



Sedgwick County...  
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# Sedgwick County

525 North Main Street 3rd  
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Wichita, KS 67203

## Legislation Text

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File #: 16-321, Version: 1

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### **RESOLUTION TO REVISE THE SEDGWICK COUNTY GRANT APPLICATION AND AWARD POLICY.**

Presented by: Justin M. Waggoner, Assistant County Counselor.

**RECOMMENDED ACTION:** Take the action deemed appropriate by the Board of County Commissioners.

Sedgwick County adopted a Grant Application and Award Policy in 2008, which has since been amended in 2012 and 2013. The Grant Application and Award Policy establishes procedures and requirements for grants that the County applies for and accepts. Furthermore, within the Grant Application and Award Policy, the Board of County Commissioners authorizes the County Manager to apply for and accept grants within specified parameters.

The key substantive change that is proposed would be the addition of subsection IV. G. Subsection IV. G. would prevent the County from applying for or entering into any grant agreements with the United States Department of Housing and Urban Development ("HUD") that require an Assessment of Fair Housing. In 2015, HUD promulgated the Affirmatively Furthering Fair Housing Final Rule ("AFFH") (24 C.F.R. Parts 5, 91, 92, et al. and 24 C.F.R. § 5.150 et seq.). The AFFH regulations are based upon a provision within the Fair Housing Act (42 U.S.C. § 3608) that has been in place since 1968, which requires federal agencies and grant recipients to further the purposes of the Fair Housing Act.

The AFFH requires grant applicants and recipients to complete an Assessment of Fair Housing for the following programs: (1) Community Development Block Grants; (2) HOME Investment Partnerships; (3) Emergency Solutions Grants; (4) Housing Opportunities for Persons with AIDS; (5) Section 8 housing assistance grants; and (6) Section 9 housing assistance grants.

Of the above-referenced grant programs, the only program that Sedgwick County currently participates in is Section 8 housing. Section 8 housing is a voucher program in which recipients receive a housing subsidy for a portion or all of the recipient's rent and utilities. The funds are paid by HUD and Sedgwick County serves as the public housing authority to administer the grants. As of this March, Sedgwick County had 167 Section 8 housing agreements and the County is authorized to enter into up to 342 such agreements.

HUD does not currently require an Assessment of Fair Housing for the County to receive Section 8 funding and enter into related agreements. However, HUD may begin requiring an Assessment of Fair Housing to be completed by Sedgwick County for its Section 8 operations. It is believed that for Sedgwick County this would begin on January 1, 2020, but HUD has not yet confirmed this. If the proposed revision to the Grant Application and Award Policy were to be adopted and if HUD were to begin requiring an Assessment of Fair Housing as a condition for the County's receipt of Section 8 funding, absent any subsequent modification to the Grant Application and Award Policy, the County

would be prohibited from applying for or accepting said Section 8 funding.

The Assessment of Fair Housing is intended to identify housing disparities that exist within a grant recipient's jurisdiction. This would include a public hearing process, identification of fair housing issues, and the identification of fair housing goals and priorities. More specifically, the Assessment of Fair Housing would focus on the local demographic profile, the state of neighborhood segregation and integration, the prevalence of racially/ethnically concentrated areas of poverty, neighborhood disparities in access to community assets by protected classes, and housing needs across protected classes.

The new AFFH regulations have come under some scrutiny and there have been votes within both the U.S. House of Representatives and the Senate to not apply or enforce the regulations. There are competing views of the regulations, which are detailed below.

HUD's Position (per [https://www.huduser.gov/portal/affht\\_pt.html#final-rule](https://www.huduser.gov/portal/affht_pt.html#final-rule)):

For more than forty years, HUD funding recipients have been obligated by law to reduce barriers to fair housing. Established in the Fair Housing Act of 1968, the law directs HUD and its program participants to affirmatively further the Act's goals of promoting fair housing and equal opportunity. The final rule on affirmatively furthering fair housing (AFFH) aims to provide all HUD grantees with clear guidelines and the data that will help them to achieve those goals, because no child's ZIP code should determine her opportunity to achieve.

HUD's rule clarifies and simplifies existing fair housing obligations for HUD grantees to analyze their fair housing landscape and set locally-determined fair housing priorities and goals through an Assessment of Fair Housing (AFH). To aid communities in this work, HUD will provide open data to grantees and the public on patterns of integration and segregation, racially and ethnically concentrated areas of poverty, disproportionate housing needs, and disparities in access to opportunity. This improved approach provides a better mechanism for HUD grantees to build fair housing goals into their existing community development and housing planning processes.

Criticisms of the AFFH Regulations:

Included below is a sampling of criticisms referenced in the public comment literature from HUD on the AFFH Final Rule:

- (1) HUD's proposal is an intrusion on the affairs and responsibilities of local governments, and opens the door to the Federal Government determining zoning, the placement of infrastructure, and other local services.
- (2) HUD's proposal is an expansion of the Fair Housing Act, which does not require an assessment of such non-housing elements as transportation, employment, education, and similar elements.
- (3) HUD's proposed new Assessment of Fair Housing is too burdensome, duplicating actions already required by the consolidated plan and the Public Housing Authority Plan.

- (4) HUD's proposal was not clear on the standards of review of an Assessment of Fair Housing.
- (5) HUD has no constitutional authority to practice social engineering, especially at the expense of taxpayers, local or state governments, and the general population.

Also, while not mentioned explicitly within the public comment summary, there is a concern shared by many who are opposed to the AFFH regulations who fear that the regulations could create a situation in which HUD will be able to selectively and effectively enforce regulations. Accordingly, many who are opposed the AFFH regulations fear future situations similar to what occurred in a case involving HUD and Westchester County, New York, where the county was required to pay a \$62.5 million dollar settlement as a result of a claim that the county had exacerbated housing disparities with HUD funding and had failed to "affirmatively further fair housing."

Financial Considerations: none

Outside Attendees: n/a

Multimedia Presentation: PowerPoint presentation

Policy Considerations: The essence of this matter is a policy determination to be made by the Board of County Commissioners.

Legal Considerations: The authority for this action is K.S.A. 19-101. A simple majority vote is required.

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