

§ 32.17 Labor unions and recruiting and training agencies.

(a) The performance of a recipient's obligations under the nondiscrimination provisions of these regulations may necessitate a revision in a collective bargaining agreement(s). The policy of the Department of Labor is to use its best efforts, directly or through the recipients, subgrantees, local officials, vocational rehabilitation facilities, and other available instrumentalities, to cause any labor union, recruiting and training agency or other representative or workers who are or may be engaged in work under programs of Federal financial assistance to cooperate with, and to comply in the implementation of section 504.

(b) To effectuate the purposes of paragraph (a) of this section, the Assistant Secretary may hold hearings, public or private, with respect to the practices and policies of any such labor union or recruiting and training agency.

(c) Whenever compliance with section 504 necessitates a revision of a collective bargaining agreement or otherwise significantly affects a substantial number of employees represented by the union, the collective bargaining representatives shall be given an opportunity to present their views to the Assistant Secretary.

(d) The Assistant Secretary may notify any Federal, State, or local agency of his/her conclusions and recommendations with respect to any such labor organization or recruiting and training agency which in his/her judgment has failed to cooperate with the Department of Labor, recipients, subgrantees or applicants in carrying out the purposes of section 504. The Assistant Secretary also may notify other appropriate Federal agencies when there is reason to believe that the practices of any such labor organization or agency violates other provisions of Federal law.

Subpart C—Program Accessibility**§ 32.26 Discrimination prohibited.**

No qualified handicapped individual shall, because a recipient's facilities are inaccessible to or unusable by handicapped individuals, be denied the

benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity to which this part applies.

§ 32.27 Access to programs.

(a) *Purpose.* A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible to qualified handicapped individuals. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by qualified handicapped individuals. However, if a particular program is available in only one location, that site must be made accessible or the program must be made available at an alternative accessible site or sites. Program accessibility requires nonpersonal aids to make the program accessible to mobility impaired persons. Reasonable accommodations, as defined in § 32.3, are required for particular handicapped individuals in response to the specific limitations of their handicaps.

(b) *Scope and application.* (1) For the purpose of this subpart, prime sponsors under the Comprehensive Employment and Training Act and any other individual or organization which receives a grant directly from the Department to establish or operate any program or activity shall assure that the program or activity, including Public Service Employment, Work Experience, Classroom Training and On-the-Job-Training, when viewed in its entirety, is readily accessible to qualified handicapped individuals.

(2) *Job Corps.* All agencies, grantees, or contractors which screen or recruit applicants for the Job Corps shall comply with the nondiscrimination provisions of this part. Each regional office of the Department of Labor's Employment and Training Administration which makes the decision on the assignment of a Job Corps applicant to a particular center may, where it finds, after consultation with the qualified handicapped person seeking Job Corps services, that there is no method of complying with § 32.27(a) at a particular Job Corps Center, other than by making a significant alteration in its

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existing facilities or in its training programs, assign that individual to another Job Corps Center which is accessible in accordance with this section and which is offering comparable training. The Job Corps, and each regional office of the Employment and Training Administration, shall assure that the Job Corps Program, when viewed in its entirety, is readily accessible to qualified handicapped individuals and that all future construction, including improvements to existing Centers, be made accessible to the handicapped.

(3) If a small recipient finds, after consultation with a qualified handicapped person seeking its services, that there is no method of complying with §32.27(a) other than making a significant alteration in its existing facilities or facility the recipient may, as an alternative, refer the qualified handicapped person to other providers of those services that are accessible.

(c) *Methods.* A recipient may comply with the requirement of §32.27(a) through such means as redesign of equipment, reassignment of classes or other services to accessible buildings, assignment of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities in conformance with the requirements of §32.28, or any other method that results in making its program or activity accessible to handicapped individuals. A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with §32.27(a). In choosing among available methods for meeting the requirement of §32.27(a), a recipient shall give priority to those methods that offer programs and activities to handicapped persons in the most integrated setting appropriate.

