

# Fair Housing In Ohio and HUD's Proposed AFFH Rule



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# Resources on the Web

## Where to File a Charge of Housing Discrimination:

### State of Ohio

<https://civ.ohio.gov/home>

### HUD

<https://www.hud.gov/fairhousing/fileacomplaint>





# Ohio Revised Code

- 1803 - Ohio, the 17th state to joined the Union
- 1959 - Governor Michael V. DiSalle, signed into law the Fair Employment Practices Legislation prohibiting unlawful racial discrimination
- 1965, the statute was amended to protect equal opportunity in housing resulting in today's Ohio Fair Housing Law.



# Ohio Revised Code

- In 1992, the Ohio Revised Code was amended to make Ohio's state statute substantially equivalent to the federal statute by:
  - Adding familial status and disability as protected classes,
  - Adding a one-year filing period for housing discrimination charges and
  - Adding other things making it as stringent or more stringent than the federal Fair Housing Act.

# Fair housing laws regulate

- Property owners,
- Landlords,
- Lenders,
- Realtors,
- Appraisers,
- Newspapers/publishers &
- Municipalities
- And any business that intersects with the provision of residential housing





# Fair Housing Laws utilize named protected classes

- Color
- Race
- Religion
- Sex
- Familial Status
- Disability
- National Origin
- Ancestry
- Military Status



# Fair Housing Implementation

- FHAP Process – can hire outside testers from FHIPs
- FHIP Process – funds in-house testing programs using a HUD protocol
- HUD
- DOJ



# Filing a complaint based on a protected class status

- Civil litigation with state or federal courts OR
- Administrative complaint process with agencies like the Ohio Civil Rights Commission, a FHAP or directly with HUD/DOJ





# Forum for litigation and administrative complaints

- Unlike the civil court system, the complainant does not necessarily pick the forum for the administrative complaint.
- Administrative housing discrimination complaints are processed by the agency which best covers the jurisdiction where the housing discrimination occurred and the basis of housing discrimination.



# Forum for complaint processing

- For example, a home-seeker who believes they were denied rental housing in Kettering based upon the presence of minor children within her household, may file an online housing discrimination complaint with the federal level with HUD, but the complaint may be referred to the state level for quicker processing.



# Forum for Complaint Processing

- Example: home-buyer of a condo in a new building with more than four units discovers their overnight family guests using a wheelchair, cannot get into the bathroom.
- They may file an online housing discrimination complaint with the OCRC or other FHAP on a builder's failure to comply with the design and construction regulations.
- Many times, this is passed onto the federal level because local regulations are not equivalent with the federal law on design and construction requirements.



# Processing fair housing complaints

The following is a general guide, it is not legal advice, for legal advice, consult your attorney or law Director.

Also, for specific step by step processes, visit HUD's website at

<https://www.hudexchange.info/>

and OCRC's website <https://civ.ohio.gov/>

# Administrative process



- Step 1 – Intake by phone, mail or online.
- Step 2 – Filing:
  - Agency confirms the complaint pertains to housing discrimination,
  - investigator draft a formal complaint and provide it to the complainant,
  - complainant must sign the form and return it to the agency.
- Step 3 – Investigation:
  - Agency will interview the complainant, the respondent, and pertinent witnesses.
  - Investigator collects documents or conduct onsite visits, as appropriate.

# Administrative process



- Step 4 – Conciliation:
  - Choice to conciliate the complaint is voluntary on behalf of both parties,
  - Agencies are required to attempt conciliation between the parties in every fair housing complaint. ‘
  - Conciliation agreements must protect the public's interests.
  - If mediation is successful, the case is closed and no further action will be taken.
  - If mediation is not successful or if one party declines to participate, a full investigation will be conducted. (Mediation is not the forum to decide the merits of the case.)



# Investigative Procedure



- Step 5 - No Cause Determination:
  - If no reasonable cause to believe that housing discrimination has occurred or is about to occur, Agency will issue a determination of "no reasonable cause" and close the case.
- Step 6 - Cause Determination and Charge:
  - If the investigation produces reasonable cause to believe that discrimination has occurred or is about to occur, Agency will issue a determination of "reasonable cause" and
  - Charge the respondent with violating the law.
  - Agency will send a copy of the charge to the parties in the case.

