

**Department of Veterans Affairs**

**§ 14.800**

**§ 14.708 Costs and other expenses incident to appointment of fiduciary.**

(a) The Regional Counsel may authorize the payment of costs and other necessary expenses incident to the appointment of an initial or successor fiduciary for a Department of Veterans Affairs beneficiary when:

(1) Authorized to render legal services under § 14.706.

(2) Appointment was caused by the Department of Veterans Affairs and it develops that no benefits are payable and there is no estate from which costs may be paid.

(3) Costs must be advanced when there is no immediate estate from which same may be paid. These costs are to be recovered from benefits payable unless the case falls within paragraph (a)(1) of this section.

(b) Costs and necessary expenses include:

(1) All those chargeable by statute or rule of court and certified by the clerk of court.

(2) Certified copies of court records required by the Department of Veterans Affairs.

(3) Fees for guardian ad litem when chargeable as court costs and required by State law.

**§ 14.709 Surety bonds; court-appointed fiduciary.**

(a) It is the policy of the Department of Veterans Affairs to require, where possible under State laws and rules of the court, corporate surety bonds in all court-appointed fiduciary cases where the fiduciary is an individual and the estate is sufficient to justify the expense of procuring a corporate surety bond. Corporate bonds may be required of corporate fiduciaries in accordance with State laws. In cases wherein fiduciaries neglect or refuse to furnish corporate bonds, as requested by the Regional Counsel, the Regional Counsel should take appropriate court action and notify the Veterans Service Center Manager.

(b) When it is not practical or feasible to require a fiduciary to furnish a corporate surety bond, the Regional Counsel is authorized to accept bonds with such number of personal sureties as is permissible under State law, but in no event less than one. To be accept-

able for Department of Veterans Affairs purposes, each personal surety must be worth at least the penal sum named in the bond over and above all debts, liabilities and exemptions and qualify in accordance with the requirements of State law. The Regional Counsel will request suitable evidence of financial responsibility whenever there is any question as to the ability of a personal surety to meet any probable liability. When suitable evidence is not furnished as requested, or financial responsibility is found to be insufficient to meet the penal sum of the bond, the Regional Counsel should take appropriate court action and notify the Veterans Service Center Manager.

(c) It is the policy of the Department of Veterans Affairs to require surety bonds in an amount commensurate with value of the personal estate derived from Department of Veterans Affairs benefits plus the anticipated net income from Department of Veterans Affairs benefits received during the ensuing accounting period. In cases where the fiduciaries neglect or refuse to furnish surety bonds in the amount requested by the Regional Counsel, the Regional Counsel should take appropriate court action and notify the Veterans Service Center Manager. When permissible under State law, the Regional Counsel may accept, without objection, a lesser degree of protection approved by the court when it is determined that such action will adequately protect the beneficiary's estate.

[42 FR 41422, Aug. 17, 1977, as amended at 71 FR 28586, May 17, 2006]

**TESTIMONY OF DEPARTMENT PERSONNEL AND PRODUCTION OF DEPARTMENT RECORDS IN LEGAL PROCEEDINGS**

SOURCE: 59 FR 6566, Feb. 11, 1994, unless otherwise noted.

**§ 14.800 Purpose.**

Sections 14.800 through 14.810 establish policy, assign responsibilities and prescribe procedures with respect to:

(a) The production or disclosure of official information or records of the Department of Veterans Affairs (VA); and

(b) The testimony of present or former VA personnel relating to any official information acquired by any

## § 14.801

## 38 CFR Ch. I (7-1-08 Edition)

individual as part of that individual's performance of official duties, or by virtue of that individual's official status, in federal, state or other legal proceedings covered by these regulations.

(Authority: 38 U.S.C. 501(a) and (b); 5 U.S.C. 301)

### § 14.801 Applicability.

(a) Sections 14.800 through 14.810 apply to:

(1) Contractors and subcontractors which undertake a VA activity or maintain VA records when the contract covering their actions provides that these regulations apply, as well as the personnel of contractors and subcontractors.

(2) All components of the Department, including Canteen Service, the Office of Inspector General, and all staff offices, services and administrations, and their personnel.

(b) Sections 14.800 through 14.810 do not apply to:

(1) Testimony or records provided in accordance with Office of Personnel Management regulations implementing 5 U.S.C. 6322.

