

107.51

Findings of noncompliance.

(a) A finding of noncompliance shall be made when the facts disclosed during an investigation or compliance review, or other information, indicate a failure to comply with the provisions of E.O. 11063 or this part. In no event will a finding of noncompliance precede the completion of the compliance meeting procedures set forth in Sec. 107.40.

(b) Determinations of noncompliance with E.O. 11063 shall be made in any case in which the facts establish the existence of a discriminatory practice under Sec. 107.15(g)

(c) The existence or use of a policy or practice, or any arrangement, criterion or other method of administration which has the effect of denying equal housing opportunity or which substantially impairs the ability of persons, because of race, color, religion (creed), sex or national origin, to apply for or receive the benefits of

assistance shall be a basis for finding a discriminatory practice unless

the respondent can establish that:

(1) The policy or practice is designed to serve a legitimate business necessity or governmental purpose of the respondent;

(2) The policy or practice effectively carries out the interest it is designed to serve; and

(3) No alternative course of action could be adopted that would enable respondent's interest to be served with a less discriminatory impact.

[45 FR 59514, Sept. 9, 1980, as amended at 50 FR 31360, Aug. 2, 1985]