

Exploring Frameworks for Building Broad-Based Equitable Remedies for Systemic Injustices



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HOUSING JUSTICE



National Housing Law Project

Duty to Affirmatively Further Fair Housing (AFFH)

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- Fair Housing Act
 - Signed into law in the wake of Dr. King's assassination
 - Protected groups include race, color, sex, familial status, national origin, religion, and disability
 - Goes beyond prohibiting housing discrimination
 - ✦ HUD must “administer the programs and activities relating to housing and urban development in a manner affirmatively to further” FHA’s policies. 42 U.S.C. § 3608 (e)(5).
- Affirmative obligation
 - AFFH requires *more than merely prohibiting discrimination*; instead, there exists an obligation to “take the types of actions that undo historic patterns of segregation and other types of discrimination and afford access to opportunity that has long been denied.” AFFH Rule Preamble, 80 Fed. Reg. 42,272, 42,274 (2015).
 - Applies to HUD, other federal agencies that administer housing & urban development activities and programs, and federal funding recipients

AFFH Final Rule – Key Features

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- Structured process with HUD review
- Stresses a balanced approach
 - Place-based AND mobility strategies
- Incorporates fair housing planning into broader HUD planning processes
- Requires meaningful community participation
- Seeks more holistic fair housing planning through the provision of data
- Requires jurisdictional AND regional thinking and data analysis
- Encourages HUD grantees (housing authorities, state/local governments) to collaborate in submitting AFHs

The AFH: A New Avenue for Advocacy

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- In 2015, HUD issued a final rule that would require certain HUD funding recipients to use **a new fair housing planning framework** (Assessment of Fair Housing, or AFH) to analyze fair housing issues, including:
 - Segregation/integration
 - Racially/ethnically concentrated areas of poverty
 - Disparities in access to opportunity
 - Disproportionate housing needs
 - Fair housing enforcement
- Certain HUD funding recipients, including states, local governments, and public housing authorities (PHAs) will have to complete the AFH.

Why the AFH Process is Important

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- This new planning process requires HUD funding recipients to assess fair housing issues and ultimately set goals to overcome barriers to fair housing choice.
 - HUD's failure to accept the AFH can impact receipt of federal funds.
 - The goals arising out of this process will help inform subsequent planning, as well as investment decisions regarding housing & community development dollars down the road.
- However, advocates *should not* think of this as simply a housing planning process!

Cross-Sector Potential Through the AFH Process

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- As part of the AFH process, jurisdictions and PHAs will answer questions regarding disparities in access to opportunity in several areas including:
 - Education
 - Jobs
 - Transportation
 - Poverty exposure
 - Environmental factors
- HUD is providing data via tables and maps.
 - HUD-provided data has limitations.
 - Data and maps are made available online to the public.
- Local data and local knowledge

