



August 17, 2015

Electronic submission to www.regulations.gov

Regulations Division
Office of General Counsel
Rules Docket Clerk
Department of Housing and Urban Development
451 7th Street SW
Room 10276
Washington, DC 20410-0500

Re: Affirmatively Furthering Fair Housing Assessment Tool No. FR-5173-N-05

To Whom It May Concern:

Thank you for the opportunity to comment on the Affirmatively Furthering Fair Housing Assessment Tool, Vol. 80, Federal Register No. 136 (July 16, 2015). Please accept this letter as the comments of the Co-Chairs of the Consortium for Citizens with Disabilities (CCD) Housing Task Force and the CCD Rights Task Force. CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 57 million children and adults with disabilities and their families living in the United States. CCD advocates for national public policy that ensures full equality, self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

We were dismayed and disappointed to see the revised Affirmatively Furthering Fair Housing Assessment Tool ("revised Tool"). On November 25, 2014, the Co-Chairs of the CCD Housing Task Force and the CCD Rights Task Force submitted comments on the initial Tool. Not only were very few of our comments incorporated into the revised Tool, but numerous provisions in the initial draft that were important to ensure that the fair housing needs of individuals with disabilities are meaningfully included in the fair housing planning process were removed or revised. As a result, the revised Tool is far worse for people with disabilities than the initial draft Tool, and possibly even current practice under the Analysis of Impediments to Fair Housing Choice process.

As stated in the initial draft Tool,

“There are limited sources of nationally consistent data on the extent to which individuals with different types of disabilities are able to access housing and community assets. To complete this [Disability and Access] section, program participants should solicit input from individuals with disabilities and disability advocates, who often have the most relevant information on these topics.”¹

Because HUD believes this instruction may “have been confusing to some public commenters and may have suggested that extra efforts to obtain local data and local knowledge would be required”², HUD removed this instruction from the revised Tool.

Ten questions remain in the revised Tool (1 through 5 and subquestions). Of these questions,

- HUD provides data for three [1(a), 1(b), 2(c)]
- HUD provides very limited data for one [5(a)]
- HUD provides no data for six [2(a),2(b),3(a),3(b)³,4(a),4(b)]

HUD provides data for only 40% of the Disability and Access questions in the Tool; there is no data for more than half of the Disability and Access questions. A review of the other sections of the Tool indicates there is **no** other question in the revised Tool for which HUD does not provide data.

Despite its inability to provide national data, HUD discourages localities from seeking out local data. Our previously submitted comments – attached again here – made a number of suggestions for collecting local disability data. These have been disregarded entirely.

We understand that HUD has trimmed the initial Tool in response to comments about the burden on local jurisdictions. However, since local and state data is the only data that can inform responses to the majority of the disability questions, it is critical that HUD maintain more rigorous local data requirements in the Disability and Access section of the Tool.

We are particularly concerned about the impact the revised rule will have for persons with disabilities living in institutions, nursing facilities, and other segregated settings -- those covered by *Olmstead*. In other publications including *Worst Case Housing Needs*, HUD itself acknowledges that national data about these estimated two million individuals is not available because the U.S. Census is not completed by persons living in institutional settings. Most states, however, have information about individuals with disabilities living in segregated settings, information that is readily available at no cost and with little effort. The revised tool, however, provides no encouragement for jurisdictions to secure this information.

¹ Federal Register Vol. 80, No. 136, 42114

² Federal Register Vol. 80, No. 136, 42114

³ For questions 3(a) and 3(b) HUD refers the locality to HUD’s *Olmstead* Statement. While we admire the Statement, it provides no data, no data sources and no direction whatsoever to locate information to answer questions 3(a) and 3(b). Certainly any instruction in this area would require the locality to seek out local knowledge.

We appreciate the list of contributing factors and the definitions in the Glossary – including references to *Olmstead* and integrated housing for people with disabilities. However, we do not see how jurisdictions will be able to identify “contributing factors” under Disability and Access as there is almost no HUD-provided data and the revised Tool does not require jurisdictions to collect any local or state disability data.

To ensure that entities adequately consider the fair housing needs of individuals covered by *Olmstead*, the Tool should also identify examples of types of policies that encourage or discourage individuals with disabilities living in integrated settings. Our prior comments, attached, provide examples of such policies. Unfortunately, as with data, in this area the revised Tool represents a step backward. We remain deeply concerned that without this type of guidance, entities undertaking fair housing planning will be unable to adequately assess and address the fair housing needs of individuals with disabilities who are institutionalized.

