



April 24, 2023

Ms. Tiffany Johnson  
Director, Policy and Legislative Initiatives Division  
Office of Fair Housing and Equal Opportunity  
Department of Housing and Urban Development  
451 7th Street SW, Room 5250  
Washington, DC 20410–8000

**RE: Affirmatively Furthering Fair Housing, Docket No. FR-6250-P-01,  
RIN 2529–AB05**

Dear Director Johnson:

The National Disability Rights Network (NDRN)\* is writing to provide comments on the Affirmatively Furthering Fair Housing (AFFH) proposed rule due on April 24, 2023, issued by the Department of Housing and Urban Development (HUD). Below, NDRN has commented on several of the proposed questions.

NDRN strongly supports HUD’s proposed AFFH Rule and believes that the proposed Rule, if implemented properly, will significantly improve housing opportunities for people most in need, including people with disabilities. This new Rule will enhance the important additions brought about by the 2015 rule, increasing access to affordable and accessible housing for persons with disabilities. HUD’s commitment to further such programs demonstrates a critical commitment to housing needs.

NDRN especially appreciates the proposed Rule's recognition that affirmatively furthering fair housing includes affording people with disabilities the opportunity to live in the most integrated setting appropriate to their needs. This core aspect of non-discrimination has too often been ignored in fair housing planning. As a result, the most appropriate integrated setting has typically been the option least available to people with disabilities.

For years, under the previous Analysis of Impediments to Fair Housing (AI) process, HUD's grantees failed to take their fair housing certifications seriously or meaningfully act to eliminate barriers to accessible and affordable housing for people with disabilities. HUD's 2015 AFFH Rule represented a crucial step forward in providing jurisdictions and communities with new processes and tools to advance the goals of the Fair Housing Act. This 2023 Rule will work to extend and improve previously taken actions.

Every day a person with a disability lives in an institutional setting instead of the community is a lost opportunity. Most importantly, it is a lost opportunity for those people with disabilities who will remain institutionalized rather than active members of their community of choice. It is a lost opportunity for the state and local governments that would benefit from the cost-savings achieved when people with disabilities move from expensive nursing facilities, psychiatric hospitals, and other institutions into the community. Finally, it is not only a lost opportunity but a violation of the Supreme Court's 1999 *Olmstead* decision for state and local governments to not provide opportunities for people with disabilities to live in the community.

### **NDRN's Comments on Selected Questions**

5. In what ways can HUD assist program participants in facilitating the community engagement process so that the Equity Plans program participants develop are comprehensive and account for issues faced by members of protected class groups and underserved communities that program participants may not necessarily be aware of? HUD specifically seeks feedback on the following:

a. Should HUD require that a minimum number of meetings be held at various times of day and various accessible locations to ensure that all members of a community have an opportunity to be heard? Should HUD require that at least one meeting be held virtually?

Yes, and Yes. Multiple meetings should be held in various locations and at different times throughout the day and week. People with disabilities, particularly those with mobility disabilities, require locations that are physically and geographically accessible. People who use wheelchairs or other mobility devices need any meeting to be held in a facility that is physically accessible. If the only location lacks such access, HUD will lose out on the perspective of a significant segment of the disability community which is the group that most needs changes in housing policies that will increase the availability of accessible housing.

Many members of the disability community rely on public transportation. As a result, the meeting locations should be in easily accessible locations close to public transportation and held on days and during times public transit is operating. If meetings are held in locations that are challenging to get to and from, many of the disability community will not be able to participate.

At least one meeting, if not more, should be held with both web and telephone access to allow other members of the disability community to participate. There are many people with disabilities who may be unable to attend in person or choose not to attend public gatherings because they are immunocompromised or may reside with others who are. Persons with disabilities also disproportionately live below the poverty line. As a result, the extra cost of public transit is not an extra expense they can afford. Many areas also lack adequate public transportation options and thus people with disabilities often need to rely on friends, families or more expensive taxi, car services or ride-hailing companies. This population needs access to virtual meeting possibilities.

As a result, alternative options are necessary. As many opportunities in different times and locations should be provided to recruit as broad a cohort of participants to collect the best data possible.

c. Should HUD require program participants to utilize different technology to conduct outreach and engagement? If so, which technologies have proven to be successful tools for community engagement? Are these technologies usable by individuals with disabilities, including those who utilize assistive technology or require reasonable accommodations such as real-time captioning or sign-language interpreters?

As it pertains to accommodating participants with disabilities, it is always essential that planners adopt a multi-modal approach. Although an accommodation may work for one participant with a disability, it does not mean that it will accommodate all members of the disability community. As a result, different options should be provided to ensure that all participants have full access to the process. A multi-modal approach should also be used for outreach purposes. Because different outreach and media platforms are more, or less, accessible based on assistive technology and other features, HUD should apply different approaches to reach the largest number of participants.

At the most basic level, some technologies have proven to be more user friendly to people with disabilities than others. For instance, Zoom has generally been said to be more accessible and usable by persons with disabilities in comparison to other platforms such as WebEx, Google Meet, or TEAMS. Before HUD decides what online platform to use, it should reach out to representative disability organizations to learn which platforms are most accessible and widely utilized. Even the formatting of online materials should be considered. PDF documents are known to be more difficult to read with screen reading software than Word documents.

