§ 115.203 Interim certification procedures.

(a) Upon receipt of a request for interim certification filed under §115.202, the Assistant Secretary may request further information necessary for a determination to be made under this section. The Assistant Secretary may consider the relative priority given to fair housing administration, as compared to the agency’s other duties and responsibilities, as well as the compatibility or potential conflict of fair housing objectives with these other duties and responsibilities.

(b) If the Assistant Secretary determines, after application of the criteria set forth in §115.204, that 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 Act, the Assistant Secretary may offer to enter into an Agreement for the Interim Referral of Complaints and Other Utilization of Services (interim agreement). The interim agreement will outline the procedures and authorities upon which the interim certification is based.

(c) Such interim agreement, after it is signed by all appropriate signatories, will result in the agency receiving interim certification. Appropriate signatories include the Assistant Secretary, the FHEO regional director, and the state or local official having principal responsibility for the administration of the state or local fair housing law.

(d) Interim agreements shall be for a term of no more than three years.

(e) All regulations, rules, directives, and/or opinions of the State Attorney General or the jurisdiction’s chief legal officer that are necessary for the law to be substantially equivalent on its face must be enacted and effective in order for the Assistant Secretary to offer the agency an interim agreement.

(f) Interim certification required prior to certification. An agency is required to obtain interim certification prior to obtaining certification.

§ 115.204 Criteria for adequacy of law.

(a) In order for a determination to be made that a state or local fair housing agency administers a law, which, on its face, provides rights and remedies for alleged discriminatory housing practices that are substantially equivalent to those provided in the Act, the law must:

(c) Upon receipt of a request, HUD will analyze the agency’s fair housing law to determine whether it meets the criteria identified in §115.204.

(d) HUD shall review a request for interim certification from a local agency located in a state with an interim certified or certified substantially equivalent state agency. However, in the request for interim certification, the local agency must certify that the substantially equivalent state law does not prohibit the local agency from administering and enforcing its own fair housing law within the locality.