(d) *Time period.* A recipient shall comply with the requirements of §32.27(a) within 60 days of the effective date of this part except that where structural changes in facilities are necessary, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(e) *Transition plan.* In the event that structural changes to facilities are nec-

essary to meet the requirement of §32.27(a), a recipient shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including qualified handicapped individuals. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum:

(1) Identify physical obstacles in the recipient's facilities that limit the accessibility of its program or activity to qualified handicapped individuals;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve full program accessibility and, if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period; and

(4) Indicate the person responsible for implementation of the plan.

(f) *Notice.* The recipient shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by qualified handicapped individuals.

§32.28 Architectural standards.

(a) *Design and construction.* Each facility or part of a facility constructed by, on behalf of, or for the use of a recipient shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by qualified handicapped individuals, if the construction was commenced after the effective date of this part.

(b) *Alteration.* Each facility or part of a facility which is altered by, on behalf of, or for the use of a recipient after the effective date of this part in a manner that affects or could affect the usability of the facility or part of the facility shall, to the maximum extent feasible, be altered in such manner that the altered portion of the facility

is readily accessible to and usable by qualified handicapped individuals.

(c) *Standards for architectural accessibility.* Design, construction, or alteration of facilities under this subpart shall meet the most current standards for physical accessibility prescribed by the General Services Administration under the Architectural Barriers Act at 41 CFR 101-19.6. Alternative standards may be adopted when it is clearly evident that equivalent or greater access to the facility or part of the facility is thereby provided.

Subpart D—Procedures

§ 32.44 Compliance information.

(a) *Cooperation and assistance.* The Assistant Secretary shall to the fullest extent practicable seek the cooperation of recipients in obtaining compliance with this part and shall provide assistance and guidance to recipients to help them comply voluntarily with this part.

(b) *Compliance reports.* Each recipient shall keep such records and submit to the Assistant Secretary timely, complete and accurate compliance reports at such times, and in such form and containing such information as the Assistant Secretary may determine to be necessary to enable him to ascertain whether the recipient had complied or is complying with this part. For example, recipients should have available for the Department data showing the extent to which known handicapped individuals are beneficiaries and participants in federally assisted programs. In the case of any program under which a primary recipient extends Federal financial assistance to any other recipient, such other recipient shall also submit such compliance reports to the primary recipient as may be necessary to enable the primary recipient to carry out its obligations under this part.

(c) *Access to sources of information.* Each recipient shall permit access by the Assistant Secretary during normal business hours to such of its books, records, accounts, and other sources of information and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of a recipient is in the exclusive possession of any other agency, institu-

tion or person and this agency, institution or person shall fail or refuse to furnish this information, the recipient shall so certify in its report and shall set forth what efforts it has made to obtain the information. Asserted considerations of privacy or confidentiality may not operate to bar the Department from access to or copying of records or information, or from evaluating or seeking to enforce compliance with this part.

(d) *Posters and information.* The recipient will post in prominent locations (bulletin boards, time clock areas, etc.) posters designed and furnished by DOL outlining and summarizing the non-discrimination requirements of section 504. The recipient also will make readily available information on section 504 requirements with respect to compliance procedures, the rights of beneficiaries and employees through handbooks, pamphlets and other materials furnished by DOL.

§ 32.45 Investigations.

(a) *Periodic compliance reviews.* The Assistant Secretary shall from time-to-time review the practices of recipients to determine whether they are complying with this part.

(b) *Adoption of grievance procedures.* A recipient shall adopt an internal review procedure incorporating appropriate due process standards which provides for the prompt and equitable resolution of complaints alleging any action prohibited by this part. The complainant or his or her representative shall file the complaint with the recipient for processing under those procedures. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Assistant Secretary for good cause shown. The recipient shall maintain records on all complaints filed alleging violation of the Act and shall make such records available to the Assistant Secretary upon request. The complaint and all actions taken thereunder shall be kept confidential by the recipient. If the complaint has not been resolved under those procedures satisfactorily to the complainant within 60 days of the filing or referral, the complainant or his or her representative may file a complaint with