Information offered should also be provided in multiple ways. So, if provided online through platforms like YouTube or other video providers, in order to accommodate people who are Deaf, or persons who are not proficient in English, the videos should be captioned in multiple languages, and video American Sign Language (ASL) interpreting should also be part of any video presentation, and a written transcript should be available.

Finally, in an era of social media, HUD can use such platforms to reach participants. The disability community is still just as likely to use such websites and applications as their non-disabled peers. However, programs must consider different accommodation needs and barriers. Some social media sites are more accessible for one disability group than the other. As

a result, multiple applications should be used so people have options. Additionally, sites like Instagram are inherently visual so they should include alt tags and visual descriptions. TikTok has an option to caption its content. Producers must always use this function. Technology exists; it just must be used wisely.

e. Are there specific types of technical assistance that HUD can provide to assist program participants in conducting robust community engagement, including how community engagement can inform goal setting, implementation of goals, and progress evaluations? If so, please specify the types of technical assistance that would be most useful.

HUD should provide technical assistance on working with the disability community. Overall, disability culture is unknown to the general population. As a result, when an outside group is hoping to engage with the disability community, they may approach the project with preconceived ideas that will inadvertently impact the final product of the conversation. HUD should provide technical assistance on things like disability etiquette. Additionally, basic exposure to things like assistive technology will equip program leads on how people with disabilities access the world. When the program leads have a greater grasp of how things work for people with disabilities, the conversations may be more fruitful. Organizations like the ten regional offices of the ADA National Network may be able to provide such technical assistance.

9. In order to reduce burden on program participants, and based on the lessons learned from the implementation of the 2015 AFFH Rule, HUD requests comments on how Equity Plans should be submitted to the Department (e.g., through a secure portal, via email, through a web page that allows uploads, etc.) and whether HUD should mandate the file format the Equity Plan is submitted in (e.g., MS Word, PDF, etc.).

The best way to make a process fully accessible for all people with disabilities is to allow people to participate in diverse ways. As a result, requiring participants to submit answers in only one format runs afoul of this concept. To accommodate different disabilities, HUD should provide a few different options that might accommodate different strengths.

Additionally, some formats, depending on the type of assistive technology that is being used, can be more or less accessible to read. Such considerations should be discussed when determining what format the document should be in before it is submitted.

In the most basic sense, submitting a document via email is generally accessible. However, before such an assumption is made, the needs of the entire disability community must be considered. A basic research survey could help to answer this question. But again, a multi-modal approach is always best.

To ensure equity, potential technology access questions should also be discussed. It is presumed that most submissions are done electronically but submitting content via U.S. Postal mail is less and less commonplace. However, based on one's socioeconomic background, access to technology may be more difficult. On top of that, people with disabilities require more costly assistive technology. As a result, people who live at the intersection of low income and disability may have an even more challenging time submitting information electronically. To remedy this, it should still be permissible to submit responses via hard copy or assistive technology should be brought directly to the community.

Ultimately, the final submission process may present unforeseen barriers. To combat these barriers, personnel should be available to help troubleshoot. To do so, a phone number with a reachable person should be available to ensure full participation for all groups. This phone number must also be accompanied by a TTY line for people who are Deaf.

21. What forms of technical assistance could HUD provide that would better position program participants and their communities to develop their Equity Plans and ultimately implement and achieve the fair housing outcomes set therein?

To ensure equity for persons with disabilities, more technical training and assistance on how to accommodate a person with a disability is necessary. More often than not the participant with a disability has to advocate for him or herself. This training can also include training on how assistive

technology works so that any interaction with electronic systems is effective. As previously stated, the ADA National Network can offer individualized training as well as a myriad of online and printed resources on such topics.

Furthermore, equity also requires communities to explore issues that emerge within the intersectionality of different marginalized minority groups. For instance, the equity experiences of a White Male with a disability is likely to be different than a Black Woman with a disability. As a result, HUD must provide more resources to educate facilitators on the impact of intersecting experiences. It is easy for facilitators to default to the predominant culture. HUD should bring in experts who can educate others on the lived experiences of members of all other marginalized minority groups. If such intersectional perspectives are overlooked, true equity will not be achieved and result in even further marginalization of other groups.

Thank you for the opportunity to offer our thoughts on these comments. If we can answer any questions, please reach out to Claire Stanley at [Claire.stanley@ndrn.org](mailto:Claire.stanley@ndrn.org).

Sincerely,

A handwritten signature in blue ink that reads "Marlene Sallo". The signature is fluid and cursive, with a long, sweeping underline that extends to the right.

Marlene Sallo  
Executive Director  
National Disability Rights Network

\* NDRN is the non-profit membership association of Protection and Advocacy (P&A) agencies located in all 50 States, the District of Columbia, and the United States Territories. In addition, there is a P&A affiliated with the Native American Consortium which includes the Hopi, Navajo, and San Juan Southern Paiute Nations in the Four Corners region of the Southwest.

P&A agencies are authorized under various federal statutes to provide legal representation and related advocacy services, and to investigate abuse and neglect of individuals with disabilities in a variety of settings. The P&A Network comprises the nation's largest provider of legally based advocacy services for people with disabilities. NDRN and the P&A Network advocate for many people with disabilities with a connection to housing related issues.