

Affirmatively Furthering Fair Housing (AFFH) and the AFFH Rule



The AFFH Rule: Today



Mountain Plains NAHRO Conference

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Park City, Utah

What is AFFH?

section 808(e)(5) of the Fair Housing Act, and in subsequent legislative enactments, the purpose of the Affirmatively Furthering Fair Housing (AFFH) regulations in §§ 5.150 through 5.180 is to provide program participants with an effective planning approach to aid program participants in taking meaningful actions to overcome historical patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. The regulations establish specific requirements for the development and submission of an Assessment of Fair Housing (AFH) by program participants (including local governments, States, and public housing agencies (PHAs)), and the incorporation and implementation of that AFH into subsequent consolidated plans and PHA Plans in a manner that connects housing and community development policy and investment planning with meaningful actions that affirmatively further fair housing. A program participant's strategies and actions must affirmatively further fair housing and may include various activities, such as developing affordable housing, and removing barriers to the development of such housing, in areas of high opportunity; strategically enhancing access to opportunity, including through Targeted Investment in Neighborhood Revitalization or stabilization; preservation or rehabilitation of existing affordable housing; promoting greater housing choice within or outside of areas of concentrated poverty and greater access to areas of high opportunity; and improving community assets such as quality schools, employment, and transportation.

§ 5.151 Affirmatively Furthering Fair Housing: Implementation.

Section 5.160 of the AFH regulations provides the date by which program participants must submit their first AFH. A program participant's AFH submission date is the date by which the program participant must comply with the regulations in §§ 5.150 through 5.180. Until such time, the program participant shall continue to conduct an analysis of impediments, as required of the program participant under one or more of the HUD programs listed in § 5.154. In accordance with requirements in effect prior to August 17, 2015.

§ 5.152 Definitions.

For purposes of §§ 5.150 through 5.180, the terms "consolidated plan," "consortium," "unit of general local government," "jurisdiction," and

"State" are defined in 24 CFR part 91. For PHAs, "jurisdiction" is defined in 24 CFR 982.4. The following additional definitions are provided solely for purposes of §§ 5.150 through 5.180 and related amendments in 24 CFR parts 91, 92, 570, 574, 576, and 903:

Affirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.

Assessment of Fair Housing (assessment or AFH) means the analysis undertaken pursuant to § 5.154 that includes an analysis of fair housing data, an assessment of fair housing issues and contributing factors, and an identification of fair housing priorities and goals, and is conducted and submitted to HUD using the Assessment Tool. The AFH may be conducted and submitted by an individual program participant (individual AFH), or may be a single AFH conducted and submitted by two or more program participants (joint AFH) or two or more program participants, where at least two of which are consolidated plan program participants (regional AFH).

Assessment Tool refers collectively to any forms or templates and the accompanying instructions provided by HUD that program participants must use to conduct and submit an AFH pursuant to § 5.154. HUD may provide different Assessment Tools for different types of program participants. In accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35) (PRA), the Assessment Tool will be subject to periodic notice and opportunity to comment in order to maintain the approval of the Assessment Tool as granted by the Office of Management and Budget (OMB) under the PRA.

Community participation, as required in § 5.158, means a solicitation of views and recommendations from members of the community and other interested

parties, a consideration of the views and recommendations received, and a process for incorporating such views and recommendations into decisions and outcomes. For HUD regulations implementing the Housing and Community Development Act of 1974, the statutory term for "community participation" is "citizen participation," and, therefore, the regulations in 24 CFR parts 91, 92, 570, 574, and 576 use this term.

Consolidated plan program participant means any entity specified in § 5.154(b)(1).

Contributing factor. See definition of "fair housing contributing factor" in this section.

Data. The term "data" refers collectively to the sources of data provided in paragraphs (1) and (2) of this definition. When identification of the specific source of data in paragraph (1) or (2) is necessary, the specific source (HUD-provided data or local data) will be stated.