# Investigative Procedure

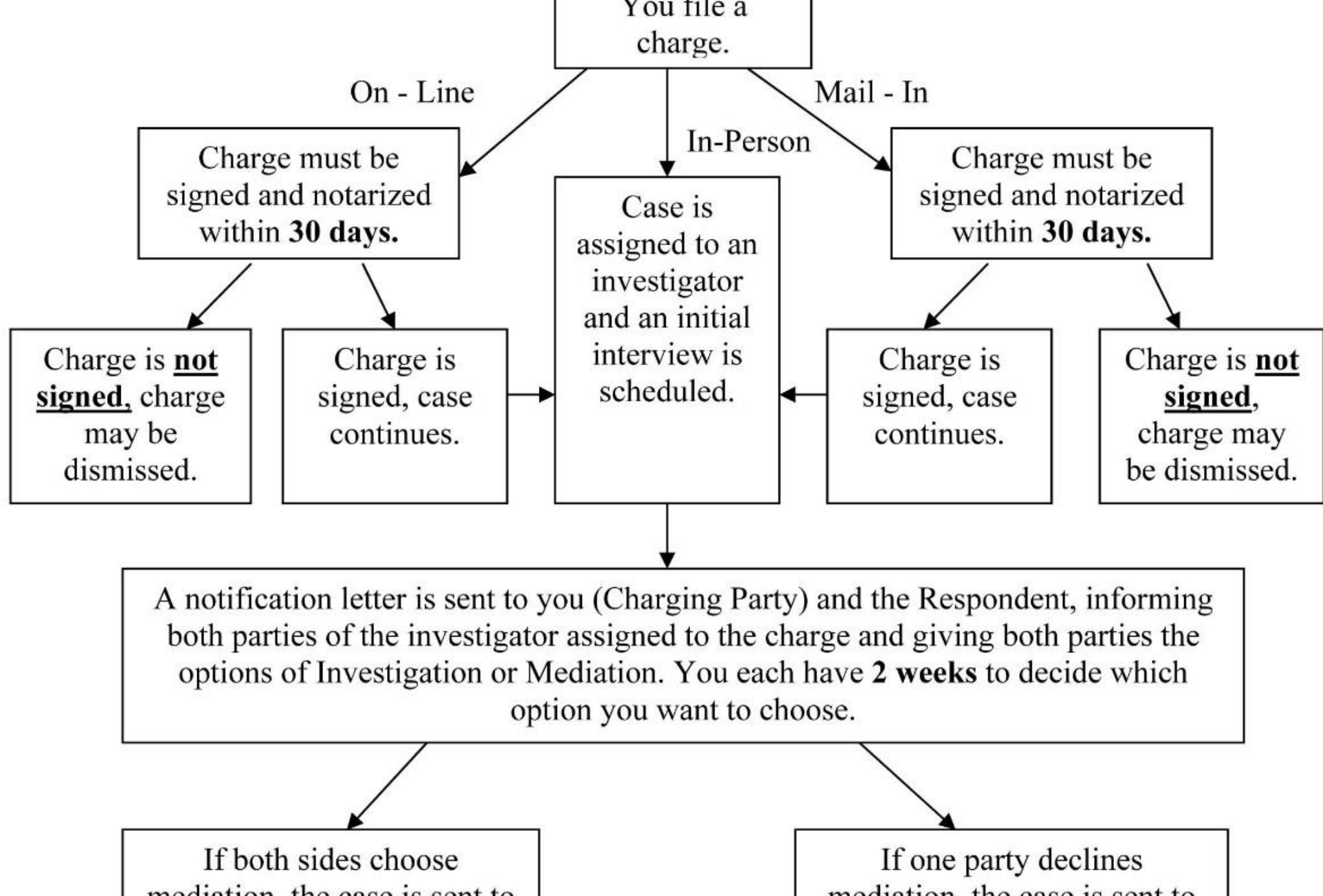
- Step 6 - Cause Determination and Charge: .
  - **If agency is HUD**, it issues a charge and a HUD Administrative Law Judge (ALJ) will hear the case unless either party elects to have the case heard in federal civil court.
  - Parties must elect within 20 days of receipt of the charge.

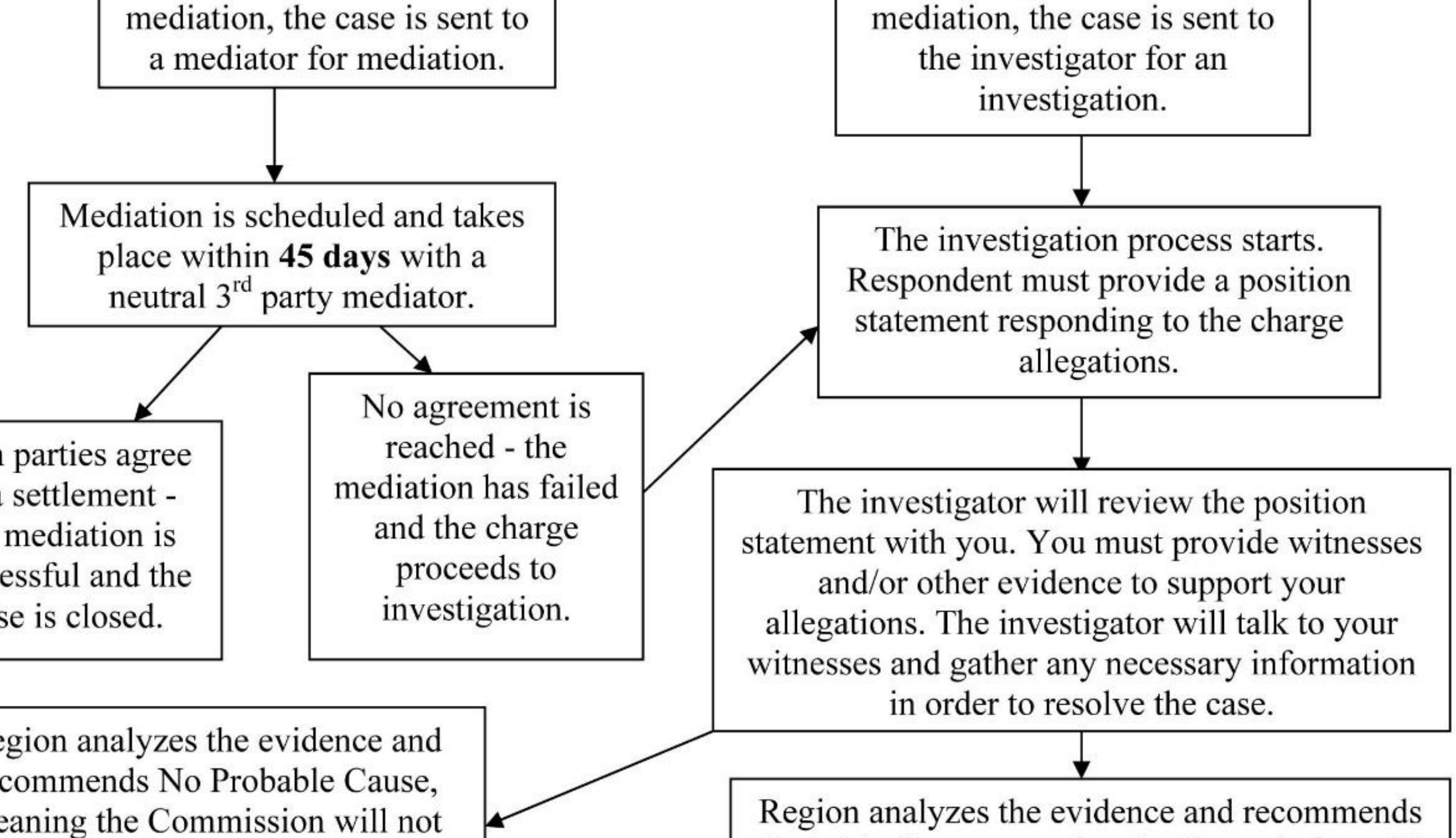


# Investigative Procedure

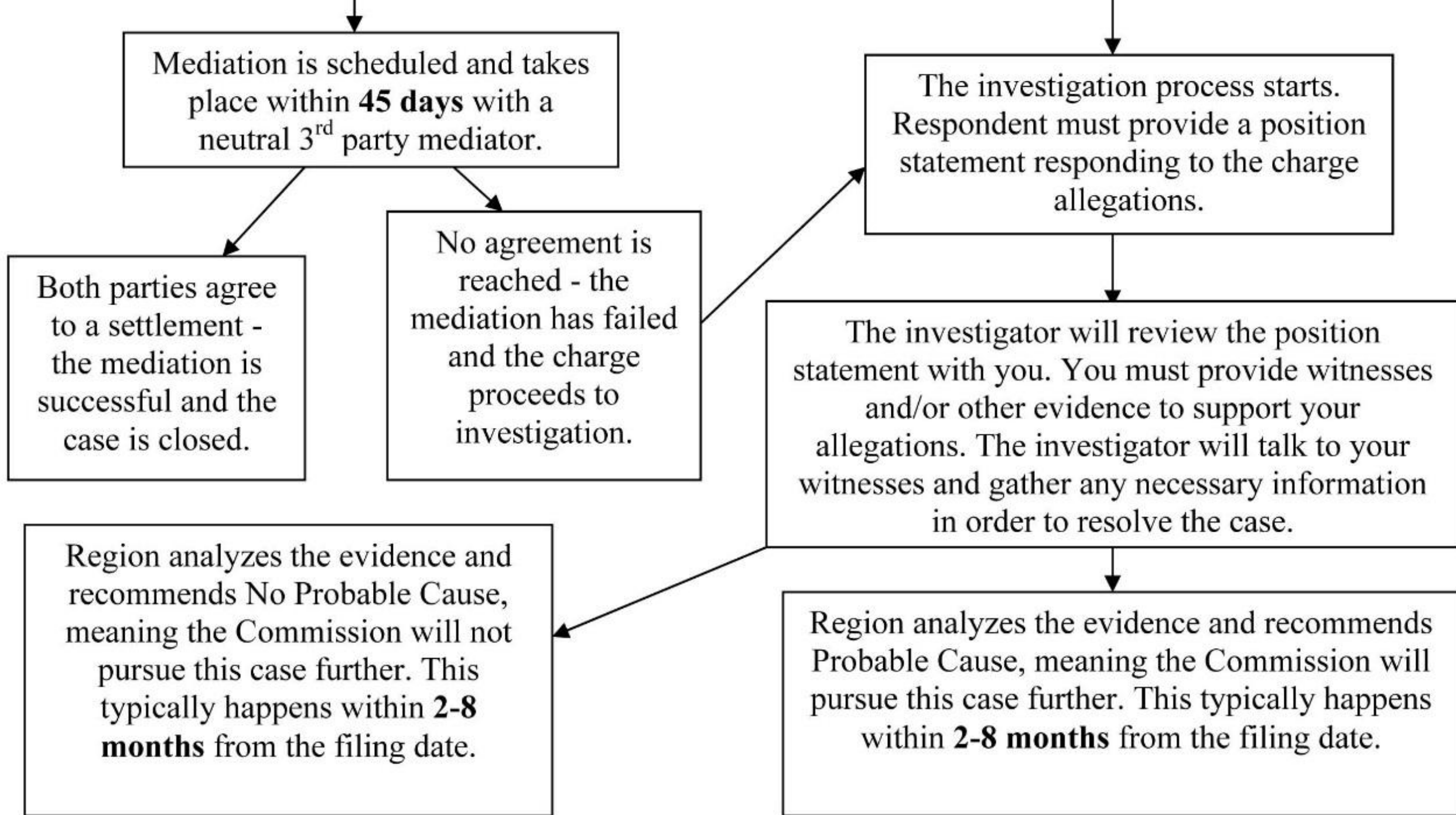
- Step 6 - Cause Determination and Charge: .
  - **If agency is OCRC**, the Respondent will be asked to provide a position statement addressing the allegations raised in the charge affidavit.
  - the Respondent's position statement the information is reviewed.
  - The Charging Party will have the opportunity to respond and provide any additional information to support the allegations of discrimination including witness statements, documentation or other information/evidence.













# OCRC Investigation



- Throughout this process the investigator may request additional information/documentation, contact witnesses or conduct an on-site meeting at the Respondent's place of business in order to gather factual information about the case.
- Based on analyses of the information collected, the OCRC will issue a recommendation as to whether there is a violation of Ohio's Laws.
- OCRC has one year to complete the investigation.
- If either party does not agree with the recommendation they may appeal the finding via reconsideration.

# When HUD or a FHAP agency completes a fair housing case, they may require:

- Training and policy changes to prevent future discrimination.
- Comprehensive corrective action to address the violations,
  - e.g. retrofitting housing to comply with accessibility requirements.
- Civil Penalties



# When HUD or a FHAP agency completes a fair housing case, they may require:

- Monetary damages, including actual and punitive damages
- Relief such as providing housing to the aggrieved person or changing policies and procedures to prevent future discrimination.
- Monitoring and enforcement activities to ensure compliance with the Fair Housing Act.



# Questions

# Affirmatively Furthering Fair Housing (AFFH)



# Authority

- The Fair Housing Act of 1968, specifically in **Section 3608(d) and 3608(e)**, mandates that federal agencies administer their housing and urban development programs "in a manner affirmatively to further the purposes of this subchapter".



