

§ 7.44

of the Complainant's receipt of the Department's determination. The Complainant must serve a copy of the appeal on the Department and the Department may submit a response to the EEOC within 30 days of receiving notice of the appeal.

§ 7.44 Interim relief.

(a) When the Department appeals and the case involves removal, separation, or suspension continuing beyond the date of the appeal, and when the EEOC Administrative Judge's decision orders retroactive restoration, the Department shall comply with the decision to the extent of the temporary or conditional restoration of the employee to duty status in the position specified in the decision, pending the outcome of the Department appeal. The employee may decline the offer of interim relief.

(b) Service under the temporary or conditional restoration provisions of paragraph (a) of this section shall be credited toward the completion of a probationary or trial period, eligibility for a within-grade increase, or the completion of the service requirement for career tenure, if the EEOC upholds the decision on appeal. Such service shall not be credited toward the completion of any applicable probationary or trial period or the completion of the service requirement for career tenure, if the EEOC reverses the decision on appeal.

(c) When the Department appeals, the Department may delay the payment of any amount, other than prospective pay and benefits, ordered to be paid to the Complainant until after the appeal is resolved. If the Department delays payment of any amount pending the outcome of the appeal and the resolution of the appeal requires the Department to make the payment, then the Department shall pay interest from the date of the original decision until payment is made.

(d) The Department shall notify the EEOC and the employee in writing at the same time the Department appeals that the relief the Department provides is temporary or conditional and, if applicable, that the Department will delay the payment of any amounts owed but will pay interest as specified in paragraph (c) of this section. Failure of the Department to provide notifica-

24 CFR Subtitle A (4-1-09 Edition)

tion will result in the dismissal of the Department's appeal.

(e) The Department may, by notice to the Complainant, decline to return the Complainant to the Complainant's place of employment if the Department determines that the return or presence of the Complainant will be unduly disruptive to the work environment. However, prospective pay and benefits must be provided. The determination not to return the Complainant to the Complainant's place of employment is not reviewable. A grant of interim relief does not insulate a Complainant from subsequent disciplinary or adverse action.

(f) If the Department files an appeal and has not provided required interim relief, the Complainant may request dismissal of the Department's appeal. Any such request must be filed with the Office of Federal Operations within 25 days of the date of service of the Department's appeal. A copy of the request must be served on the Department at the same time the request is filed with EEOC. The Department may respond with evidence and argument to the Complainant's request to dismiss within 15 days of the date of service of the request.

STATISTICS AND REPORTING REQUIREMENTS

§ 7.45 EEO group statistics and reports.

(a) The Department shall establish a system to collect and maintain accurate employment information on the race, national origin, sex, and disability of all its employees and applicants in accordance with 29 CFR 1614.601 through 29 CFR 1614.602, and the Department shall report to the EEOC on employment by race, national origin, sex, and disability, in the form and at such times as the EEOC may require.

(b) The Department shall report to the EEOC information concerning pre-complaint counseling and the status, processing and disposition of complaints under this part, at such times and in such manner as the EEOC prescribes.

(c) The Department shall advise the EEOC whenever the Department is

served with a Federal court complaint based upon a complaint that is pending on appeal at the EEOC.

(d) The Department shall submit annual written national equal employment opportunity plans of action for the review and approval of the EEOC. Plans shall be submitted in a format prescribed by the EEOC and in accordance with 29 CFR 1614.602.

[66 FR 20564, Apr. 23, 2001, as amended at 69 FR 62174, Oct. 22, 2004]

Subpart B [Reserved]

PART 8—NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY ASSISTED PROGRAMS AND ACTIVITIES OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subpart A—General Provisions

Sec.

- 8.1 Purpose.
- 8.2 Applicability.
- 8.3 Definitions.
- 8.4 Discrimination prohibited.
- 8.5 [Reserved]
- 8.6 Communications.

Subpart B—Employment

- 8.10 General prohibitions against employment discrimination.
- 8.11 Reasonable accommodation.
- 8.12 Employment criteria.
- 8.13 Preemployment inquiries.

Subpart C—Program Accessibility

- 8.20 General requirement concerning program accessibility.
- 8.21 Non-housing facilities.
- 8.22 New construction—housing facilities.
- 8.23 Alterations of existing housing facilities.
- 8.24 Existing housing programs.
- 8.25 Public housing and multi-family Indian housing.
- 8.26 Distribution of accessible dwelling units.
- 8.27 Occupancy of accessible dwelling units.
- 8.28 Housing certificate and housing voucher programs.
- 8.29 Homeownership programs (sections 235(i) and 235(j), Turnkey III and Indian housing mutual self-help programs).
- 8.30 Rental rehabilitation program.
- 8.31 Historic properties.
- 8.32 Accessibility standards.
- 8.33 Housing adjustments.

Subpart D—Enforcement

- 8.50 Assurances required.
- 8.51 Self-evaluation.
- 8.52 Remedial and affirmative action.
- 8.53 Designation of responsible employee and adoption of grievance procedures.
- 8.54 Notice.
- 8.55 Compliance information.
- 8.56 Conduct of investigations.
- 8.57 Procedure for effecting compliance.
- 8.58 Hearings.

AUTHORITY: 29 U.S.C. 794; 42 U.S.C. 3535(d) and 5309.

SOURCE: 53 FR 20233, June 2, 1988, unless otherwise noted.

Subpart A—General Provisions

§ 8.1 Purpose.

(a) The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), to the end that no otherwise qualified individual with handicaps in the United States shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance from the Department of Housing and Urban Development. This part also implements section 109 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309). This part does not effectuate section 504 as it applies to any program or activity conducted by the Department. Compliance with this part does not assure compliance with requirements for accessibility by physically-handicapped persons imposed under the Architectural Barriers Act of 1968 (42 U.S.C. 4151–4157; 24 CFR part 40).

(b) The policies and standards for compliance established by this part are established in contemplation of, and with a view to enforcement through, the Department's administration of programs or activities receiving Federal financial assistance and the administrative procedures described in subparts D and E (including, without limitation, judicial enforcement under § 8.57(a)).

§ 8.2 Applicability.

This part applies to all applicants for, and recipients of, HUD assistance