(1) **HUD-provided data.** As more fully addressed in the Assessment Tool, the term "HUD-provided data" refers to HUD-provided metrics, statistics, and other quantified information required to be used with the Assessment Tool. HUD-provided data will not only be provided to program participants but will be posted on HUD's Web site for availability to all of the public;

(2) **Local data.** As more fully addressed in the Assessment Tool, the term "local data" refers to metrics, statistics, and other quantified information, subject to a determination of statistical validity by HUD, relevant to the program participant's geographic areas of analysis, that can be found through a reasonable amount of search, are readily available at little or no cost, and are necessary for the completion of the AFH using the Assessment Tool.

Disability. (1) The term "disability" means, with respect to an individual:

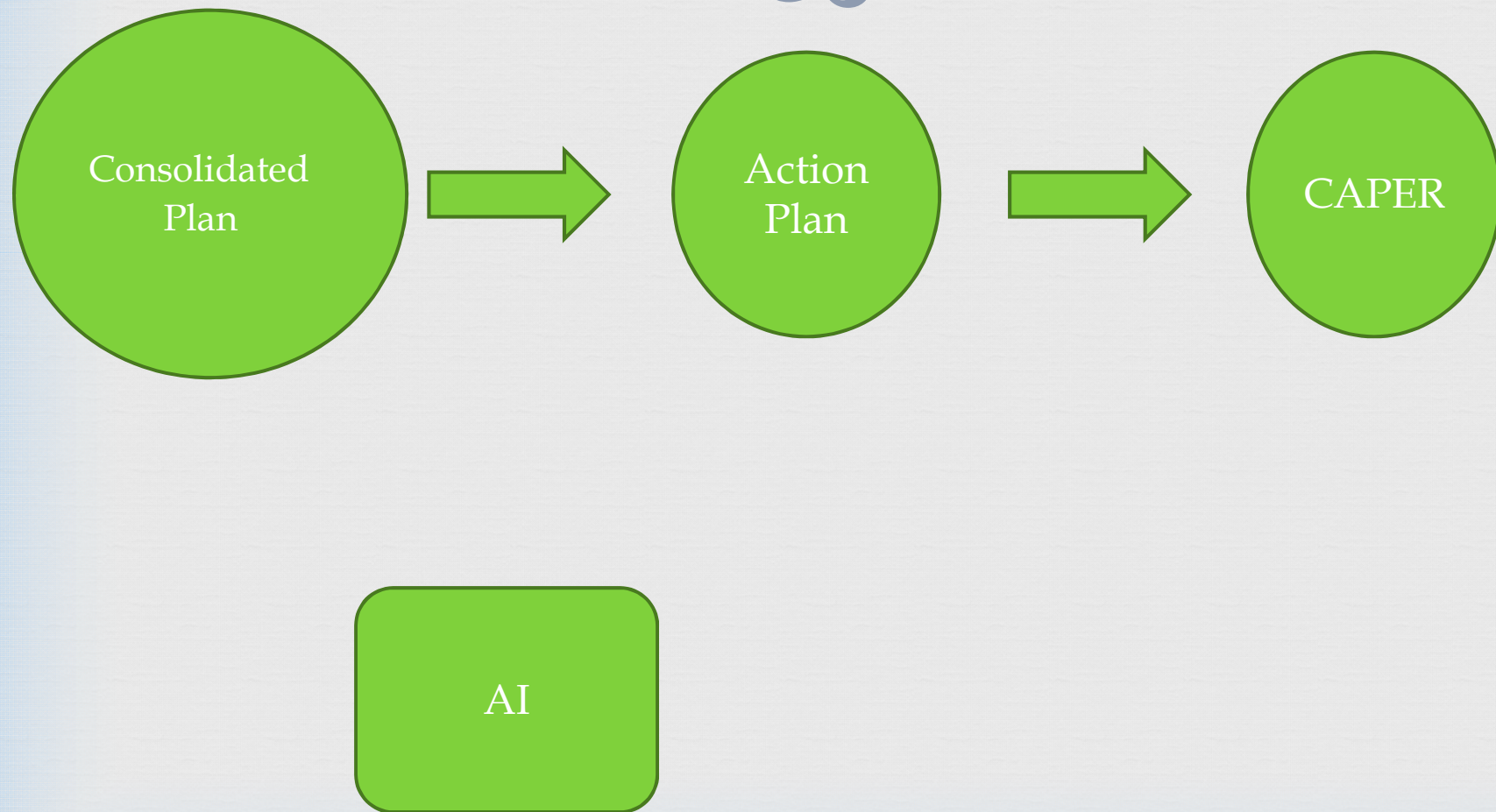
- (i) A physical or mental impairment that substantially limits one or more major life activities of such individual;
- (ii) A record of such an impairment; or
- (iii) Being regarded as having such an impairment.