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# Mandate Objectives

- Jurisdictions receiving federal funds must take proactive steps to:
  - prevent housing discrimination
  - address historical patterns of segregation and
  - promote fair housing choices



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# Housing and Community Development Act of 1974

- Established the framework AFFH concept
- Recipients of federal funds to certify that they will AFFH.
- Established the Community Development Block Grant (CDBG) program
- Authorized Section 8 housing, and
- created the National Institute of Building Sciences,



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# AFFH concept and Impact on housing policy

- **Concept:** Government entities receiving funding must actively analyze patterns of segregation in their communities and develop strategies to address them, promoting diverse housing options.
- **Impact:** dismantle historic patterns of housing segregation by encouraging development in areas with diverse populations, thereby providing greater access to quality housing and opportunities for all residents.



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# 2025 AFFH Rule Proposal Resources

- See HUD Press Release:  
[https://www.hud.gov/press/press\\_releases\\_media\\_advisories/hud\\_no\\_25\\_034](https://www.hud.gov/press/press_releases_media_advisories/hud_no_25_034)
- See unpublished proposal called Sec Turner's "Action"  
<https://www.hud.gov/sites/dfiles/PA/documents/6519-I-01-AFFH-IFR.pdf>



# 2025 AFFH Rule Proposal

- The new rule modifies how grantees demonstrate compliance with the obligation to promote fair housing while removing specific fair housing planning requirements established in previous rules.



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# 2025 AFFH Rule Proposal

- This interim final rule is pending publication in the Federal Register.
- Once published, it will establish both the effective date and the deadline for public comments.
- HUD is inviting feedback from stakeholders during a 60-day public comment period at <https://www.regulations.gov/comment/HUD-2023-0009-0546>
- Comment due date: May 2, 2025.



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# Simplified AFFH Rule Certification Process

- Under the new rule, grantees' certifications will be considered sufficient as long as they take actions related to promoting fair housing, such as
  - efforts to eliminate housing discrimination.
- This removes the requirement for a formal Analysis of Impediments (AI) or any mandated fair housing planning mechanisms that were previously in place.



# Removal of Certain Reporting and Assessment Requirements

- The proposed rule eliminates prior provisions that required local and state governments, e.g., to analyze racial or ethnic disparities in housing needs and submit detailed fair housing assessments.
- According to HUD, this change provides local communities “maximum flexibility in designing and implementing sound policies responsive to unique local needs, and eliminates overly burdensome, intrusive and inconsistent reporting and monitoring requirements.”



# Continued Fair Housing Act Compliance

- While the rule changes reporting and planning requirements, HUD emphasizes that grantees must still comply with the Fair Housing Act and any and all other laws governing programming in their jurisdictions with the use of federal funds.



# Impact on Affordable Housing and Local Governments

- For Local Governments: The rule reduces administrative requirements and allows local jurisdictions to develop their strategies for fair housing compliance.
- For Fair Housing Advocates: Concerns have been expressed regarding how fair housing enforcement will be impacted without formal reporting requirements because the goals of statutes governing AFFH are fixed.
- For Affordable Housing Development, the rule change may increase the flexibility of zoning and housing policy decisions at the local level.



# Next Steps

- Pending Federal Register Publication – The rule is not yet in effect and will become official once published in the Federal Register.
- Public Comment Period – *Comment due date:* May 2, 2025.
- Final Rule Implementation – After the comment period, HUD may revise or finalize the rule based on feedback received.



# Opposition to the Rule

- The National Fair Housing Alliance reminds the public that in spite of reducing compliance methodologies, “for example, cities cannot have discriminatory exclusionary zoning ordinances, blood-relative only laws, unfair tax-lien foreclosure codes, or other policies, programs, or practices that support discrimination, racial segregation, or that lead to unnecessary harmful outcomes for women, families with children, people with disabilities, people of color, and other protected groups.

# Opposition to the Rule

- The National Fair Housing Alliance continues that this: “will only lead to confusion, non-compliance and increased litigation—all of which can destabilize our nation’s volatile and fragile housing market.”

See <https://nationalfairhousing.org/national-fair-housing-alliance-responds-to-huds-withdrawal-of-affirmatively-furthering-fair-housing-rule-affh/>



# Questions

A graphic featuring a stylized house outline in a lighter blue shade against a dark blue background. The text "AFFH Rule" is written in white, bold, sans-serif font across the middle of the house shape.

**AFFH Rule**