

under, or privilege secured by section 504 and the regulations in this part.

PART 34—IMPLEMENTATION OF THE NONDISCRIMINATION AND EQUAL OPPORTUNITY REQUIREMENTS OF THE JOB TRAINING PARTNERSHIP ACT OF 1982, AS AMENDED (JTPA)

Subpart A—General Provisions

Sec.

- 34.1 Purpose; application.
- 34.2 Definitions.
- 34.3 Discrimination prohibited.
- 34.4 Specific discriminatory actions prohibited on the ground of race, color, religion, sex, national origin, age, political affiliation or belief, citizenship, or participation in JTPA.
- 34.5 Specific discriminatory actions prohibited on the ground of disability.
- 34.6 Communications with individuals with disabilities.
- 34.7 Employment practices.
- 34.8 Intimidation and retaliation prohibited.
- 34.9 Designation of responsible office; rulings and interpretations.
- 34.10 [Reserved]
- 34.11 Effect of other obligations or limitations.
- 34.12 Delegation and coordination.

Subpart B—Recordkeeping and Other Affirmative Obligations of Recipients

- 34.20 Assurance required; duration of obligation; covenants.
- 34.21 Equitable services.
- 34.22 Designation of Equal Opportunity Officer.
- 34.23 Dissemination of policy.
- 34.24 Data and information collection; confidentiality.

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

- 34.30 Application.
- 34.31 Recordkeeping.
- 34.32 Oversight and liability.
- 34.33 Methods of Administration.
- 34.34 Monitoring.

Subpart D—Compliance Procedures

- 34.40 Compliance reviews.
- 34.41 Notice to Show Cause.
- 34.42 Adoption of discrimination complaint processing procedures.
- 34.43 Complaints and investigations.
- 34.44 Corrective and remedial action.

- 34.45 Notice of violation; written assurances; Conciliation Agreements.
- 34.46 Final Determination.
- 34.47 Notice of finding of noncompliance.
- 34.48 Notification of Breach of Conciliation Agreement.

Subpart E—Federal Procedures for Effecting Compliance

- 34.50 General.
- 34.51 Hearings.
- 34.52 Decision and post-termination proceedings.
- 34.53 Suspension, termination, denial or discontinuance of Federal financial assistance under JTPA; alternate funds disbursement procedure.

AUTHORITY: 20 U.S.C. 1681; 29 U.S.C. 794, 1501, 1551, 1573, 1574, 1575, 1576, 1577, 1578, 1579; 42 U.S.C. 2000d et seq., 6101.

SOURCE: 58 FR 4750, Jan. 15, 1993, unless otherwise noted.

Subpart A—General Provisions

§ 34.1 Purpose; application.

(a) *Purpose.* The purpose of this part is to implement the nondiscrimination and equal opportunity provisions of the Job Training Partnership Act of 1982, as amended (JTPA), which are contained in section 167 of JTPA. Section 167 prohibits discrimination on the grounds of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and for beneficiaries only, citizenship or participation in JTPA. This part clarifies the application of the nondiscrimination and equal opportunity provisions of JTPA and provides uniform procedures for implementing them.

(b) *Application of this part.* This part applies to any recipient, as defined in §34.2. This part also applies to the employment practices of a recipient, as provided in §34.7.

(c) *Effect of this part on other obligations.*

(1) A recipient's compliance with this part shall satisfy any obligation of the recipient to comply with 29 CFR part 31, implementing title VI of the Civil Rights Act of 1964, as amended (title VI), and with subparts A, D and E of 29 CFR part 32, implementing section 504 of the Rehabilitation Act of 1973, as amended (section 504).

(2) However, compliance with this part shall not affect any obligation of

the recipient to comply with subparts B and C and appendix A of 29 CFR part 32, which pertain to employment practices and employment-related training, program accessibility, and accommodations under section 504.

(3) Recipients that are also public entities or public accommodations as defined by titles II and III of the Americans with Disabilities Act of 1991 (ADA), should be aware of obligations imposed pursuant to those titles.

(4) Compliance with this part does not affect, in any way, any obligation that a recipient may have to comply with Executive Order 11246, as amended, section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793), the affirmative action provisions of the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), the Equal Pay Act of 1963, as amended (29 U.S.C. 206d), title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e et seq.), the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. 621), title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681), the Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. 12101 et seq.) and their respective implementing regulations.

(5) This rule does not preempt consistent State and local requirements.

(6) The rule generally codifies and consolidates already existing non-discrimination and equal opportunity requirements. However, to the extent that this rule imposes any new requirements, it is not intended to have retroactive effect.

(d) *Limitation of Application.* This part does not apply to:

(1) Programs or activities funded by the Department exclusively under laws other than JTPA;

(2) Contracts of insurance or guaranty;

(3) Federal financial assistance to a person who is the ultimate beneficiary under any program;

(4) Federal procurement contracts, with the exception of contracts to operate or provide services to Job Corps Centers; and

(5) Federally-operated Job Corps Centers. The operating Department is responsible for enforcing the non-

discrimination and equal opportunity laws to which such Centers are subject.

§ 34.2 Definitions.

As used in this part, the term:

Administrative Law Judge means a person appointed as provided in 5 U.S.C. 3105 and 5 CFR 930.203 and qualified under 5 U.S.C. 557 to preside at hearings held under the nondiscrimination and equal opportunity provisions of JTPA and this part.

Applicant means the person or persons seeking JTPA services who have filed a completed application and for whom a formal eligibility determination has been made. For State Employment Security Agency (SESA) programs, *applicant* means the person or persons who make(s) application to receive benefits or services from the State employment service agency or the State unemployment compensation agency. See also the definitions of *eligible applicant* and *participant* in this section.

Applicant for employment means the person or persons who make(s) application for employment with a recipient of Federal financial assistance under JTPA.

Application for assistance means the process by which required documentation is provided to the Governor, recipient, or Department prior to and as a condition of receiving Federal financial assistance under JTPA (including both new and continuing assistance).

Application for benefits means the process by which written information is provided by applicants or eligible applicants prior to and as a condition of receiving benefits or services from a recipient of financial assistance from the Department of Labor under JTPA.

Assistant Attorney General means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

Assistant Secretary means the Assistant Secretary for Administration and Management, United States Department of Labor.

Auxiliary aids or services includes—

(1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed