§ 115.211

A law meets all of the substantial equivalency certification criteria set forth in 24 CFR part 115, the agency shall be ineligible for funding under the FHAP.

§ 115.211 Changes limiting effectiveness of agency's law; Corrective actions; Suspension; Withdrawal; Consequences of repeal; Changes not limiting effectiveness.

(a) Changes limiting effectiveness of agency's law. (1) If a state or local fair housing law that HUD has previously deemed substantially equivalent to the Act is amended; or rules or procedures concerning the fair housing law are adopted; or judicial or other authoritative interpretations of the fair housing law are issued, the interim-certified or certified agency must inform the Assistant Secretary of such amendment, adoption, or interpretation within 60 days of its discovery.

(2) The requirements of this section shall apply equally to the amendment, adoption, or interpretation of any related law that bears on any aspect of the effectiveness of the agency's fair housing law.

(3) The Assistant Secretary may conduct a review to determine if the amendment, adoption, or interpretation limits the effectiveness of the interim agency's fair housing law.

(b) Corrective actions. (1) If the review indicates that the agency's law no longer meets the criteria identified in § 115.204, the Assistant Secretary will so notify the agency in writing. Following notification, HUD may take appropriate actions, including, but not limited to, any or all of the following:

(i) Declining to provide technical assistance and/or guidance to the agency to assist the agency in curing deficiencies in its fair housing law.

(ii) Electing not to provide payment for complaints processed by the agency unless and until the fair housing law meets the criteria identified in § 115.204.

(iii) Providing technical assistance and/or guidance to the agency to assist the agency in curing deficiencies in its fair housing law.

(2) Suspension based on changes in the law. If the corrective actions identified in paragraph (b)(1)(i) through (iii) of this section fail to bring the state or local fair housing law back into compliance with the criteria identified in § 115.204 within the timeframe identified in HUD's notification to the agency, the Assistant Secretary may suspend the agency's interim certification or certification based on changes in the law or a related law.

(i) The Assistant Secretary will notify the agency in writing of the specific reasons for the suspension and provide the agency with an opportunity to respond within 30 days.

(ii) During the period of suspension, the Assistant Secretary has the discretion to not refer some or all complaints to the agency unless and until the agency's law meets the criteria identified in § 115.204.

(iii) During suspension, HUD may elect not to provide payment for complaints processed unless and until the agency's law meets the criteria identified in § 115.204.

(iv) During the period of suspension, if the fair housing law is brought back into compliance with the criteria identified in § 115.204, the Assistant Secretary will so notify the agency in writing.

(c) Withdrawal based on changes in the law. If the Assistant Secretary determines that the agency has not brought its law back into compliance with the criteria identified in § 115.204 during the period of suspension, the Assistant Secretary may propose to withdraw the agency's interim certification or certification.

(1) The Assistant Secretary will proceed with withdrawal unless the agency provides information or documentation that establishes that the agency's current law meets the criteria of substantial equivalency certification identified in § 115.204.

(i) Declining to provide payment for complaints processed by the agency unless and until the fair housing law meets the criteria identified in § 115.204.

(ii) Electing not to provide payment for complaints processed by the agency unless and until the fair housing law meets the criteria identified in § 115.204.

(iii) Providing technical assistance and/or guidance to the agency to assist the agency in curing deficiencies in its fair housing law.

(2) Suspension based on changes in the law. If the corrective actions identified in paragraph (b)(1)(i) through (iii) of this section fail to bring the state or local fair housing law back into compliance with the criteria identified in § 115.204 within the timeframe identified in HUD's notification to the agency, the Assistant Secretary may suspend the agency's interim certification or certification based on changes in the law or a related law.

(i) The Assistant Secretary will notify the agency in writing of the specific reasons for the suspension and provide the agency with an opportunity to respond within 30 days.

(ii) During the period of suspension, the Assistant Secretary has the discretion to not refer some or all complaints to the agency unless and until the agency's law meets the criteria identified in § 115.204.

(iii) During suspension, HUD may elect not to provide payment for complaints processed unless and until the agency's law meets the criteria identified in § 115.204.

(iv) During the period of suspension, if the fair housing law is brought back into compliance with the criteria identified in § 115.204, the Assistant Secretary will so notify the agency in writing.

(c)(1) If, following notification from HUD that its fair housing law no longer meets the criteria identified in § 115.204, an interim-certified or certified agency unequivocally expresses to HUD that its fair housing law will not be brought back into compliance, the Assistant Secretary may forgo suspension and provide the agency with an opportunity to respond within 30 days.
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proceed directly to withdrawal of the agency’s interim certification or certification.

(2) During any period after which the Assistant Secretary proposes withdrawal, until such time as the agency establishes that administration of its law meets all of the substantial equivalency certification criteria set forth in 24 CFR part 115, the agency shall be ineligible for funding under the FHAP.

(d) Consequences of repeal. If a state or local fair housing law that HUD has previously deemed substantially equivalent to the Act is repealed, in whole or in part, or a related law that bears on any aspect of the effectiveness of the agency’s fair housing law is repealed, in whole or in part, the Assistant Secretary may immediately withdraw the agency’s interim certification or certification.

(e) Changes not limiting effectiveness. Nothing in this section is meant to limit the Assistant Secretary’s authority to determine that a change to a fair housing law does not jeopardize the substantial equivalency interim certification or certification of an agency.

(1) Under such circumstances, the Assistant Secretary may proceed in maintaining the existing relationship with the agency, as set forth in the interim agreement or MOU.

(2) Alternatively, the Assistant Secretary may decide not to refer certain types of complaints to the agency. The Assistant Secretary may elect not to provide payment for these complaints and may require the agency to refer such complaints to the Department for investigation, conciliation, and enforcement activities.

(3) When the Assistant Secretary determines that a change to a fair housing law does not jeopardize an agency’s substantial equivalency certification, the Assistant Secretary need not proceed to suspension or withdrawal if the change is not reversed.

§ 115.212 Request after withdrawal.

(a) An agency that has had its interim certification or certification withdrawn, either voluntarily or by the Department, may request substantial equivalency interim certification or certification.

(b) The request shall be filed in accordance with §115.202.

(c) The Assistant Secretary shall determine whether the state or local law, on its face, provides substantive rights, procedures, remedies, and judicial review procedures for alleged discriminatory housing practices that are substantially equivalent to those provided in the federal Fair Housing Act. To meet this standard, the state or local law must meet the criteria enumerated in §115.204.

(d) Additionally, if the agency had documented performance deficiencies that contributed to the past withdrawal, then the Department shall consider the agency’s performance and any steps the agency has taken to correct performance deficiencies and to prevent them from recurring in determining whether to grant interim certification or certification. The review of the agency’s performance shall include HUD conducting a performance assessment in accordance with §115.206.

Subpart C—Fair Housing Assistance Program

§ 115.300 Purpose.

The purpose of the Fair Housing Assistance Program (FHAP) is to provide assistance and reimbursement to state and local fair housing enforcement agencies. The intent of this funding program is to build a coordinated intergovernmental enforcement effort to further fair housing and to encourage the agencies to assume a greater share of the responsibility for the administration and enforcement of fair housing laws.

The financial assistance is designed to provide support for:

(a) The processing of dual-filed complaints;

(b) Training under the Fair Housing Act and the agencies’ fair housing law;

(c) The provision of technical assistance;

(d) The creation and maintenance of data and information systems; and

(e) The development and enhancement of fair housing education and outreach projects, special fair housing enforcement efforts, fair housing partnership initiatives, and other fair housing projects.