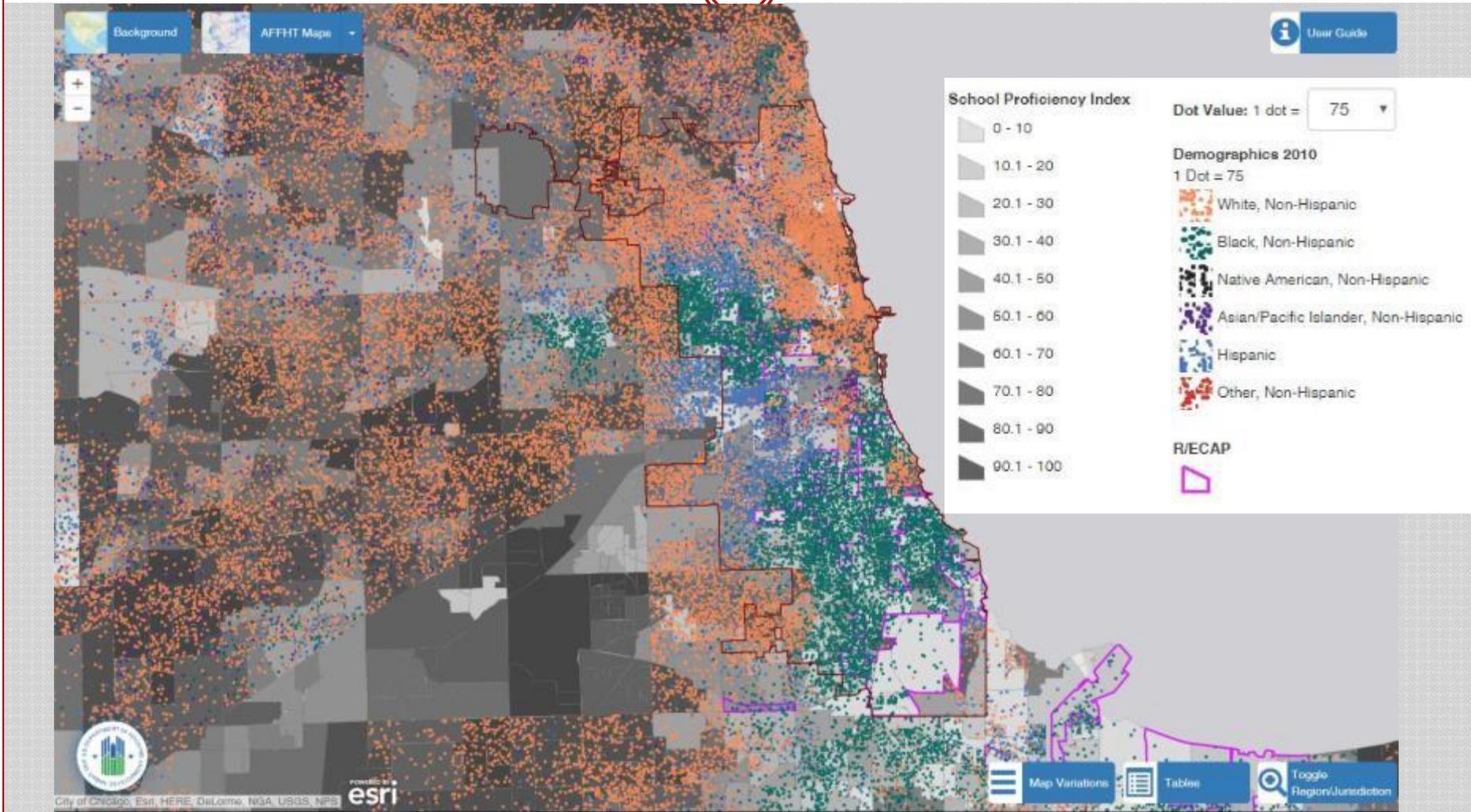
Examples of AFH Questions Regarding Opportunity Access

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- “Describe the relationship between the residency patterns of racial/ethnic, national origin, and family status groups and their proximity to proficient schools.”
- “How does a person’s place of residence affect their ability to obtain a job?”
- “Describe how the jurisdiction’s and region’s policies, such as public transportation routes or transportation systems designed for use [of] personal vehicles, affect the ability of protected class groups to access transportation.”

Example of HUD-Provided Map for Chicago, IL: Demographics & School Proficiency (Map 9)

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Example of HUD-Provided Data for Chicago, IL & Region Opportunity Indicators by Race/Ethnicity (Table 12)

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Table 12 - Opportunity Indicators, by Race/Ethnicity

