

Proposed HUD Law Change: Massive Win For Unhoused People and Former Convicts

The United States Department of Housing and Urban Development (HUD) has released the finalized version of its proposed initiatives, which benefit unhoused people and people with conviction histories. People who have been incarcerated once are seven times more likely to become unhoused. This problem disproportionately affects racial and ethnic minorities.

The initiative restores [fair housing guidelines](#) initially created in 2013. The purpose of these guidelines was to prohibit “discrimination in housing and housing-related services because of race, color, religion, national origin, sex (including sexual orientation and gender identity), familial status, and disability.”

Significance of the 2013 Fair Housing Act

The act is often used to challenge housing policies that unnecessarily exclude people of certain backgrounds from housing opportunities. Practices that are considered discriminatory include zoning requirements, lending and insurance policies, and criminal record policies. The 2013 standard was altered by 2020 legislation which included new pleading and proof requirements, and new defense standards. These changes made it excessively difficult for people to prove that a policy was discriminatory. As a result, the 2020 standards were repealed, as the 2013 housing guides were clearer and easier for people to appeal to.

[According to Marcia L. Fudge](#), former secretary of HUD, repealing the 2020 standards helped remove racially motivated barriers. She stated, “For too long, people – particularly Black, brown and poor people – have been left out and left behind. This Administration is using our resources to reverse the deep-seated harm caused by prior federal policies and prioritize racial equity in all HUD programs.”

The statement laid out a cohesive plan of action, providing resources to assist underprivileged people in accessing stable and affordable housing. In particular, the last point of action mentions “working to build second chances”, for HUD-assisted people who have previous criminal records. People with previous criminal records often end up unhoused, which often causes them to return to jail. By ensuring people with criminal records have fair access to housing, the reinstated HUD guidelines will also reduce the amount of unhoused people on the street.

Why HUD is taking action

HUD is reimplementing the 2013 Fair Housing Act to follow [President Biden's Memorandum](#) to address housing discrimination in the United States.

The memorandum acknowledged that the nation remains “deeply segregated by race, with people of color being denied equal housing opportunity because of illegal and artificial constraints.” The memorandum also acknowledged the impact of the Federal Government in creating these divisions, which generated the obligation to address them.

Under the memorandum, [HUD](#) is seeking to “eliminate racial bias and other forms of discrimination in all stages of home-buying and renting, to lift barriers that restrict housing and neighborhood choice”. By creating these rules, HUD made it easier for people to appeal policies that could be discriminatory.

How the regulation affects current legislation

The reinstated standard requires all industries involved in the housing process (including mortgage lenders, insurance agencies, landlords, etc) to evaluate their business for any conduct that could violate the 2013 Fair Housing Act. Members of the public are free to appeal housing practices they find discriminatory. If practices are discriminatory, the business or businesses involved will be stripped of funding. The plan allows for further steps for a business to ensure they are up to standard without immediately removing funding. These changes are designed to reduce or eliminate race and class-based housing barriers.

Challenges to reinstatement

The reinstatement of these laws has endured some [legal challenges](#). Some organizations have claimed that the proposed rule excessively impacts insurance underwriting and rating practices. This is in response to HUD's data collection requirement.

The court addressed this accusation, reiterating that the data collection is only in place to prevent lenders from making race-blind decisions. Properly evaluating mortgage data without potential race bias is essential to providing discrimination-free housing.

The rule has also faced challenges regarding the consistency of its implementation. There are questions regarding whether or not State law or HUD rules should take precedence in the underwriting decision-making process.

The court has admitted that there is a potential inconsistency here and is leaving this ambiguity for insurance lenders to resolve on a state-by-state basis.

There is a chance that the rule will be challenged. If the challenge finds its way to the Supreme Court, a clear set of criteria for race-based complaints will be established, regardless of the outcome.

Significance in Unhoused Crisis

The changes update HUD screening policies toward tenants who have conviction or arrest records. [There is significant evidence](#) that increasing barriers to housing creates a “cycle between incarceration, homelessness, and recidivism”.

Having access to stable housing allows former convicts to get employed and become healthy members of society once again. This prevents the current reality, where people with criminal records are unable to get jobs, which prevents them from affording a home, which in turn often renders them homeless. Once homeless, they can be criminalized or cited for any number of perceived public infractions, and often end up back in jail. This cycle repeats, making it difficult for formerly incarcerated people to get beyond their sentences.

What this decision means

Sarah Saadian [released a tweet](#) claiming that, “This new proposed rule at HUD is an important victory for advocates and people w criminal histories who know all too well the enormous barriers to affordable housing! It has taken years, but these changes will help give systems-impacted people a fair shot at a 2nd chance”.

The decision will immensely help the cause of the unhoused around the United States, especially in light of legal challenges such as *Grants Pass v. Johnson*. As the potential for criminalizing unhoused people increases, rules helping more disadvantaged people stay off the streets are an encouraging step forward. Less people on the streets should directly correlate to less unhoused people being criminalized, and being locked into cycles of poverty.

HUD’s reinstated rule lowers the amount of legal barriers unhoused people need to overcome. It is one step closer to providing affordable housing to all who need it.