

## Department of Energy

## § 1042.550

(2) Administer, operate, offer, or participate in a fringe benefit plan that does not provide for equal periodic benefits for members of each sex and for equal contributions to the plan by such recipient for members of each sex; or

(3) Administer, operate, offer, or participate in a pension or retirement plan that establishes different optional or compulsory retirement ages based on sex or that otherwise discriminates in benefits on the basis of sex.

### § 1042.530 Marital or parental status.

(a) *General.* A recipient shall not apply any policy or take any employment action:

(1) Concerning the potential marital, parental, or family status of an employee or applicant for employment that treats persons differently on the basis of sex; or

(2) Which is based upon whether an employee or applicant for employment is the head of household or principal wage earner in such employee's or applicant's family unit.

(b) *Pregnancy.* A recipient shall not discriminate against or exclude from employment any employee or applicant for employment on the basis of pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom.

(c) *Pregnancy as a temporary disability.* Subject to § 1042.235(d), a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, recovery therefrom, and any temporary disability resulting therefrom as any other temporary disability for all job-related purposes, including commencement, duration, and extensions of leave, payment of disability income, accrual of seniority and any other benefit or service, and reinstatement, and under any fringe benefit offered to employees by virtue of employment.

(d) *Pregnancy leave.* In the case of a recipient that does not maintain a leave policy for its employees, or in the case of an employee with insufficient leave or accrued employment time to qualify for leave under such a policy, a recipient shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence without pay for a reasonable period of

time, at the conclusion of which the employee shall be reinstated to the status that she held when the leave began or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities, or any other right or privilege of employment.

### § 1042.535 Effect of state or local law or other requirements.

(a) *Prohibitory requirements.* The obligation to comply with §§ 1042.500 through 1042.550 is not obviated or alleviated by the existence of any State or local law or other requirement that imposes prohibitions or limits upon employment of members of one sex that are not imposed upon members of the other sex.

(b) *Benefits.* A recipient that provides any compensation, service, or benefit to members of one sex pursuant to a State or local law or other requirement shall provide the same compensation, service, or benefit to members of the other sex.

### § 1042.540 Advertising.

A recipient shall not in any advertising related to employment indicate preference, limitation, specification, or discrimination based on sex unless sex is a bona fide occupational qualification for the particular job in question.

### § 1042.545 Pre-employment inquiries.

(a) *Marital status.* A recipient shall not make pre-employment inquiry as to the marital status of an applicant for employment, including whether such applicant is "Miss" or "Mrs."

(b) *Sex.* A recipient may make pre-employment inquiry as to the sex of an applicant for employment, but only if such inquiry is made equally of such applicants of both sexes and if the results of such inquiry are not used in connection with discrimination prohibited by these Title IX regulations.

### § 1042.550 Sex as a bona fide occupational qualification.

A recipient may take action otherwise prohibited by §§ 1042.500 through 1042.550 provided it is shown that sex is a bona fide occupational qualification for that action, such that consideration of sex with regard to such action

## § 1042.600

is essential to successful operation of the employment function concerned. A recipient shall not take action pursuant to this section that is based upon alleged comparative employment characteristics or stereotyped characterizations of one or the other sex, or upon preference based on sex of the recipient, employees, students, or other persons, but nothing contained in this section shall prevent a recipient from considering an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex.

### Subpart F—Other Provisions

#### § 1042.600 Covered programs.

The financial assistance programs to which this part applies are listed in Appendix A to 10 CFR part 1040.

#### § 1042.605 Enforcement procedures.

The investigative, compliance, and enforcement procedural provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) are hereby adopted and applied to these Title IX regulations. These procedures may be found at 10 CFR part 1040, subparts G and H.

## PART 1044—SECURITY REQUIREMENTS FOR PROTECTED DISCLOSURES UNDER SECTION 3164 OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Sec.

- 1044.01 What are the purpose and scope of this part?
- 1044.02 Who must follow the requirements contained in this part?
- 1044.03 What definitions apply to this part?
- 1044.04 What is a protected disclosure?
- 1044.05 What is the effect of a disclosure qualifying as a "protected disclosure"?
- 1044.06 Who may receive a protected disclosure?
- 1044.07 How can you find out if a particular person is authorized to receive a protected disclosure?
- 1044.08 Do you have to submit the documents for classification review before you give them to someone?
- 1044.09 What do you do if you plan to disclose classified or unclassified controlled nuclear information orally rather than by providing copies of documents?

## 10 CFR Ch. X (1–1–10 Edition)

- 1044.10 Will your identity be protected?
- 1044.11 How do you protect the documents and information that you want to disclose?
- 1044.12 What procedures can you invoke if you believe you have been discharged, demoted, or otherwise discriminated against as a reprisal for making a protected disclosure?

AUTHORITY: 42 U.S.C. 7101 *et seq.*, 7239, and 50 U.S.C. 2401 *et seq.*

SOURCE: 66 FR 4642, Jan. 18, 2001, unless otherwise noted.

### § 1044.01 What are the purpose and scope of this part?

(a) *Purpose.* This part prescribes the security requirements for making protected disclosures of classified or unclassified controlled nuclear information under the whistleblower protection provisions of section 3164 of the National Defense Authorization Act for Fiscal Year 2000.

(b) *Scope.* The security requirements for making protected disclosures in this part are independent of, and not subject to any limitations that may be provided in, the Whistleblower Protection Act of 1989 (Public Law 101–12) or any other law that may provide protection for disclosures of information by employees of DOE or of a DOE contractor.

[66 FR 54645, Oct. 30, 2001]

### § 1044.02 Who must follow the requirements contained in this part?

The requirements apply to you if you are:

- (a) An employee of DOE, including the National Nuclear Security Administration, or one of its contractors;
- (b) Engaged in DOE defense activities; and
- (c) Wish to make a protected disclosure as described in §1044.04 of this part.

### § 1044.03 What definitions apply to this part?

The following definitions apply to this subpart:

*Atomic Energy Act* means the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*

*Classified information* means: