH mandate can be used to increase the supply of quality accessible and affordable housing, including in communities that have historically blocked this type of construction. *Letter to the White House on the Affirmatively Furthering Fair Housing Rule*, THE LEADERSHIP CONF. ON CIV. AND HUM. RTS. (Apr. 17, 2024), <https://civilrights.org/resource/letter-to-the-white-house-on-the-affirmatively-furthering-fair-housing-rule/>. The AFFH is intended to provide a structured process to ameliorate poverty and inequality by supporting the transformation of areas of concentrated poverty into thriving communities and fostering design approaches that promote access to affordable housing. *Understanding AFFH: Keeping Fair Housing's Promise*, ALL. FOR HOUS. JUST., <https://www.allianceforhousingjustice.org/understanding-affh> (last updated June 6, 2023). Federal homelessness programs, housing choice voucher programs, and mainstream housing development programs are among HUD's funding sources that come with an AFFH requirement. Failure to provide fair housing has long been a driver of homelessness. Steve Berg, *Why the Affirmatively Furthering Fair Housing Rule Matters*, NAT'L ALL. TO END HOMELESSNESS (Jan. 17, 2024), <https://endhomelessness.org/blog/why-the-affirmatively-furthering-fair-housing-rule-matters/>.

affirmatively act to achieve integration and is instead drafted to undercut and oppose this mission.

The 2025 AFFH IFR's definitions of "fair housing" and "affirmatively further" fail to incorporate the requirements of 42 U.S.C. § 3608. To wit, the suggested definitions of "fair housing" and "affirmatively further" are:

- (a) *The phrase "fair housing" [...] means housing that, among other attributes, is affordable, safe, decent, free of unlawful discrimination, and accessible as required under civil rights laws.*<sup>13</sup>
- (b) *The phrase "affirmatively further" [...] means to take any action rationally related to promoting any attribute or attributes of fair housing as defined in the preceding subsection.*<sup>14</sup>

This definition of "fair housing" is conspicuously free of language identifying or describing the FHA's integration mandate as contained in 42 U.S.C. § 3608. The 2025 AFFH IFR also waters down what it means to "affirmatively further" fair housing such that it requires no real showing of an effort to proactively implement the rule. What qualifies as sufficient conduct under the definition of "affirmatively further" is merely any action *rationally related* to promoting *an attribute* of fair housing. In other words, the standard for what constitutes affirmatively furthering fair housing has been severely reduced. The two definitions paired together assert that "any action" somewhat related to "any attribute" of fair housing is sufficient to meet the requirements of 42 U.S.C. § 3608, meaning an entity could attempt the slightest effort to only make housing "decent" but not address discrimination, affordability, accessibility or any of the other listed attributes and claim compliance with the AFFH.<sup>15</sup>

In addition to these new definitions, the 2025 AFFH IFR removes any implementation guidance to program participants and requires little monitoring of their compliance.<sup>16</sup> As opposed to the 2021 AFFH IFR where program participants were required to certify that they would comply with their obligation to affirmatively further fair housing, and HUD would support certification by providing technical assistance in

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<sup>13</sup> 24 C.F.R. § 5.150 (2025).

<sup>14</sup> *Id.*

<sup>15</sup> This is in stark contrast to the 2021 AFFH IFR that defined "affirmatively furthering fair housing" to include "taking *meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities*" and addressing "significant disparities in housing needs and in access to opportunity [and] replacing segregated living patterns with *truly integrated and balanced living patterns[.]*" HUD, Final Rule, *Restoring Affirmatively Further Fair Housing Definitions and Certifications*, 86 Fed. Reg. 30779 (June 10, 2021), <https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications> (emphasis added).

<sup>16</sup> 24 C.F.R. § 5.151 (2025).

various ways,<sup>17</sup> the 2025 AFFH IFR merely parrots the definitions in section 5.150 and states that a program participant taking “any action that is rationally related to promoting one or more attributes of fair housing” is sufficient certification that it will affirmatively further fair housing.<sup>18</sup> Program participants lack any accountability to enforce the FHA under the 2025 AFFH IFR.

Under the 2025 AFFH IFR, federal agencies and their funding recipients will no longer be required to actively address or take meaningful action to ameliorate the various systemic and intersectional needs affecting housing for people with disabilities in this country. Disability Rights Florida strongly opposes the 2025 AFFH IFR because it will harm people with disabilities and limit their ability to access integrated housing. People with disabilities are among the most severely impacted by the affordable housing crisis. If HUD does not require full enforcement of the FHA, including through the implementation of an effective and legally sufficient AFFH rule, people with disabilities will continue to be relegated to substandard and inhumane housing conditions, institutions, and assisted living facilities. People with disabilities will continue to face an increasing lack of housing that is affordable, accessible, and free from discrimination. The 2025 AFFH IFR removes any mention of the FHA’s promise to dismantle housing segregation and create thriving and inclusive communities. People with disabilities deserve the full protection of the law and the choice to live fully integrated in their communities. HUD should uphold its commitment to affirmatively further fair housing rights for all people, including people with disabilities, by withdrawing the 2025 AFFH IFR.

Sincerely,

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<sup>17</sup> HUD, Final Rule, *Restoring Affirmatively Further Fair Housing Definitions and Certifications*, 86 Fed. Reg. 30779 (June 10, 2021), <https://www.federalregister.gov/documents/2021/06/10/2021-12114/restoring-affirmatively-furthering-fair-housing-definitions-and-certifications>.

<sup>18</sup> 24 C.F.R. § 5.151 (2025).