(2) The term "disability" as used herein shall be interpreted consistent with the definition of such term under section 504 of the Rehabilitation Act of 1973, as amended by the ADA Amendments Act of 2008. This definition does not change the definition of "disability" or "disabled person" adopted pursuant to a HUD program statute for purposes of determining an individual's eligibility

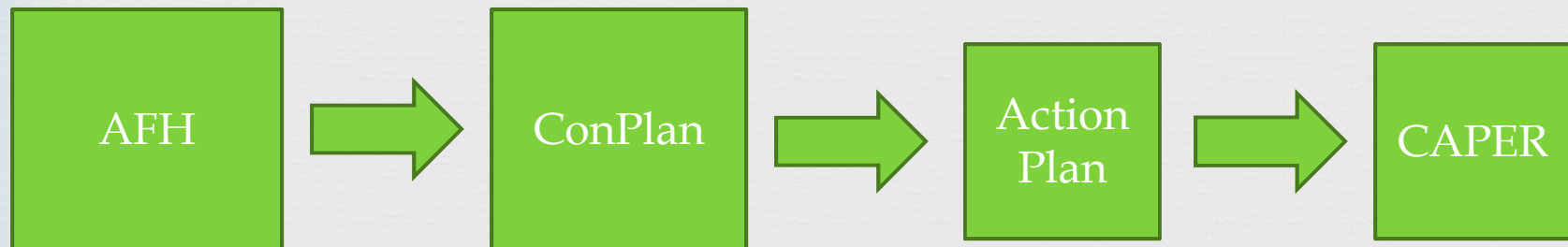
Affirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development.

[See 24 CFR § 5.152]

Fair Housing Planning: AI in accordance with existing HUD Regulations



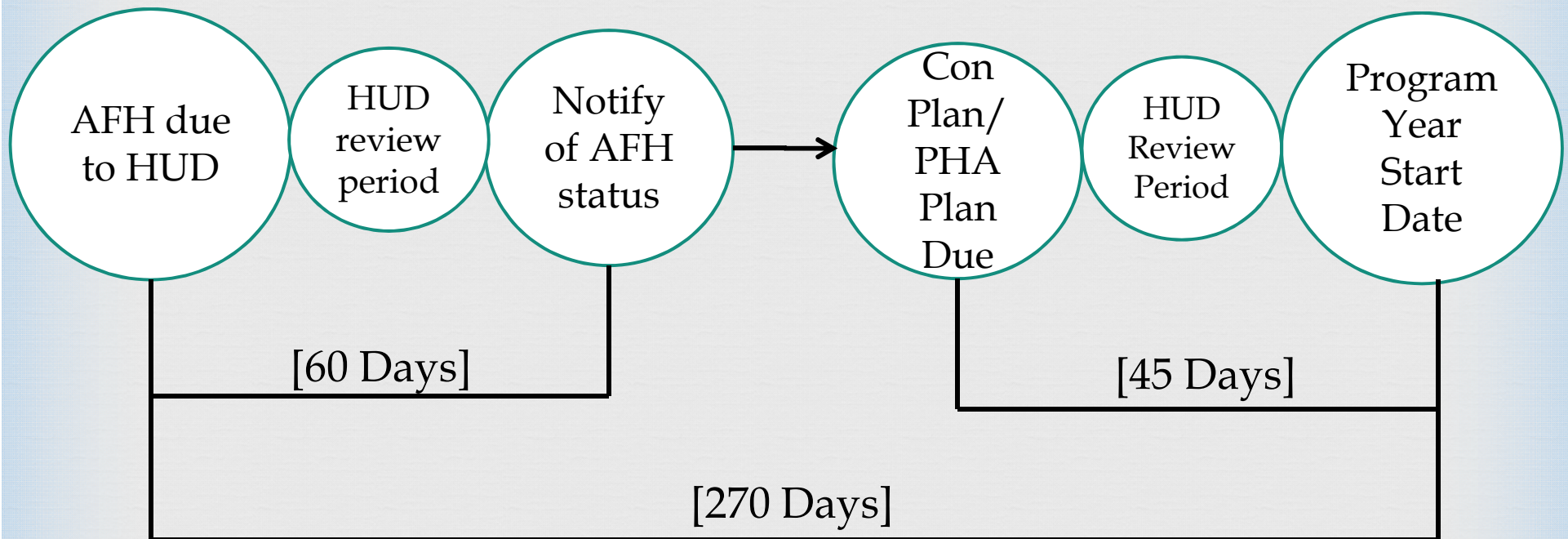
Fair Housing Planning: Under the AFFH Rule



AI v. AFH

The AI	The AFH
Regulatory requirement to conduct an AI, but no regulatory requirements on the content of the AI or the particular analysis necessary for a thorough fair housing assessment.	The AFFH rule creates a regulatory mandate for required content and analysis.
No standard submission format	Program participants will use an Assessment of Fair Housing (AFH) online assessment tool to answer required questions
No assistance with data and maps	HUD will provide data and maps
No mandate for HUD review and approval	The AFH will be reviewed and accepted or non-accepted by HUD

Initial AFH Timeline



Invaluable Resource

A screenshot of a web browser displaying the HUD Exchange website. The browser's address bar shows the URL 'https://www.hudexchange.info/programs/affh/'. The website has a blue header with the HUD Exchange logo and navigation links. The main content area is white and features the title 'Affirmatively Furthering Fair Housing (AFFH) Final Rule' and an 'Overview' section. A sidebar on the right contains 'Resources and Training Material' and 'Updates' sections. The Windows taskbar at the bottom shows various application icons and the system clock indicating 3:01 PM on 4/19/2016.

https://www.hudexchange.info/programs/affh/

Affirmatively Furthering Fai...

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Affirmatively Furthering Fair Housing (AFFH) Final Rule

Overview

Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. This obligation to affirmatively further fair housing has been in the Fair Housing Act since 1968 (for further information see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892). HUD's AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. As provided in the rule, AFFH means "taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a program participant's activities and programs relating to housing and urban development."

Resources and Training Material

Tools, guidance, training, data and mapping, and other resources are available to assist program participants in meeting the AFFH final rule requirements.

[View AFFH Resources and Training Material](#)

Updates

100%

3:01 PM 4/19/2016

Invaluable Resource



☞ Region VIII FHEO:

- ☞ Amy Frisk, Regional Director, 303-672-5151, amy.m.frisk@hud.gov
- ☞ James Whiteside, 303-672-5155, james.c.whiteside@hud.gov
- ☞ Kelly Cunningham-Bowers, 303-672-5185, kelly.a.cunningham-bowers@hud.gov
- ☞ Deborah Manigault, 303-839-2619, deborah.g.manigault@hud.gov
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- ☞ Michele Hutchins (SLC), 801-524-6097, michele.hutchins@hud.gov

The AFH



The AFH



The AFH is intended to help communities understand and identify local barriers to fair housing choice and disparities in access to opportunity.

- ❧ Analyze and discuss HUD-provided data as well as local data and knowledge.
- ❧ Identify fair housing issues in the jurisdiction and region and related contributing factors.
- ❧ Create goals that are designed to overcome significant contributing factors and related fair housing issues.

