

§ 32.4

any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

Secretary means the Secretary of Labor, U.S. Department of Labor, or his or her designee.

Section 504 means section 504 of the Act.

Small recipient means a recipient who serves fewer than 15 beneficiaries, and employs fewer than 15 employees at all times during a grant year.

United States means the several states, the District of Columbia, the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa and the Trust Territory of the Pacific Islands.

[45 FR 66709, Oct. 7, 1980, as amended at 61 FR 19985, May 3, 1996]

§ 32.4 Discrimination prohibited.

(a) *General.* No qualified handicapped individual shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.

(b) *Discriminatory actions prohibited.*

(1) A recipient, in providing any aid, benefit, service or training, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped individual the opportunity to participate in or benefit from the aid, benefit, service or training;

(ii) Afford a qualified handicapped individual an opportunity to participate in or benefit from the aid, benefit, service or training that is not equal to that afforded others;

(iii) Provide a qualified handicapped individual with any aid, benefit, service or training that is not as effective as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped individuals or to any class of handicapped individuals unless such action is necessary to provide qualified handicapped individuals with aid, benefits, services or training that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped indi-

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vidual by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, service or training to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped individual the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped individual in enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, service or training.

(2) For purposes of this part, aid, benefits, services and training, to be equally effective, are not required to produce the identical result or level of achievement for handicapped and non-handicapped individuals, but must afford handicapped individuals equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting appropriate to the person's needs.

(3) A recipient may not deny a qualified handicapped individual the opportunity to participate in its regular programs or activities, despite the existence of separate or different programs or activities for the handicapped which are established in accordance with this part.

(4) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration:

(i) That have the effect of subjecting qualified handicapped individuals to discrimination on the basis of handicap;

(ii) That have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped individuals; or

(iii) That perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(5) In determining the site or location of a facility, an applicant for assistance or a recipient may not make selections.

(i) That have the effect of excluding handicapped individuals from, denying

them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from Federal financial assistance; or

(ii) That have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped individuals.

(6) As used in this section, the aid, benefit, service or training provided under a program or activity receiving or benefiting from Federal financial assistance includes any aid, benefit, service or training provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(7)(i) In providing services under programs of Federal financial assistance, except for employment-related training, a recipient to which this subpart applies, except small recipients, shall ensure that no handicapped participant is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the program or activity operated by the recipient because of the absence of auxiliary aids for participants with impaired sensory, manual or speaking skills. In programs of employment and employment-related training, this paragraph shall apply only to the intake, assessment and referral services. A recipient shall operate each program or activity to which this subpart applies so that, when viewed in its entirety, auxiliary aids are readily available.

(ii) Auxiliary aids may include brailled and taped written materials, interpreters or other effective methods of making orally delivered information available to persons with hearing impairments, readers for persons with visual impairments, equipment adapted for use by persons with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

(c) *Programs limited by Federal law.* The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute on Execu-

tive order to handicapped individuals or the exclusion of a specific class of handicapped individuals from a program limited by Federal statute or Executive order to a different class of handicapped individuals is not prohibited by this part.

(d) *Integrated setting.* Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped individuals.

(e) *Communications with individuals with impaired vision and hearing.* Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

§ 32.5 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Assistant Secretary, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended or the federally-funded program is operated, whichever is longer.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this