(2)(i) Legal proceedings in which the Department of Veterans Affairs, the Secretary of Veterans Affairs or the United States is a party, is represented or has a direct and substantial interest; or

(ii) Legal proceedings in which an individual or entity is a party for whom the United States is providing representation.

(3) Legal proceedings in which VA personnel are to testify while in leave or off-duty status as to matters which are purely personal and that do not arise out of, or relate in any way to, the personnel's official duties or to the functions and activities of the VA or the United States.

(4) Official comments on matters in legal proceedings, where appropriate.

(5) Disclosures, in the absence of a request or demand, of information or records by VA components, particularly the Office of Inspector General, to federal, state, local and foreign law enforcement or regulatory agencies.

(6) Congressional demands or requests for testimony or documents.

(7) Requests for, and release of, records under the Freedom of Informa-

tion Act, 5 U.S.C. 552, and the Privacy Act, 5 U.S.C. 552a.

(8) Disclosures in child support and alimony proceedings under the authority of 42 U.S.C. 659 and regulations promulgated by the Office of Personnel Management implementing that section.

(9) Legal proceedings before or involving the VA concerning a claim or dispute as to the rights of a beneficiary or obligations or liabilities of the United States under any law or program administered by the Department of Veterans Affairs.

(10) Requests by a veteran or that veteran's representative for access to the veteran's records for use in an administrative or judicial claim for benefits administered by the Department of Veterans Affairs.

(11) Foreign legal proceedings covered by Department of State procedures governing the production of records or witnesses in response to requests or demands in connection with foreign legal proceedings.

(c) Sections 14.800 through 14.810 are not intended to, and do not:

(1) Waive the sovereign immunity of the United States;

(2) Infringe upon or displace the responsibilities committed to the Department of Justice in conducting litigation on behalf of the United States in appropriate cases;

(3) Remove the need for the Department to comply with any applicable legal confidentiality provisions, such as the Privacy Act, before having the legal authority to make any disclosure or providing any testimony under these regulations. (Sections 14.800 through 14.810 do not give VA disclosure authority under applicable confidentiality statutes; absent disclosure authority granted by those statutes, information and records subject to those laws may not be disclosed, or testimony given as to them under the procedures established in these regulations); or

(4) Preclude treating any written request for agency records that is not in the nature of a request or demand related to legal proceedings as a request under the Freedom of Information or Privacy Acts.

(Authority: 38 U.S.C. 501(a) and (b); 5 U.S.C. 301)

**§ 14.802 Definitions.**

(a) *Demand.* Order, subpoena, or other demand of a court of competent jurisdiction, or other specific authority or under color of law, for the production, disclosure, or release of VA information or records or for the appearance and testimony of VA personnel as witnesses.

(b) *Request.* Any informal request, by whatever method, from a party, a party's attorney, or any person acting on behalf of a party, for the production of VA records or information or for the testimony of VA personnel as witnesses, which has not been ordered by a court of competent jurisdiction or other specific authority or under color of law.

(c) *VA personnel.* All present and former officers and employees of the VA and any other individuals who are or have been appointed by, or subject to the supervision, jurisdiction, or control of the Secretary of Veterans Affairs or another official of the VA, including nonappropriated fund activity employees, and other individuals hired through contractual agreements by or on behalf of the VA, or performing services under such agreements for VA, such as consultants, contractors, subcontractors, their employees and personnel. This phrase also includes individuals who served or are serving on any advisory committee or in any advisory capacity, whether formal or informal.

(d) *Legal proceedings.* All pretrial, trial, and post-trial stages of all existing or reasonably anticipated judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, or other tribunals, foreign or domestic that are not specified in § 14.801(b). This phrase includes depositions and other pretrial proceedings, as well as responses to formal or informal requests by attorneys or others in situations involving legal proceedings not specified in § 14.801(b).

(e) *Official VA information.* All information of any kind, however stored, that is in the custody and control of VA or was acquired by VA personnel as part of their official duties or because of their official status.

(f) *Testimony.* Testimony in any form, including personal appearances in court, depositions, recorded interviews, telephonic, televised or videotaped testimony or any response during discovery or similar proceedings, which response would involve more than the production of records.