If the revised Tool goes forward as drafted, millions of people with significant disabilities, including an estimated two million non-elderly adults with disabilities living in institutions, will continue to be treated as second class citizens – essentially invisible in their communities.

Thank you for the opportunity to comment on Affirmatively Furthering Fair Housing Assessment Tool, Vol. 80, Federal Register No. 136 (July 16, 2015).

Sincerely,

Dara Baldwin, National Disability Rights Network
Co-Chair, CCD Rights Task Force

Samantha Crane, Autistic Self Advocacy Network
Co-Chair, CCD Rights Task Force

Sandy Finucane, Epilepsy Foundation
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Jennifer Mathis, Bazelon Center for Mental Health Law
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Mark Richert, American Foundation for the Blind
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Andrew Sperling, National Alliance on Mental Illness
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**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

November 25, 2014

Electronic submission to www.regulations.gov

Regulations Division, Office of General Counsel
U.S. Department of Housing and Urban Development
451 Seventh Street SW, Room 10276
Washington, DC 20410-0500

**Re: Affirmatively Furthering Fair Housing Assessment Tool
Docket No. FR-5173-N-02**

To Whom It May Concern:

Thank you for the opportunity to comment on the proposed Affirmatively Furthering Fair Housing Assessment Tool. *See*, 79 Fed. Reg. 187 (September 26, 2014). Please accept this letter as the comments of the Co-Chairs of the Consortium for Citizens with Disabilities (CCD) Housing Task Force and the CCD Rights Task Force. CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 57 million children and adults with disabilities and their families living in the United States. CCD advocates for national public policy that ensures full equality, self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

We strongly support Department of Housing and Urban Development (HUD) efforts to improve housing opportunities through the Affirmatively Furthering Fair Housing (AFFH) Proposed Rule (*See*, 78 Fed. Reg. 139; July 19, 2013) and the draft Assessment Tool. We appreciate HUD's efforts to highlight the importance of integration of people with disabilities in accordance with the Supreme Court's decision in *Olmstead v. L.C.*, and to address some of CCD's concerns regarding the limitations of nationally uniform data to describe the housing needs of people with disabilities, especially those persons living in group quarters and institutional settings.

Our comments focus on areas of particular concern to people with disabilities. We provide comments in three parts. Part I provides an overview of the need to include more specific guidance to program participants concerning institutionalized individuals with disabilities. Part II responds to some of the specific topics on which, in the preamble to the Assessment Tool, HUD has solicited comments. Part III provides comments on specific sections of the draft Assessment Tool, including references to Tables.

Part I *Olmstead* and the Need to Include More Specific Guidance to Program Participants Concerning Institutionalized Individuals with Disabilities

We strongly support the proposal to include in the AFFH assessment tool a question concerning the extent to which people with disabilities are needlessly institutionalized in a variety of specific settings. This question is extremely important in order to ensure that HUD's key objectives are met with respect to institutionalized individuals with disabilities in need of mainstream housing: to (1) "ask questions that would be sufficient to enable program participants to perform a meaningful assessment of key fair housing issues and determinants and set meaningful fair housing goals and priorities" and (2) "clearly convey the analysis of fair housing issues and determinants that program participants must undertake in order for an AFH to be considered acceptable to HUD."¹

The proposed assessment tool should provide more guidance, however, concerning the types of data to look at and where to seek this information. We provide specific recommendations on language to accomplish this in Parts II and III of our comments, below. Most entities doing fair housing planning have not previously considered individuals with disabilities who are institutionalized, and are unlikely to be familiar with the sources of such information. To ensure that this question is analyzed in a meaningful way, HUD should be more specific about the potential sources of local data with respect to disability. The assessment tool should require program participants to seek the number of individuals who are institutionalized in each listed setting from the state disability services authorities (for example, the developmental disabilities authority, the mental health authority, and the social or human services department) as well as the state Medicaid agency. These state authorities together fund the vast majority of services for institutionalized individuals with disabilities, and can provide a reliable estimate of the numbers of individuals with disabilities in each listed setting and their geographic dispersal within the state. Without consideration of this information, these individuals will be effectively excluded from fair housing planning efforts.

