

Subpart C—Governor’s Responsibilities to Implement the Nondiscrimination and Equal Opportunity Requirements of JTPA

§ 34.30 Application.

This subpart applies to State Programs as defined in § 34.2. However, the provisions of § 34.32 (b) and (c) do not apply to State Employment Security Agencies (SESAs), because the Governor’s liability for any noncompliance on the part of a SESA cannot be waived.

§ 34.31 Recordkeeping.

The Governor shall ensure that recipients collect and maintain records in a manner consistent with the provisions of § 34.24 and any procedures prescribed by the Director pursuant to § 34.24(a)(1). The Governor shall further ensure that recipients are able to provide data and reports in the manner prescribed by the Director.

§ 34.32 Oversight and liability.

(a) The Governor shall be responsible for oversight of all JTPA-funded State programs. This responsibility includes ensuring compliance with the nondiscrimination and equal opportunity provisions of JTPA and this part, and negotiating with the recipient to secure voluntary compliance when noncompliance is found under § 34.45.

(b) The Governor and the recipient shall be jointly and severally liable for all violations of the nondiscrimination and equal opportunity provisions of JTPA and this part by the recipient, unless the Governor has:

- (1) Established and adhered to a Methods of Administration, pursuant to § 34.33, designed to give reasonable guarantee of the recipient’s compliance with such provisions;
- (2) Entered into a written contract with the recipient which clearly establishes the recipient’s obligations regarding nondiscrimination and equal opportunity;
- (3) Acted with due diligence to monitor the recipient’s compliance with these provisions; and
- (4) Taken prompt and appropriate corrective action to effect compliance.

(c) If the Director determines that the Governor has demonstrated substantial compliance with the requirements of paragraph (b) of this section, he or she may recommend to the Secretary that the imposition of sanctions against the Governor be waived and that sanctions be imposed only against the noncomplying recipient.

§ 34.33 Methods of Administration.

(a)(1) Each Governor shall establish and adhere to a Methods of Administration for State programs as defined in § 34.2. In those States in which one agency contains both SESA and JTPA programs, the Governor may develop a combined Methods of Administration.

(2) Each Methods of Administration shall be designed to give reasonable guarantee that all recipients will comply and are complying with the nondiscrimination and equal opportunity provisions of JTPA and this part.

(b) The Methods of Administration shall be:

- (1) In writing;
- (2) Updated periodically as required by the Director; and
- (3) Signed by the Governor.

(c) The Methods of Administration shall, at a minimum:

(1) Describe how the requirements of §§ 34.20, 34.21, 34.22, 34.23, 34.24, 34.31, and 34.42 have been satisfied; and

(2) Include the following additional elements:

- (i) A system for periodically monitoring the compliance of recipients with this part, including a determination as to whether the recipient is conducting its JTPA-funded program or activity in a nondiscriminatory way;
- (ii) A system for reviewing the nondiscrimination and equal opportunity provisions of job training plans, contracts, assurances, and other similar agreements;
- (iii) Procedures for ensuring that recipients provide accessibility to individuals with disabilities;
- (iv) A system of policy communication and training to ensure that members of the recipients’ staffs who have been assigned responsibilities pursuant to the nondiscrimination and equal opportunity provisions of JTPA or this part are aware of and can effectively carry out these responsibilities;

(v) Procedures for obtaining prompt corrective action or, as necessary, applying sanctions when noncompliance is found; and

(vi) Supporting documentation to show that the commitments made in the Methods of Administration have been and/or are being carried out. Supporting documentation includes, but is not limited to: policy and procedural issuances concerning required elements of the Methods of Administration; copies of monitoring instruments and instructions; evidence of the extent to which nondiscrimination and equal opportunity policies have been developed and communicated pursuant to this part; information reflecting the extent to which Equal Opportunity training, including training called for by § 34.22, is planned and/or has been carried out; as applicable, reports of monitoring reviews and reports of follow-up actions taken thereunder where violations have been found, including, where appropriate, sanctions; and copies of any notification made pursuant to § 34.23.

(d) The Governor shall, within 180 days of the effective date of this part:

(1) Develop and implement Methods of Administration consistent with the requirements of this part, and

(2) Submit a copy of the Methods of Administration to the Director.

§ 34.34 Monitoring.

(a) The Director may periodically review the adequacy of the Methods of Administration established by a Governor, as well as the adequacy of the Governor's performance under that Methods of Administration, to determine compliance with the requirements of § 34.33. The Director may review the Methods of Administration during a compliance review under § 34.40, or at another time.

(b) Nothing in this subpart shall limit or preclude the Director from monitoring directly any JTPA recipient or from investigating any matter necessary to determine a recipient's compliance with the nondiscrimination and equal opportunity provisions of JTPA or this part.

(c) The procedures contained in subpart D of this part shall apply to reviews or investigations undertaken

pursuant to paragraphs (a) and (b) of this section.

Subpart D—Compliance Procedures

§ 34.40 Compliance reviews.

(a) The Director may from time to time conduct pre- and post-approval compliance reviews of grant applicants for and recipients of Federal financial assistance under JTPA to determine compliance with the nondiscrimination and equal opportunity provisions of JTPA and this part. Techniques used in such reviews may include desk reviews, on-site reviews, and off-site analyses.

(b) *Pre-approval reviews.* (1) As appropriate and necessary to ensure compliance with the nondiscrimination and equal opportunity provisions of JTPA or this part, the Director may review any application, or class of applications, for Federal financial assistance under JTPA prior to and as a condition of their approval. The basis for such review shall be the assurance specified in § 34.20, information and reports submitted by the grant applicant pursuant to this part or guidelines published by the Director, and any relevant records on file with the Department.

(2) Where the Director determines that the grant applicant for Federal financial assistance under JTPA, if funded, would not comply with the nondiscrimination and equal opportunity requirements of JTPA or this part, the Director shall issue a Letter of Findings. Such Letter of Findings shall advise the grant applicant, in writing, of:

(i) The preliminary findings of the review;

(ii) The proposed remedial or corrective action pursuant to § 34.44 and the time within which the remedial or corrective action should be completed;

(iii) Whether it will be necessary for the grant applicant to enter into a written Conciliation Agreement as described in § 34.45; and

(iv) The opportunity to engage in voluntary compliance negotiations.

(3) If a grant applicant has agreed to certain remedial or corrective actions in order to receive Federal financial assistance under JTPA, the Department shall ensure that the remedial or corrective actions have been taken or that