(g) *VA records.* All documents which are records of the Department of Veterans Affairs for purposes of the Freedom of Information Act, 5 U.S.C. 552, regardless of storage media, including the term "record" as defined in 44 U.S.C. 3301, and implementing regulations.

(Authority: 38 U.S.C. 501(a) and (b); 5 U.S.C. 301)

**§ 14.803 Policy.**

(a) VA personnel may provide testimony or produce VA records in legal proceedings covered by §§ 14.800 through 14.810 only as authorized in accordance with these regulations. In determining whether to authorize testimony or the production of records, the determining official will consider the effect in this case, as well as in future cases generally, based on the factors set forth in § 14.804, which testifying or producing records not available for public disclosure will have on the ability of the agency or VA personnel to perform their official duties.

(b) The Department of Veterans Affairs does not seek to deny its employees access to the courts as citizens, or in the employees' private capacities on off-duty time.

(c) The Department of Veterans Affairs does not seek to deny the Nation's veterans access to the courts.

(Authority: 38 U.S.C. 501 (a) and (b); 5 U.S.C. 301)

**§ 14.804 Factors to consider.**

In deciding whether to authorize the disclosure of VA records or information or the testimony of VA personnel, VA personnel responsible for making the decision should consider the following types of factors:

(a) The need to avoid spending the time and money of the United States for private purposes and to conserve the time of VA personnel for conducting their official duties concerning

## § 14.805

## 38 CFR Ch. I (7–1–08 Edition)

servicing the Nation's veteran population;

(b) How the testimony or production of records would assist VA in performing its statutory duties;

(c) Whether the disclosure of the records or presentation of testimony is necessary to prevent the perpetration of fraud or other injustice in the matter in question;

(d) Whether the demand or request is unduly burdensome or otherwise inappropriate under the applicable court or administrative rules;

(e) Whether the testimony or production of records, including release in camera, is appropriate or necessary under the rules of procedure governing the case or matter in which the demand or request arose, or under the relevant substantive law concerning privilege;

(f) Whether the testimony or production of records would violate a statute, executive order, regulation or directive. (Where the production of a record or testimony as to the content of a record or about information contained in a record would violate a confidentiality statute's prohibition against disclosure, disclosure will not be made. Examples of such statutes are the Privacy Act, 5 U.S.C. 552a, and sections 5701, 5705 and 7332 of title 38, United States Code.);

(g) Whether the testimony or production of records, except when *in camera* and necessary to assert a claim of privilege, would reveal information properly classified pursuant to applicable statutes or Executive Orders;

(h) Whether the testimony would interfere with ongoing law enforcement proceedings, compromise constitutional rights, compromise national security interests, hamper VA or private health care research activities, reveal sensitive patient or beneficiary information, interfere with patient care, disclose trade secrets or similarly confidential commercial or financial information or otherwise be inappropriate under the circumstances.

(i) Whether such release or testimony reasonably could be expected to result in the appearance of VA or the Federal government favoring one litigant over another;

(j) Whether such release or testimony reasonably could be expected to result in the appearance of VA or the Federal government endorsing or supporting a position advocated by a party to the proceeding;

(k) The need to prevent the public's possible misconstruction of variances between personal opinions of VA personnel and VA or Federal policy.

(l) The need to minimize VA's possible involvement in issues unrelated to its mission;

(m) Whether the demand or request is within the authority of the party making it;

(n) Whether the demand or request is sufficiently specific to be answered;

(o) Other matters or concerns presented for consideration in making the decision.

(Authority: 38 U.S.C. 501 (a) and (b); 5 U.S.C. 301)

### § 14.805 Contents of a demand or request.

The request or demand for testimony or production of documents shall set forth in, or be accompanied by, an affidavit, or if that is not feasible, in, or accompanied by, a written statement by the party seeking the testimony or records or by the party's attorney, a summary of the nature and relevance of the testimony or records sought in the legal proceedings containing sufficient information for the responsible VA official to determine whether VA personnel should be allowed to testify or records should be produced. Where the materials are considered insufficient to make the determination as described in § 14.807, the responsible VA official may ask the requester to provide additional information.

(Authority: 38 U.S.C. 501 (a) and (b); 5 U.S.C. 301)

### § 14.806 Scope of testimony or production.

VA personnel shall not, in response to a request or demand for testimony or production of records in legal proceedings, comment or testify or produce records without the prior written approval of the responsible VA official designated in § 14.807(b). VA personnel may only testify concerning or comment upon official VA information,

## Department of Veterans Affairs

## § 14.807

subjects or activities, or produce records, that were specified in writing, submitted to and properly approved by the responsible VA official.

(Authority: 38 U.S.C. 501 (a) and (b); 5 U.S.C. 301)

### **§ 14.807 Procedure when demand or request is made.**

(a) VA personnel upon whom a demand or request for testimony or the production of records in connection with legal proceedings as defined in § 14.802(d) is made shall notify the head of his or her field station, or if in Central Office, the head of the component for which he or she works. The field station or Central Office component shall notify the responsible VA official designated in § 14.807(b).

(b) In response to a demand or request for the production of records or the testimony of VA personnel, other than personnel in the Office of the Inspector General (OIG), as witnesses in legal proceedings covered by these regulations, the General Counsel, the Regional Counsel, an attorney in the Office of General Counsel designated by the General Counsel, or an attorney in the Regional Counsel office designated by the Regional Counsel is the responsible VA official authorized to determine whether VA personnel may be interviewed, contacted or used as witnesses, including used as expert witnesses, and whether VA records may be produced; and what, if any, conditions will be imposed upon such interview, contact, testimony or production of records. For personnel in the OIG, the Counselor to the Inspector General or an attorney designated by the Counselor to the Inspector General, is the responsible VA official authorized to make the determinations provided in § 14.807, and that official will keep the General Counsel informed of such determinations for purposes of litigation or claims of privilege.

(c) In appropriate cases, the responsible VA official shall promptly notify the Department of Justice of the demand or request. After consultation and coordination with the Department of Justice, as required, and after any necessary consultation with the VA component which employs or employed the VA personnel whose testimony is

sought or which is responsible for the maintenance of the records sought, the VA official shall determine in writing whether the individual is required to comply with the demand or request and shall notify the requester or the court or other authority of the determination reached where the determination is that VA will not comply fully with the request or demand. The responsible VA official shall give notice of the decision to other persons as circumstances may warrant. Oral approval may be granted, and a record of such approval made and retained in accordance with the procedures in § 14.807(f) concerning oral requests or demands.

(d) If, after VA personnel have received a request or demand in a legal proceeding and have notified the responsible VA official in accordance with this section, a response to the request or demand is required before instructions from the responsible official are received, the responsible official designated in paragraph (b) of this section shall furnish the requester or the court or other authority with a copy of §§ 14.800 through 14.810 and any other relevant documentation, inform the requester or the court or other authority that the request or demand is being reviewed, and seek a stay of the request or demand pending a final determination by the VA official concerned.

(e) If a court of competent jurisdiction or other appropriate authority declines to stay the effect of the demand or request in response to action taken pursuant to § 14.807(d), or if such court or other authority orders that the demand or request be complied with notwithstanding the final decision of the appropriate VA official, the VA personnel upon whom the demand or request was made shall notify the responsible VA official of such ruling or order. If the responsible VA official determines that no further legal review of or challenge to the ruling or order will be sought, the affected VA personnel shall comply with the demand, order or request. If directed by the appropriate VA official after consultation with the appropriate United States Attorney's office, however, the affected VA personnel shall respectfully decline to comply with the demand, request or

**§ 14.808**

order. See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

(f) Normally, written demands or requests allowing reasonable lead time for evaluation and processing are required. However, in emergency situations where response time is limited and a written demand or request is impractical, the following procedures should be followed:

(1) The responsible VA official has the authority to waive the requirement of a written demand or request and may expedite a response in the event of an emergency under conditions which could not be anticipated in the course of proper planning or which demonstrate a good faith attempt to comply with these regulations. Determinations on oral demands or requests should be reserved for instances where insistence on compliance with the requirements of a proper written request would result in the effective denial of the request and cause an injustice in the outcome of the legal proceeding for which the testimony or records are sought. No requester has a right to make an oral demand or request and receive a determination, however. Whether to permit such an exceptional procedure is a decision within the sole discretion of the responsible VA official.

