

Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act - Nondiscrimination Under Federal Grants and Programs

Sec. 504 (a) No otherwise qualified individual with a disability in the United States, as defined in section 7(20), shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of Congress, and such regulations may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

(b) For the purposes of this section, the term "program or activity" means all of the operations of -

(1) (A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such a State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2) (A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 14101 of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

(3) (A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship-

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3); any part of which is extended Federal financial assistance.

(c) Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on the date of the enactment of this subsection.

(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201-12204 and 12210), as such sections relate to employment.

28 CFR 42.505 - Administrative requirements for recipients.

§ 42.505 Administrative requirements for recipients.

(a) Remedial action. If the Department finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 or this subpart, the recipient shall take the remedial action the Department considers necessary to overcome the effects of the discrimination. This may include remedial action with respect to handicapped persons who are no longer participants in the recipient's program or activity but who were participants in the program when such discrimination occurred, and with respect to handicapped persons who would have been participants in the program had the discrimination not occurred.

(b) Voluntary action. A recipient may take steps, in addition to the requirements of this subpart, to increase the participation of qualified handicapped persons in the recipient's program or activity.

(c) Self-evaluation.

(1) A recipient shall, within one year of the effective date of this subpart, evaluate and modify its policies and practices that do not meet the requirements of this subpart. During this process the recipient shall seek the advice and assistance of interested persons, including handicapped persons or organizations representing handicapped persons. During this period and thereafter the recipient shall take any necessary remedial steps to eliminate the effects of discrimination that resulted from adherence to these policies and practices.

(2) A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of \$25,000 or more shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Department on request:

- (i) A list of the interested persons consulted,
- (ii) A description of areas examined and problems identified, and
- (iii) A description of modifications made and remedial steps taken.

(d) Designation of responsible employee. A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of \$25,000 or more shall designate at least one person to coordinate compliance with this subpart.

(e) Adoption of grievance procedures. A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of \$25,000 or more shall adopt grievance procedures that incorporate due process standards (e.g. adequate notice, fair

hearing) and provide for the prompt and equitable resolution of complaints alleging any action prohibited by this subpart. Such procedures need not be established with respect to complaints from applicants for employment. An employee may file a complaint with the Department without having first used the recipient's grievance procedures.

(f) Notice.

(1) A recipient employing fifty or more persons and receiving Federal financial assistance from the Department of more than \$25,000 shall, on a continuing basis, notify participants, beneficiaries, applicants, employees and unions or professional organizations holding collective bargaining or professional agreements with the recipient that it does not discriminate on the basis of handicap in violation of section 504 and this subpart. The notification shall state, where appropriate, that the recipient does not discriminate in its programs or activities with respect to access, treatment or employment. The notification shall also include identification of the person responsible for coordinating compliance with this subpart and where to file section 504 complaints with the Department and, where applicable, with the recipient. A recipient shall make the initial notification required by this paragraph within 90 days of the effective date of this subpart. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publication, and distribution of memoranda or other written communications.

(2) Recruitment materials or publications containing general information that a recipient makes available to participants, beneficiaries, applicants, or employees shall include a policy statement of nondiscrimination on the basis of handicap.

(g) The Department may require any recipient with fewer than fifty employees and receiving less than \$25,000 in Federal financial assistance to comply with paragraphs (c)(2) and (d) through (f) of this section.

(h) The obligation to comply with this subpart is not affected by any State or local law or requirement or limited employment opportunities for handicapped persons in any occupation or profession.

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28 CFR 42.504 - Assurances required.

§ 42.504 Assurances required.

(a) **Assurances.** Every application for Federal financial assistance covered by this subpart shall contain an assurance that the program or activity will be conducted in compliance with the requirements of section 504 and this subpart. Each agency within the Department that provides Federal financial assistance shall specify the form of the foregoing assurance and shall require applicants for Department financial assistance to obtain like assurances from subgrantees, contractors and subcontractors, transferees, successors in interest, and others connected with the program or activity. Each Department agency shall specify the extent to which an applicant will be required to confirm that the assurances provided by secondary recipients are being honored. Each assurance shall include provisions giving notice that the United States has a right to seek judicial enforcement of section 504 and the assurance.

(b) **Assurances from government agencies.** Assurances from agencies of State and local governments shall extend to any other agency of the same governmental unit if the policies of the other agency will affect the program or activity for which Federal financial assistance is requested.

(c) **Assurances from institutions.** The assurances required with respect to any institution or facility shall be applicable to the entire institution or facility.

(d) **Duration of obligation.** Where the Federal financial assistance is to provide or is in the form of real or personal property, the assurance will obligate the recipient and any transferee for the period during which the property is being used for the purpose for which the Federal financial assistance is extended or for another purpose involving the provisions of similar benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(e) **Covenants.** With respect to any transfer of real property, the transfer document shall contain a covenant running with the land assuring nondiscrimination on the condition described in paragraph (d) of this section. Where the property is obtained from the Federal Government, the covenant may also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant.

(f) **Remedies.** The failure to secure either an assurance or a sufficient assurance from a recipient shall not impair the right of the Department to enforce the requirements of section 504 and this subpart.