

§ 115.209 Technical assistance.

(a) The Assistant Secretary, through the FHEO regional office, may provide technical assistance to the interim and certified agencies at any time. The agency may request such technical assistance or the FHEO regional office may determine the necessity for technical assistance and require the agency's cooperation and participation.

(b) The Assistant Secretary, through FHEO headquarters or regional staff, will require that the agency participate in training conferences and seminars that will enhance the agency's ability to process complaints alleging discriminatory housing practices.

§ 115.210 Performance deficiency procedures; Suspension; Withdrawal.

(a) HUD may utilize the following performance deficiency procedures if it determines at any time that the agency does not meet one or more of the performance standards enumerated in § 115.206. The performance deficiency procedures may be applied to agencies with either interim certification or certification. If an agency fails to meet performance standard 7, HUD may bypass the technical assistance performance deficiency procedure and proceed to the PIP.

(1) *Technical assistance.* After discovering the deficiency, the FHEO regional office should immediately inform the agency and provide the agency with technical assistance.

(2) *Performance improvement plan.* If, following technical assistance, the agency does not bring its performance into compliance with § 115.206 within a time period identified by the FHEO regional director, the FHEO regional director may offer the agency a PIP.

(i) The PIP will outline the agency's performance deficiencies, identify the necessary corrective actions, and include a timetable for completion.

(ii) If the agency receives a PIP, funding under the FHAP may be suspended for the duration of the PIP.

(iii) Once the agency has implemented the corrective actions to eliminate the deficiencies, and such corrective actions are accepted by the FHEO regional director, funding may be restored.

(iv) The FHEO regional office may provide the agency with technical assistance during the period of the PIP, if appropriate.

(b) *Suspension.* If the agency does not agree to implement the PIP or does not implement the corrective actions identified in the PIP within the time allotted, then the FHEO regional director may suspend the agency's interim certification or certification.

(1) The FHEO regional director shall notify the agency in writing of the specific reasons for the suspension and provide the agency with an opportunity to respond within 30 days.

(2) Suspension shall not exceed 180 days.

(3) During the period of suspension, HUD will not refer complaints to the agency.

(4) If an agency is suspended, the FHEO regional office may elect not to provide funding under the FHAP to the agency during the period of suspension, unless and until the Assistant Secretary determines that the agency is fully in compliance with § 115.206.

(5) HUD may provide the agency with technical assistance during the period of suspension, if appropriate.

(6) No more than 60 days prior to the end of suspension, the FHEO regional office shall conduct a performance assessment of the agency.

(c) *Withdrawal.* If, following the performance assessment conducted at the end of suspension, the Assistant Secretary determines that the agency has not corrected the deficiencies, the Assistant Secretary may propose to withdraw the interim certification or certification of the agency.

(1) The Assistant Secretary shall proceed with withdrawal, unless the agency provides information or documentation that establishes that the agency's administration of its law meets all of the substantial equivalency certification criteria set forth in 24 CFR part 115.

(2) The Assistant Secretary shall inform the agency in writing of the reasons for the withdrawal.

(3) During any period after which the Assistant Secretary proposes withdrawal, until such time as the agency establishes that administration of its

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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 refer some or all complaints to 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

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§ 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, and the Assistant Secretary determines that the fair housing law remains substantially equivalent to the Act, the Assistant Secretary will rescind the suspension and reinstate the agency's interim certification or certification.

(3) *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.

(i) 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.

(ii) The Assistant Secretary will inform the agency in writing of the reasons for the withdrawal.

(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