[See 24 CFR § 5.154(c) and (d)]

HUD's Review of an AFH



☞ HUD's review of an AFH is to determine whether the program participant has met the requirements for providing its analysis, assessment, and goal setting, as set forth in § 5.154(d).

[See 24 CFR § 5.162]

Acceptance of an AFH



✧ The AFH will be deemed accepted **60 calendar days** after the date that HUD receives the AFH, unless on or before that date, HUD has provided notification that HUD does not accept the AFH.

[See 24 CFR § 5.162]

When Would HUD Not Accept an AFH?



- ❧ The AFH is inconsistent with fair housing/civil rights laws
- ❧ The AFH is substantially incomplete

[See 24 CFR § 5.162]

Process for an AFH That is Not-Accepted



- ☞ HUD will provide written notification to the program participant of HUD's non-acceptance
- ☞ Notification will **specify the reasons** why the AFH was **not accepted**
- ☞ Notification will **provide guidance** on how the AFH should be revised in order to be accepted

Revision and Resubmission



- ❧ Program participant can **revise and resubmit** the AFH within **45 calendar days**
- ❧ Revised AFH will be **deemed accepted 30 calendar days after resubmission**, unless HUD provides non-acceptance notification

[See 24 CFR § 5.162(c)]

Collaboration



- ❧ Joint participants, at least two of which are consolidated plan program participants. A PHA may participate in a regional assessment in accordance with PHA Plan participation requirements under 24 CFR 903.15(a)(1). Regionally collaborating participants conduct and submit a single AFH (regional AFH) in accordance with §5.156.
- ❧ Technically, HOME Consortia are ONE entity

Assessment of Fair Housing Tool

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- IV. Assessment of Past Goals and Actions
- V. Fair Housing Analysis
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 - ii. Racially or Ethnically Concentrated Areas of Poverty (R/ECAPs)
 - iii. Disparities in Access to Opportunity
 - iv. Disproportionate Housing Needs
 - C. Publicly Supported Housing Analysis
 - D. Disability and Access Analysis
 - E. Fair Housing Enforcement, Outreach Capacity, and Resources Analysis
- VI. Fair Housing Goals and Priorities
- VII. Appendices and Instructions
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 - B. Appendix A – HUD-Provided Maps

AFH Example



III. Community Participation Process:

- Describe outreach activities undertaken to encourage and broaden meaningful community participation in the AFH process, including the types of outreach activities and dates of public hearings or meetings. Identify media outlets used and include a description of efforts made to reach the public, including those representing populations that are typically underrepresented in the planning process such as persons who reside in areas identified as R/ECAPs, persons who are limited English proficient (LEP), and persons with disabilities. Briefly explain how these communications were designed to reach the broadest audience possible. For PHAs, identify your meetings with the Resident Advisory Board.

AFH Example



❧ V.A. Demographic Summary:

- ❧ Describe demographic patterns in the jurisdiction and region, and describe trends over time (since 1990).
- ❧ Describe the location of homeowners and renters in the jurisdiction and region, and describe trends over time

AFH Example



❧ V.B.iv. General Issues – Disproportionate Housing Needs

- ❧ Which groups (by race/ethnicity and family status) experience higher rates of housing cost burden, overcrowding, or substandard housing when compared to other groups? Which groups also experience higher rates of severe housing burdens when compared to other groups?

AFH Example



❧ V.D. Disability and Access Analysis

❧ Population Profile

- ❧ How are persons with disabilities geographically dispersed or concentrated in the jurisdiction and region, including R/ECAPs and other segregated areas identified in previous sections?
- ❧ Describe whether these geographic patterns vary for persons with each type of disability or for persons with disabilities in different age ranges

Fair Housing Goals and Priorities



<u>Goal</u>	<u>Contributing Factors</u>	<u>Fair Housing Issues</u>	<u>Metrics, Milestones, and Timeframe for Achievement</u>	<u>Responsible Program Participant(s)</u>
Discussion:				

QUESTIONS?



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