

# PRRAC

## *Poverty & Race Research Action Council*

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### **Testimony at U.S. Commission on Civil Rights Public Briefing: “Are Rights a Reality? Evaluating Federal Civil Rights Enforcement”**

November 2, 2018

“Members of the commission, thank you for the opportunity to comment today. My name is Peter Kye and I am a Law and Policy Associate at the Poverty & Race Research Action Council, a national civil rights policy organization based here in Washington, DC. We are working to ensure that there is robust fair housing enforcement and oversight and are greatly concerned about the current direction of federal fair housing policy.

First, we are deeply concerned about potential changes to the 2015 Affirmatively Furthering Fair Housing (AFFH) rule. The AFFH rule established a valuable oversight mechanism and planning framework to help HUD grantees meet their statutory duty to take proactive steps to dismantle entrenched patterns of segregation, discrimination, and disinvestment. This rule has already benefitted many communities around the country. Unfortunately, the suspension of the AFFH rule in January of this year and HUD’s intent to revise the rule undermine this critically important tool for advancing fair housing. While the rule is suspended, there is little HUD oversight of fair housing planning. Keeping the rule intact and restoring its implementation is critically important to achieving the aims of the Fair Housing Act.

HUD’s stated intent to revisit its Disparate Impact Rule is also troubling. This regulation formalized the long-held interpretation by HUD and courts that disparate impact claims may be brought under the Fair Housing Act. Disparate impact liability is essential to effective fair housing enforcement. Without it, there would be major obstacles to attacking subtle but pervasive housing-related discrimination as well as implicit, structural biases in the housing market. Revising the rule could unduly weaken the definition of discriminatory effect, the burden-shifting framework and more, making it more difficult to address the discriminatory effects of housing practices and the reinforcement of segregation. We urge HUD to leave the rule intact.

We are also concerned about inadequate staffing and funding of HUD’s Office of Fair Housing and Equal Opportunity. FHEO staff play a vital role in enforcing the fair housing act, providing guidance and regulations, and ensuring that federal housing and community development programs are administered in a way that promotes diverse, inclusive communities. Despite the critical importance of FHEO, it has been chronically underfunded and staffing levels continue to decline, severely limiting the ability of the federal government to effectively enforce fair housing protections. We call for robust funding of FHEO and increased staffing so that the Office can have the resources and capacity it needs.

Finally, there is a need to address the role of federal housing programs in perpetuating and exacerbating racial and economic segregation in the United States. For example, many aspects of the administration of the Housing choice voucher program prevent voucher holders from exercising true housing choice. As a result, voucher holders are disproportionately concentrated in poor and racially segregated neighborhoods that lack quality schools, jobs, and other opportunities. The consequences of this type of segregation are devastating and contribute to wide racial disparities in education, health, and other areas. More must be done to ensure that the siting of affordable housing is balanced and that residents have true housing choice.

We urge the Commission to carefully examine the enforcement of fair housing protections. Thank you.”