(2) If the responsible VA official concludes that the demand or request, or any portion of it, should be granted (after considering the factors listed in §14.804), the responsible VA official will then orally advise the requester of the determination in accordance with the procedures provided in §14.807(c), including any limitations on such testimony or production of records, and seek a written confirmation of the oral demand or request. The responsible VA official will make a written record of the determination made concerning the oral demand or request, including the grant or denial, the circumstances requiring the procedure, and the conditions to which the requester agreed.

(Authority: 38 U.S.C. 501 (a) and (b); 5 U.S.C. 301)

**§ 14.808 Expert or opinion testimony.**

(a) VA personnel shall not provide, with or without compensation, opinion or expert testimony in any legal pro-

ceedings concerning official VA information, subjects or activities, except on behalf of the United States or a party represented by the United States Department of Justice. Upon a showing by the requester or court or other appropriate authority that, in light of the factors listed in §14.804, there are exceptional circumstances and that the anticipated testimony will not be adverse to the interests of the Department of Veterans Affairs or to the United States, the responsible VA official designated in §14.807(b) may, in writing, grant special authorization for VA personnel to appear and testify. If, despite the final determination of the responsible VA official, a court of competent jurisdiction or other appropriate authority, orders the expert or opinion testimony of VA personnel, the personnel shall notify the responsible VA official of such order. If the responsible VA official determines that no further legal review of or challenge to the order will be sought, the affected VA personnel shall comply with the order. If directed by the appropriate VA official after consultation with the appropriate United States Attorney's office, however, the affected VA personnel shall respectfully decline to comply with the demand, request or order. See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

(b)(1) If, while testifying in any legal proceeding, VA personnel are asked for expert or opinion testimony concerning official VA information, subjects or activities, which testimony has not been approved in advance in accordance with these regulations, the witness shall:

(i) Respectfully decline to answer on the grounds that such expert or opinion testimony is forbidden by these regulations;

(ii) Request an opportunity to consult with the responsible VA official mentioned in §14.807(b) before giving such testimony;

(iii) Explain that, upon such consultation, approval for such testimony may be provided; and

## Department of Veterans Affairs

## § 14.810

(iv) Explain that providing such testimony absent such approval may expose the individual to criminal liability under 18 U.S.C. 201-209 and to disciplinary or other adverse personnel action.

(2) If the witness is then ordered by the body conducting the proceeding to provide expert or opinion testimony concerning official VA information, subjects or activities without the opportunity to consult with the appropriate VA official, the witness respectfully shall refuse to do so. See *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951).

(c) Upon notification by the witness of a request for opinion or expert testimony concerning official VA information, subjects or activities during § 14.802(d) legal proceedings, the responsible VA official shall follow the procedures contained in this section to determine whether such testimony shall be approved.

(d) If VA personnel who are unaware of these regulations provide expert or opinion testimony concerning official VA information, subjects or activities in any legal proceeding, including one mentioned in § 14.802(d) in which the United States is not already represented, without consulting with the responsible VA official, the witness, as soon after testifying as possible, shall inform the responsible VA official of the fact that such testimony was given and provide a summary of the expert or opinion testimony given.

(Authority: 38 U.S.C. 501 (a) and (b); 5 U.S.C. 301)

### **§ 14.809 Demands or requests in legal proceedings for records protected by confidentiality statutes.**

In addition to complying with the requirements of §§ 14.800 through 14.810, requests or demands in legal proceedings for the production of records, or for testimony of VA employees concerning information, protected by the Privacy Act, 5 U.S.C. 552a, or other confidentiality statutes, such as 38 U.S.C. 5701, 5705 and 7332, must satisfy the requirements for disclosure imposed by those statutes, and implementing regulations, such as 38 CFR 1.511, before the records may be provided or testimony given. Accordingly,

the responsible VA official may first determine whether there is legal authority to provide the testimony or records sought under applicable confidentiality statutes before applying §§ 14.800 through 14.810. Where an applicable confidentiality statute mandates disclosure, §§ 14.800 through 14.810 will not apply.