The assessment tool should also identify examples of the types of policies that encourage or discourage individuals with disabilities living in integrated settings. We provide specific recommendations on language to accomplish this in Parts II and III of our comments, below. Examples of policies that encourage this include the administration of state or locally-funded tenant-based rental assistance programs, Section 811 Project Rental Assistance, *Olmstead* population preferences for the Housing Choice Voucher program and other programs, points for tax credit units promoting *Olmstead* compliance, ordinances banning discrimination on the basis of source of income, and coordination with relevant state and local agencies. Examples of policies that discourage this include inadequate community-based services, reimbursement policies that make needed services unavailable to support individuals with disabilities in mainstream housing, policies that restrict the supply of affordable housing generally (particularly housing with rents that are under Fair Market Rents for the HCV program), policies that condition eligibility for housing on the receipt of supportive services, and policies that incentivize the development or rehabilitation of segregated settings.

¹ *Affirmatively Furthering Fair Housing Assessment Tool: Solicitation of Comment—60-Day Notice Under Paperwork Reduction Act of 1995*, 29 Fed. Reg. 57949, 57951 (Sept. 26, 2014).

Part II HUD's Specific Solicitation of Comments

A. HUD specifically requests public comment on the description of local data and local knowledge.

This topic is of particular concern to CCD because the entire Section E: Disability and Access - except for Question #1 - relies on "local knowledge and local data". HUD defines local data as information that "can be found through a reasonable amount of searching and that are readily available at little or no cost". HUD does not further define "reasonable" and "readily available". As explained in Part III below (see page 10), the attached draft Assessment Tool, Section E: Disability and Access, Question #2a, we believe that Jurisdictions² must assess:

How long are waiting lists for accessible units at the various publicly supported housing types? Are there accessible units in non-publicly supported housing that are available to HCV participants? Is public funding (e.g., CDBG funds) made available for reasonable modifications in rental units and/or for homeowners? Are accessible units occupied by households requiring the design features? Is the publicly assisted housing in compliance with Section 504 accessibility requirements?

We believe this information should be readily available in any jurisdiction and is reasonable to acquire. HUD should provide Jurisdictions with clear examples of this and other information that is considered readily available.

We are pleased that the draft Section E: Disability and Access, Question #3 highlights the Supreme Court's *Olmstead* decision. *Olmstead* information, however, is generally available at a state – sometimes regional – level and almost never at a local level. While much of the information needed for this analysis is likely to be readily available from a state agency, we are concerned a local Jurisdiction may feel that the information is not "readily available" or will not consider it to be "local data" or "local knowledge". For this reason, we recommend that HUD add specific language on the attached draft Assessment Tool that directs the Jurisdiction to where this information can be found and makes such information easier for a local Jurisdiction to access with a "reasonable amount of searching" (see Section II, below).

Additionally, we recommend that HUD modify the term "local" to include state information that pertains to residents of the Jurisdiction or to add the term "readily available state data" and reference this term in Section E: Disability and Access.

Finally, we recommend that HUD identify a mechanism (such as the Consolidated Planning process) to require states to provide non-State Jurisdictions with this needed state *Olmstead* information.

² Throughout our comments, we use the term "Jurisdictions" to refer to all entities for whose use the draft Assessment Tool has been designed: "entitlement jurisdictions other than States and entitlement jurisdictions and public housing agencies that are submitting a joint Assessment of Fair Housing."

B. HUD specifically requests public comment on whether the Assessment Tool, by addressing Disability and Access Issues separately, had inadvertently failed to consider any key fair housing issues that relate to individuals with disabilities.

As discussed in CCD's September 17, 2013 comments to HUD regarding the AFFH Proposed Rule, the data sets proposed to provide nationally uniform data do not adequately capture the needs of people with disabilities who are not in the housing market. People who are homeless, living in nursing facilities, board and care homes and other institutional settings as well as other group quarters are not captured with traditional data sources. For example, HUD's *Worst Case Housing Needs* report is based on the American Housing Survey (AHS) which excludes homeless people and people living in institutions and "noninstitutional group quarters" from its sample. Providing a separate section in the Assessment Tool (Section E: Disability and Access Issues) for the collection of disability data using other types of data sources better ensures covered Jurisdictions will adequately assess the needs of people with disabilities living in institutional settings. We provide detailed recommendations throughout these comments.

