



February 9, 2023

## GENERAL NEWS

### HUD Publishes Proposed AFFH Rule

On January 20, we reported that the Department of Housing and Urban Development ([HUD](#)) [announced](#) that it would imminently publish its proposed Affirmatively Furthering Fair Housing ([AFFH](#)) rule, which would implement the [Fair Housing Act](#)'s statutory mandate to affirmatively further fair housing. Today HUD has officially published the [proposed rule](#) in the *Federal Register*.

As we previously reported, the proposed rule:

- Would encourage HUD program participants to take action in order to ensure members of protected classes have equitable access to affordable housing opportunities.
- Incorporates much of the framework of the [2015 AFFH rule](#) and includes several refinements based on feedback HUD received from a variety of stakeholders.
- Is designed to simplify the required fair housing analysis, emphasize goal setting, increase transparency for public review and comment, foster local commitment to addressing fair housing issues, enhance HUD technical assistance to local communities, and provide mechanisms for regular program evaluation and greater accountability, among other changes.
- Would require program participants to submit every five years an Equity Plan to HUD for review and acceptance. The plan, a modified version of the Assessment of Fair Housing (AFH) performed under the 2015 rule, is developed following community engagement and contains the fair housing analysis, goals, and strategies.
- Would require program participants to incorporate goals and strategies from their accepted Equity Plans into subsequent planning documents (e.g., consolidated plans, annual action plans, and public housing agency plans).
- Would also require program participants to conduct and submit to HUD annual progress evaluations that describe progress toward and/or any needed modifications of each goal in the Equity Plan.
- Would require both the Equity Plans and the annual progress evaluations to be posted online.
- Includes provisions that permit members of the public to file complaints with HUD if program participants are not living up to their AFFH commitments and various other provisions that enable HUD to ensure that program participants are held accountable for complying with the rule.

HUD seeks public comment on this proposed rule and invites all interested parties and members of the public to submit their views, comments, and recommendations for improvement for this proposal. The due date for comments is **April 10, 2023**. For further details on the proposed rule, HUD has made available a [fact sheet](#), a [quick reference guide](#), and a [public comment how-to guide](#).

### HUD Publishes Notice Setting Out Enforcement Authority Under VAWA

On February 2, we reported that HUD posted a notice ([FHEO 2023-01](#)) setting out HUD's enforcement authority under the Violence Against Women Act ([VAWA](#)). Below are just a few highlights of the notice:

- HUD establishes that the Department will implement and enforce VAWA in such way that provides the same rights and remedies as those provided under the Fair Housing Act. This means that, as of October 1, 2022, HUD's Office of Fair Housing and Equal Opportunity ([FHEO](#)) and the Office of General Counsel will enforce the housing protections of VAWA using the same processes that are used to enforce the Fair Housing Act.
- The notice describes in general how HUD's current Fair Housing Act regulations will be used to process VAWA complaints.
- VAWA requires federal agencies, including HUD, to establish a process to review compliance with the applicable requirements in VAWA. HUD will implement this broader compliance review obligation, which is discussed in more detail in the notice.
- HUD will engage in rulemaking and issue regulations, as appropriate, to fully implement the compliance review mandate of VAWA 2022. In the interim, FHEO may exercise discretion to investigate alleged or suspected noncompliance with VAWA, similar to how it may do so under the Fair Housing Act.
- To the extent possible, HUD will identify existing compliance review procedures that already allow for such reviews, including those currently administered by FHEO.
- Sections of the notice include: VAWA Complaint Processing, FHEO Investigation Into VAWA Noncompliance, VAWA Compliance Reviews, and Where to File Complaints.

Further details can be found in the notice, which is available on the new VAWA [website](#).

Under VAWA, applicants and tenants of certain HUD rental assistance programs may not be denied housing, evicted, or have their housing assistance terminated because they have experienced domestic violence, dating violence, sexual assault, stalking, or human trafficking. Additionally, survivors must be able to access certain remedies, such as the ability to request an emergency transfer for safety reasons related to the violence.



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