(Chicago, IL CDBG, HOME, ESG) Jurisdiction	Low Poverty Index	School Proficiency Index	Labor Market Index	Transit Index	Low Transportation Cost Index	Jobs Proximity Index	Environmental Health Index
Total Population							
White, Non-Hispanic	57.70	51.35	72.20	91.48	86.08	53.84	15.43
Black, Non-Hispanic	20.07	18.41	19.06	89.56	79.78	43.34	18.96
Hispanic	30.15	28.80	35.59	91.09	82.92	46.47	17.43
Asian or Pacific Islander, Non-Hispanic	44.31	44.19	64.18	93.27	88.79	55.70	13.67
Native American, Non-Hispanic	34.34	30.97	44.15	91.23	84.18	46.82	17.03
Population below federal poverty line							
White, Non-Hispanic	47.66	44.93	66.12	92.84	87.69	53.25	14.96
Black, Non-Hispanic	13.75	16.73	15.99	90.31	81.70	42.94	17.97
Hispanic	24.01	25.67	33.80	91.73	84.13	46.76	16.73
Asian or Pacific Islander, Non-Hispanic	37.32	40.63	59.23	93.93	89.96	53.79	12.80
Native American, Non-Hispanic	35.09	32.96	46.95	91.15	84.89	53.45	16.03
(Chicago-Naperville-Elgin, IL-IN-WI CBSA) Region	Low Poverty Index	School Proficiency Index	Labor Market Index	Transit Index	Low Transportation Cost Index	Jobs Proximity Index	Environmental Health Index
Total Population							
White, Non-Hispanic	69.89	62.18	68.19	74.37	61.60	51.62	45.47
Black, Non-Hispanic	30.33	26.85	27.29	83.75	71.26	46.49	28.98
Hispanic	42.21	36.26	42.43	83.70	71.82	47.71	33.43
Asian or Pacific Islander, Non-Hispanic	65.44	59.58	71.93	81.66	70.68	53.58	36.44
Native American, Non-Hispanic	51.44	45.00	51.23	78.17	66.36	49.93	39.32
Population below federal poverty line							
White, Non-Hispanic	55.93	52.99	58.81	78.55	66.85	52.51	40.32
Black, Non-Hispanic	18.81	20.99	19.35	86.10	74.98	45.50	24.62
Hispanic	32.03	31.00	37.10	86.18	74.98	48.18	29.83
Asian or Pacific Islander, Non-Hispanic	49.65	50.50	62.53	86.29	77.60	54.00	28.80
Native American, Non-Hispanic	45.83	37.93	47.74	83.96	71.28	49.85	27.99

Note 1: Data Sources: Decennial Census; ACS; Great Schools; Common Core of Data; SABINS; LAJ; LEHD; NATA

Note 2: Refer to the Data Documentation for details (www.hudexchange.info).

Importance of Community Participation

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- HUD requires that PHAs and jurisdictions meaningfully engage their communities as part of this process.
 - Failure to abide by community participation requirements can lead to HUD refusing to accept the AFH submission.
 - ✦ This can impact the receipt of federal funds.
 - PHAs and jurisdictions must summarize comments received about the AFH and explain any comments not included.
 - PHAs and jurisdictions must comply with civil rights requirements to ensure persons with limited English proficiency and those experiencing disabilities can participate.
- Need to supplement HUD-provided data with local data and local knowledge
 - Community involvement will be vital to filling in information gaps.

Current Work Around AFFH

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- NHLP's work around the AFFH Rule
 - Our work supporting legal services advocates
- Efforts to capture local data/local knowledge

How Your Organizations Can Get Involved

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- Connect with social justice advocates outside of your sector; they may be able to provide useful insights and lend support around AFH advocacy efforts.
- Find sources of local data or knowledge.
- Start discussions about the AFH process within your communities, as you attend other meetings with residents and other advocates.
- Find out when the AFH process is coming to your jurisdiction/region, and start planning early.

Resources

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- HUD AFFH Rule
 - 80 Fed. Reg. 42,272 (July 16, 2015)
- HUD AFFH Rule Guidebook
 - <https://www.hudexchange.info/resource/4866/affh-rule-guidebook/>
- AFH Assessment Tool for Local Governments (Dec. 2015)
 - <https://www.hudexchange.info/resource/4865/assessment-of-fair-housing-tool/>
- HUD AFFH Data and Mapping Tool
 - <https://egis.hud.gov/affht/>
- HUD Webinars, Fact Sheets, and More
 - <https://www.hudexchange.info/programs/affh/resources/>

Thank You!

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