In addition, we recommend that HUD enhance and include disability data in several other sections of the Tables and Assessment Tool, to ensure that Jurisdictions adequately assess key fair housing issues that relate to people with disabilities.

The Census, AHS and American Community Survey capture information about populations of people with disabilities who have self-identified as having difficulty in one or more areas: hearing, vision, cognition, ambulation, self care and independent living. HUD provides Jurisdictions with data on these populations in Tables 1 and 15. We recommend that HUD also provide disability data for Tables 2, 11 and 17. We also recommend that HUD include disability data as part of Section B: Segregation/Integration and R/ECAPS, Question #6 (a)(iii). Including an analysis of disability in these areas will better ensure that Jurisdictions look at the interaction of race and disability.

Additionally, we strongly recommend that HUD include disability data in the assessment of Section C: Disproportionate Housing Need, Question #1(a), and require Jurisdictions to include people with disabilities in Section C's assessment of Demographic Patterns, Geographic Patterns, and Determinants of Disproportionate Housing Needs (see additional comments on page 7 below). While the available data will have the limitations noted above, the inclusion of people with disabilities in Section C is nevertheless critical. Many households with members identified in the six disability categories have incomplete kitchen facilities, incomplete plumbing facilities, more than one person per room and/or cost burden greater than 30% of income. The analysis of their disproportionate housing needs is a key element of goal-setting. We are very concerned that if a Jurisdiction's analysis of disproportionate housing needs fails to include people with disabilities, those households will compete less successfully for the Jurisdiction's housing resources.

Our comments in Part III, below, recommend additional areas for inclusion of these six disability types and/or disability household types (elderly, nonelder head of household, and family with child with disability).

C. *Glossary*

We recommend that HUD consider the addition of a Glossary to the Assessment Tool instructions. Definitions and examples for many of the terms used in the Tool will better ensure the Tool is used consistently across the nation. In addition to defining “local data” and “local knowledge”, a glossary could define, for example, the six disability types (Table 1), the three household types with disabilities (elder, nonelder head of household, family with child with disability), *Olmstead* and other terms related to people with disabilities.

Part III Comments on Specific Sections of the Assessment Tool

Section III: Community Participation Process

We applaud HUD for asking Jurisdictions to describe their efforts made to reach persons with disabilities in this community process. We recommend that the Assessment Tool also require that Jurisdictions ensure any meeting is fully accessible to people with disabilities including ensuring the space is accessible for persons with physical disabilities and that sign language interpreters are provided. We recommend HUD provide Jurisdictions with specific guidance through materials such as the DOJ guidance available at <http://www.ada.gov/business/accessiblemtg.htm>.

In addition, we recommend that HUD provide a checklist of different types of disability organizations to which the Jurisdiction should conduct outreach. Below is a recommended checklist which includes a web site with a link to state and/or local organizations/affiliates:

- Local/state Independent Living Center
<http://www.ilru.org/projects/cil-net/cil-center-and-association-directory>
- Local/state chapter of The Arc or other organization serving people with intellectual and developmental disabilities
<http://www.thearc.org/find-a-chapter>
- Local/state chapter of the National Alliance on Mental Illness (NAMI)
http://www.nami.org/Template.cfm?Section=Your_Local_NAMI&Template=/CustomSource/AffiliateFinder.cfm
- Local service providers serving people with serious mental illness
<http://www.thenationalcouncil.org/about/membership/members/>
- Local Continuum of Care and homeless service provider organizations
<https://www.hudexchange.info/grantees/>
- State Money Follows the Person Program
<http://www.medicaid.gov/state-resource-center/medicaid-state-technical-assistance/money-follows-the-person-tech-assist/list-of-mfp-grantees.html>
- State Protection and Advocacy agency
<http://www.ndrn.org/ndrn-member-agencies.html>

- State Developmental Disabilities Council
<http://www.nacdd.org/Councils.html>
- State mental health/behavioral health agency
<http://www.nasmhpd.org/GeneralInfo/MHL.aspx>
- State developmental disabilities agency
<http://www.nasdds.org/state-agencies/>

Section IV, B: Segregation/Integration and R/ECAPs, (6) Publicly Supported Housing

As discussed above, we recommend that HUD provide a version of Table 8 with the six disability types (disability types are listed on Table 1).

As discussed above, we recommend that HUD include analysis of disability in other parts of the Assessment Tool in addition to Section E. Question #6 (a)(i) and Question #6 (a)(iii) would be two important sections to include an assessment of disability.

Disability data in Table 9 is aggregated for all types of households that include a person with a disability including elders, single non-elderly households and families with a family member with a disability, possibly including a child. While we applaud HUD's intent, the data are more useful to Jurisdictions if broken out by at least three household types: elders with disabilities; non-elderly heads of households with disabilities, and families with children with disabilities. This is especially important because much of the publicly assisted housing stock is categorized as either elderly housing or family housing. As a result, what could appear on a map that uses disaggregated data to be a concentration of people with disabilities, for example, may actually represent a housing development for frail elders. Breaking out these household types can better help jurisdictions assess the relationship of and need for support services which will vary across types. Providing disability information by housing type will better ensure Jurisdictions are able to discern patterns related to disability in all of the Question #6 (b) subsections.

For Questions #7 (a)(i) and (a)(iii), we recommend that HUD provide Jurisdictions with instructions on how to locate this information. Examples might include links to on-line Public Housing Authority Plans (e.g. preference, designation), Consolidated Plans and state Qualified Allocation Plans.

For Question #7 (b)(i), we recommend that HUD add the following language (*see underlined language*) to ensure Jurisdictions review how Housing Choice Voucher (HCV) policies and practices impact participants who have disabilities:

i. Describe how HCV policies or practices, including mobility counseling and portability and the PHA's reasonable accommodation policies impact the ability of persons using HCVs (by race/ethnicity, national origin, age, families with children, household size, disability) to live in neighborhoods of their choice.

For Question #7 (b)(ii), we recommend that HUD add the following language to ensure Jurisdictions review compliance with Section 504 requirements under 24 CFR Part 8:

ii. Is there a mobility counseling program (other than the PHA's), central registry, listing of rental housing available to HCV holders, or other program to ensure that residents, particularly those living in low-asset/high poverty neighborhoods, become aware of public or private housing opportunities outside their neighborhood? Explain. As required under 24 CFR part .28(a)(3), when issuing a Housing Certificate or Housing Voucher to a family which includes an individual with handicaps does the PHA include a current listing of available accessible units known to the PHA and, if necessary, otherwise assist the family in locating an available accessible dwelling unit?

As discussed above, we recommend that HUD include an analysis of disability in other parts of the Tool in addition to Section E. Question #8 would be another such section and should include an assessment of how HCV mobility policies impact persons with disabilities.

We recommend that HUD make the following additions and modifications to the list of determinants under Question #9:

- Admission or residency preferences for public housing or other publicly supported housing including designation of elderly-only or disabled-only housing
- Ordinances banning discrimination on the basis of source of income

We recommend that HUD make the following additions and modifications to the list of determinants under Question #10:

- Landlord refusal to accept other sources of income, such as Social Security (including Social Security Disability Insurance), ~~disability retirement~~, Supplemental Security Income, Temporary Assistance for Needy Families or ~~other~~ tenant-based rental assistance
- Lack of accessible units of various sizes in the private market
- Rents, including high rents in newer developments that have more/better accessibility
- Poor quality of housing including housing that does not pass Housing Quality Standards
- PHA's low voucher payment standard
- PHAs' portability policies
- Screening or rescreening of tenants
- Disability discrimination
- PHA does not provide lists of accessible housing
- PHA does not provide assistance locating accessible housing
- Jurisdiction does not provide funds for home modifications
- Jurisdiction does not enforce accessibility-related code requirements

Section C: Disproportionate Housing Need

As described above, despite the limitations of the national data, we recommend that HUD provide Jurisdictions with data to assess the disproportionate housing needs of households with disabilities. We recommend that HUD provide these data by both the six disability types AND the three disabled household types (elderly, nonelderly head of household, and families with children).

We recommend that Question #1 (a) include disability as well as the other covered groups.

We recommend that for Table 13, HUD distinguish between 0-1 bedroom units in elderly/elderly-only housing and those 0-1 bedroom units in family housing, except for the HCV Program. This distinction will better enable the Jurisdiction to identify public policy solutions.

We recommend the addition of a Question 1e:

e. Given the supply of accessible one bedroom units in elderly-only versus non-elderly-only publicly supported housing, discuss whether nonelderly individuals with disabilities who require accessible design features have equal access to affordable accessible housing. Given the supply of non-accessible one bedroom units in elderly versus non-elderly-only publicly supported housing, discuss whether nonelderly individuals with disabilities who do not require physical accessibility have equal access to affordable housing.

We recommend that Question #3 include disability as well as the other covered groups.

We recommend the following additions to the list of determinants in Question #4:

- The supply of publicly supported units with accessible one bedroom units
- The supply of publicly supported units with accessible one bedroom units in nonelderly developments
- The supply of publicly supported units with one-bedroom units in non-elderly developments
- Age of housing stock

Section E: Disability and Access

As stated previously, we support HUD's inclusion of this separate section on disability to better ensure Jurisdictions assess the needs of this population, especially those persons living in institutional settings. However, we have concerns that without additional instruction and guidance, many Jurisdictions would not be able to complete the required assessments. The recommendations below are intended to provide assistance to Jurisdictions.

We recommend that HUD add an introduction to Section E, taken from HUD Olmstead Guidance (2013), to provide Jurisdictions with explanatory context:³

Individuals with disabilities have historically faced discrimination that limited their opportunity to live independently in the community and required them to live in institutions and other segregated settings. In 1999, the United States Supreme Court issued the landmark decision in *Olmstead v. L.C.*, 527 U.S. 581 (1999), affirming that the unjustified segregation of individuals with disabilities is a form of discrimination prohibited by Title II of the Americans with Disabilities Act (ADA). Following the *Olmstead* decision, there have been increased efforts across the country to assist individuals who are institutionalized or housed in other segregated settings to move to integrated, community-based settings. In addition, states are “rebalancing” health care delivery systems by shifting away from an overreliance on providing long-term services and supports to individuals with disabilities in institutions, hospitals, nursing homes, adult care facilities, and other restrictive, segregated settings and moving towards a greater

³ Statement of the Department of Housing and Urban Development on the Role of Housing in Accomplishing the Goals of Olmstead, <http://portal.hud.gov/hudportal/documents/huddoc?id=OlmsteadGuidnc060413.pdf>.

reliance on home- and community-based services. For many states, these efforts to comply with *Olmstead* and rebalance the way long-term services and supports are provided by moving individuals out of institutions and into the community are confounded by a lack of integrated housing options for individuals with disabilities. As a result, there is a great need for affordable, integrated housing opportunities where individuals with disabilities are able to live and interact with individuals without disabilities, while receiving the health care and long-term services and supports they need.

We further recommend that HUD add the following introductory guidance to assist Jurisdictions in identifying local and state organizations/individuals that can provide the necessary information and data:

There are limited sources of nationally consistent data on the extent to which individuals with different types of disabilities are able to access housing and community assets. To complete this section, program participants ~~should~~must solicit input from individuals with disabilities, organizations that provide services for people with disabilities, including nonprofit, state, county and other local service providers, and disability advocates, who ~~often~~ have the most relevant information on these topics. For this section of the Assessment Tool, HUD considers “local data” and “local knowledge” to include state information that concerns residents of the Jurisdiction that may not be available locally.

Check off all of the organizations contacted to gather information:

- Local/state Independent Living Center
<http://www.ilru.org/projects/cil-net/cil-center-and-association-directory>
- Local/state chapter of The Arc or other organization serving people with intellectual and developmental disabilities
<http://www.thearc.org/find-a-chapter>
- Local/state chapter of the National Alliance on Mental Illness (NAMI)
http://www.nami.org/Template.cfm?Section=Your_Local_NAMI&Template=/CustomSource/AffiliateFinder.cfm
- Local service providers serving people with serious mental illness
<http://www.thenationalcouncil.org/about/membership/members/>
- Local Continuum of Care and homeless service provider organizations
<https://www.hudexchange.info/grantees/>
- State Money Follows the Person Program
<http://www.medicaid.gov/state-resource-center/medicaid-state-technical-assistance/money-follows-the-person-tech-assist/list-of-mfp-grantees.html>
- State Protection and Advocacy agency
<http://www.ndrn.org/ndrn-member-agencies.html>
- State Developmental Disabilities Council
<http://www.nacdd.org/Councils.html>
- State mental health/behavioral health agency

<http://www.nasmhpd.org/GeneralInfo/MHL.aspx>

- State developmental disabilities agency
<http://www.nasddds.org/state-agencies/>
- Other: _____
- Other: _____
- Other: _____

Seek local data on the housing needs and barriers faced by persons with disabilities from state and local sources including the following:

- State Olmstead Plan
- Data from the Center for Medicare & Medicaid Services (CMS) Minimum Data Set on individuals with disabilities living in nursing facilities who have answered “yes” to question Q0500B, “Do you want to talk to someone about the possibility of leaving this facility and returning to live and receive services in the community?”
- Data from the state Medicaid, mental health, behavioral health, and developmental disabilities agencies on the numbers of individuals served in segregated settings, by setting type, and on the numbers of individuals on waiting lists for community-based services
- Data from the local/regional/state Consolidated Plan
- Other: _____

We recommend that HUD provide the following data directly to Jurisdictions in new pre-populated Tables:

- State Money Follows the Person (MFP) data available from CMS (see <http://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/balancing/money-follows-the-person.html>). HUD should arrange for CMS to provide MFP data directly to HUD.
- Data on homeless individuals and families with disabilities from the local/regional state Continuum of Care (including Homeless Management Information Systems data, Point-In-Time counts, and Housing Inventory counts)

We recommend that HUD make the following additions and modifications to Question #2 to assist Jurisdictions in assessing the ability of people with a range of disabilities to access existing affordable and accessible housing:

2. Housing Accessibility Access by People with Disabilities to Affordable Housing

a. Do the Jurisdiction and Region have sufficient affordable, accessible housing in a range of unit sizes in locations near accessible public transportation and other critical amenities? Include a discussion of affordable units with accessibility features for individuals with various access needs including but not limited to persons who use wheelchairs, individuals who are deaf or hard of hearing, and individuals who are blind or have low vision. How long are waiting lists for accessible units at the various publicly supported housing types? Are there accessible units in non-publicly supported housing that are available to HCV participants? Is public funding (e.g., CDBG funds) made available for reasonable modifications in rental units and/or for homeowners? Are accessible units occupied by households requiring the design features? Is the publicly assisted housing in compliance with Section 504 accessibility requirements?

b. Discuss where affordable accessible housing units are located. Are they dispersed or concentrated in R/ECAPs or other areas that are segregated by race/ethnicity, or national origin? Are they near accessible public transportation and other critical amenities? If not, is there affordable accessible paratransit near the housing that includes the accessible units? Are there any one-bedroom accessible units that are not in housing designated primarily or entirely for elders? Are there any one-bedroom non-accessible units that are not in housing designated primarily or entirely for elders?

[Table 17 - Tabular data on disability and publicly supported housing for Jurisdiction and Region]

c. Describe the extent to which persons with different disabilities (e.g., mobility impairments, mental illness, intellectual or cognitive disability, deafness or blindness) are able to access and live in the different types of publicly supported housing (including LIHTC and HCV housing) in the Jurisdiction and Region? How do designations (such as elderly-only designation), preferences (such as preference for persons coming from institutions), waitlist procedures (e.g. waiting list opened on a first-come first served basis), etc., impact this ability?

We recommend that HUD make the following additions and modifications to Question #3 to assist Jurisdictions in assessing the ratio of integrated housing resources available for persons with disabilities:

3. Integration and Olmstead: Enabling Persons with Disabilities to Live in Apartments and Houses instead of Institutions and Other Segregated Settings

a. To what extent do persons with disabilities in or from the Jurisdiction or Region reside in segregated settings (e.g., psychiatric hospitals, developmental centers, other institutions, board and care homes, ~~large group homes~~, nursing homes, personal care homes, Intermediate Care Facilities, other settings that do not meet the CMS Home and Community Based Setting Guidance <http://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/home-and-community-based-services.html>) instead of integrated settings (apartments, family homes, other integrated, community-based housing)? ~~Please explain.~~ Include the specific number or reliable estimates of the number of persons in each of these settings. Please describe any current efforts to offer persons with disabilities opportunities to transition from these settings to the community including any settlement agreements http://www.ada.gov/olmstead/olmstead_enforcement.htm. This local knowledge should be supplemented by information from the state's Money Follows the Person (MFP) Program, the state's Olmstead Plan, the state Protection and Advocacy Agency <http://www.ndrn.org/ndrn-member-agencies.html>, as well as the state's mental health, behavioral health and development disabilities agency. Even if the jurisdiction does not have each of these types of institutional settings within its geography, it is likely that persons with disabilities originally from or wishing to reside in this jurisdiction currently reside in these setting in other jurisdictions; the jurisdiction should consider that some of these citizens would choose to move to this jurisdiction. Similarly, the geography of this jurisdiction may include a large number of institutional settings, for whose residents this jurisdiction does not have sole responsibility.

b. To what extent do state or local programs, laws, policies, or practices encourage or discourage ~~placement of~~ persons with disabilities from moving to or living in apartments, family homes, and other integrated settings)? ~~Please explain.~~ What are the barriers (housing and/or supports) to providing persons with disabilities opportunities to move into the community? This local knowledge should be supplemented by information from the state's Money Follows the Person (MFP) Program, the state's Olmstead Plan, the state Protection and Advocacy agency <http://www.ndrn.org/ndrn-member-agencies.html>, as well as the state's mental health, behavioral health and development disabilities agency.

c. Describe the range of options for and access to affordable housing and supportive services for persons with disabilities in the Jurisdiction and Region ? (e.g., integrated settings versus segregated settings, housing linked with services versus choice of service provider, housing with required supportive services versus housing with voluntary supportive services, ability to remain in own home and receive services). Include the specific number or reliable estimates of the number of persons in each of these settings. This local knowledge should be supplemented by information from the state’s Money Follows the Person (MFP) Program, the state’s Olmstead Plan, the state Protection and Advocacy agency <http://www.ndrn.org/ndrn-member-agencies.html>, as well as the state’s mental health, behavioral health and development disabilities agency.

We recommend that HUD add the following to the list in Question #4:

vii. Community based support services such as mental health, substance abuse, medical, independent living or other services that assist persons with disabilities to live independently

We recommend that HUD add the following to the list of determinants in Question #5:

5. Disability and Access Issues Determinants

To what extent do each of the following or other identified factors act as determinants for disability and access issues in the Jurisdiction or Region. For each factor, select whether the impact on disability or access issues is highly significant, moderately significant or not significant from the drop down menu and explain the nature of the barrier and the level of significance selected in the space provided.

- Lack of affordable, accessible housing in range of unit sizes. Please specify _____
- Lack of accessible housing in range of unit sizes. Please specify _____
- Lack of affordable housing in range of unit sizes. Please specify _____
- Lack of accessible one bedroom units in nonelderly developments. Explain _____
- Lack of non-accessible one bedroom units in nonelderly developments. Explain _____
- Siting of accessible housing in R/ECAPs and other segregated areas. Explain _____
- Lack of assistance for housing accessibility modifications. Explain _____
- Restrictive land use and zoning laws, policies, and practices. Explain _____
- Lack of access to public housing, HCV program, LIHTC housing, or supportive housing
- Lack of access to HCV program. Explain _____
- Lack of access to LIHTC housing. Explain _____
- Lack of assistance for Barriers to transitioning from institutional settings to housing. Explain _____
- Lack of affordable, integrated housing for individuals who need supportive services Explain _____
- Lack of affordable in-home or community-based supportive services. Explain _____
- Lack of access to proficient schools . Explain _____
- Designation of elderly-only housing. Explain _____
- Policies and procedures in publicly assisted housing including the Housing Choice Voucher Program such as waiting list management and preferences. Explain _____
- Availability of state or locally-funded tenant-based rental assistance programs. Explain _____
- Section 811 Project Rental Assistance. Explain _____
- Olmstead population preferences for the Housing Choice Voucher program and other programs, Incentives in the LIHTC Program for integrated permanent supportive housing units. Explain _____
- Inadequate community-based services
- Policies that condition eligibility for housing on the receipt of supportive services

- Policies that incentivize the development or rehabilitation of segregated settings.
- Shelters and transitional programs – the gateway to certain permanent supportive housing and affordable housing programs – are not accessible to persons with physical and/or sensory disabilities
- PHA not in compliance with Section 504 and Fair Housing Act.
- Publicly supported housing not in compliance with Section 504 and Fair Housing Act as applicable

Section F: Fair Housing Compliance and Infrastructure

We recommended that HUD add the following to the list of determinants in Question #4:

- PHA not in compliance with Section 504 and Fair Housing Act.
- Publicly supported housing not in compliance with Section 504 and Fair Housing Act as applicable

Conclusion

In closing, thank you for the opportunity to comment on the proposed Affirmatively Furthering Fair Housing Assessment Tool (79 Fed. Reg. 187, September 26, 2014).

Sincerely,

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