(Authority: 38 U.S.C. 501 (a) and (b); 5 U.S.C. 301)

### **§ 14.810 Fees.**

(a) The testimony of VA personnel as witnesses, particularly as expert witnesses, and the production of VA records in legal proceedings subject to §§ 14.800 through 14.810 are services which convey special benefits to the individuals or entities seeking such testimony or production of records above and beyond those accruing to the general public. These services are not regularly received by or available without charge to the public at large. Consequently, these are the sort of services for which the VA may establish a charge for providing under 31 U.S.C. 9701. The responsible VA official will determine all fees associated with §§ 14.800 through 14.810, and shall timely notify the requester of the fees, particularly those which are to be paid in advance.

(b)(1) When a request is granted under § 14.808 to permit VA personnel to testify in whole or in part as to expert, opinion or policy matters, the requester shall pay to the government a fee calculated to reimburse the cost of providing the witness. The fee shall include:

(i) Costs of the time expended by VA personnel to process and respond to the demand or request;

(ii) Costs of attorney time expended in reviewing the demand or request and any information located in connection with the demand or request;

(iii) Expenses generated by materials and equipment used to search for, produce, and copy the responsive information;

(iv) The cost of the time expended by the witness to prepare to testify; and

(v) Costs of travel by the witness and attendance at trial.

(2) All costs for documents necessary for such expert testimony shall be calculated as provided in VA regulations implementing the fee provisions of the Freedom of Information Act, 5 U.S.C. 552.

(c) When an individual testifies in legal proceedings covered by these regulations in any capacity other than as an expert witness, the requester shall pay to the witness the fee and expenses prescribed for attendance by the applicable rule of court. If no such fee is prescribed, the applicable Federal rule, such as a local Federal district court rule, will apply. No additional fee will be prescribed for the time spent while testifying or in attendance to do so.

(d) When a requester wishes to interview VA personnel as part of legal proceedings covered by these regulations, and such interview has been approved in accordance with these regulations, the requester shall pay a fee calculated upon the total hourly pay of the individual interviewed.

(e) When VA produces records in legal proceedings pursuant to §§14.800 through 14.810, the fees to be charged and paid prior to production of the records shall be the fees charged by VA under its regulations implementing the fee provisions of the Freedom of Information Act, 5 U.S.C. 552.

(f) Fees shall be paid as follows:

(1) Fees for copies of documents, blueprints, electronic tapes, or other VA records will be paid to the VA office or station providing the records, and covered to the General Fund of the Department of the Treasury.

(2) Witness fees for testimony shall be paid to the witness, who shall endorse the check "pay to the United States," and surrender it to his or her supervisor. It shall thereafter be deposited in the General Fund.

(3) The private party requesting a VA witness shall forward in advance necessary round trip tickets and all requisite travel and per diem funds.

(g) A waiver of any fees in connection with the testimony of an expert witness may be granted by the appropriate VA official at the official's discretion provided that the waiver is in the interest of the United States. Fee waivers shall not be routinely granted, nor shall they be granted under cir-

cumstances which might create the appearance that the VA or the United States favors one party or a position advocated by a party to the legal proceeding.

(Authority: 38 U.S.C. 501 (a) and (b); 5 U.S.C. 301)

## **PART 15—ENFORCEMENT OF NON-DISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE DEPARTMENT OF VETERANS AFFAIRS**

Sec.

- 15.101 Purpose.
- 15.102 Application.
- 15.103 Definitions.
- 15.104–15.109 [Reserved]
- 15.110 Self-evaluation.
- 15.111 Notice.
- 15.112–15.129 [Reserved]
- 15.130 General prohibitions against discrimination.
- 15.131–15.139 [Reserved]
- 15.140 Employment.
- 15.141–15.148 [Reserved]
- 15.149 Program accessibility: Discrimination prohibited.
- 15.150 Program accessibility: Existing facilities.
- 15.151 Program accessibility: New construction and alterations.
- 15.152–15.159 [Reserved]
- 15.160 Communications.
- 15.161–15.169 [Reserved]
- 15.170 Compliance procedures.
- 15.171–15.999 [Reserved]

AUTHORITY: 29 U.S.C. 794.

SOURCE: 53 FR 25885, July 8, 1988, unless otherwise noted.

### **§ 15.101 Purpose.**

The purpose of this regulation is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

### **§ 15.102 Application.**

This regulation (§§15.101–15.170) applies to all programs or activities conducted by the agency, except for programs or activities conducted outside