

§ 40.22

28 CFR Ch. I (7-1-11 Edition)

§ 40.22 Significance of certification.

Certification of a grievance procedure by the Attorney General shall signify only that on the basis of the information submitted, the Attorney General believes the grievance procedure is in substantial compliance with the minimum standards or is otherwise fair and effective. Certification shall not indicate approval of the use or application of the grievance procedure in a particular case.

[Order No. 1955-95, 60 FR 13904, Mar. 15, 1995]

Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794); sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93-516, 88 Stat. 1619 (29 U.S.C. 706).

SOURCE: 43 FR 2132, Jan. 13, 1978, unless otherwise noted. Redesignated at 46 FR 40686, 40687, Aug. 11, 1981.

EFFECTIVE DATE NOTE: At 46 FR 40687, Aug. 11, 1981, the application of part 41 with respect to mass transportation was suspended until further notice.

Subpart A—Federal Agency Responsibilities

PART 41—IMPLEMENTATION OF EXECUTIVE ORDER 12250, NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY ASSISTED PROGRAMS

Subpart A—Federal Agency Responsibilities

- Sec.
- 41.1 Purpose.
- 41.2 Application.
- 41.3 Definitions.
- 41.4 Issuance of agency regulations.
- 41.5 Enforcement.
- 41.6 Interagency cooperation.
- 41.7 Coordination with sections 502 and 503.

Subpart B—Standards for Determining Who Are Handicapped Persons

- 41.31 Handicapped person.
- 41.32 Qualified handicapped person.

Subpart C—Guidelines for Determining Discriminatory Practices

GENERAL

- 41.51 General prohibitions against discrimination.

EMPLOYMENT

- 41.52 General prohibitions against employment discrimination.
- 41.53 Reasonable accommodation.
- 41.54 Employment criteria.
- 41.55 Preemployment inquiries.

PROGRAM ACCESSIBILITY

- 41.56 General requirement concerning program accessibility.
- 41.57 Existing facilities.
- 41.58 New construction.

APPENDIX A TO PART 41—LEADERSHIP AND COORDINATION OF NONDISCRIMINATION LAWS

AUTHORITY: Executive Order 12250, 45 FR 72995; sec. 504, Rehabilitation Act of 1973,

§ 41.1 Purpose.

The purpose of this part is to implement Executive Order 12250, which requires the Department of Justice to coordinate the implementation of section 504 of the Rehabilitation Act of 1973.

[43 FR 2132, Jan. 13, 1978. Redesignated and amended at 46 FR 40686, 40687, Aug. 11, 1981]

§ 41.2 Application.

This part applies to each Federal department and agency that is empowered to extend Federal financial assistance.

§ 41.3 Definitions.

As used in this regulation, the term:

(a) *Executive Order* means Executive Order 12250, titled "Leadership and Coordination of Nondiscrimination Laws," issued November 2, 1980.

(b) *Section 504* means section 504 of the Rehabilitation Act of 1973, Public Law 93-112, as amended by the Rehabilitation Act Amendments of 1974, Public Law 93-516, 29 U.S.C. 794.

(c) *Agency* means a Federal department or agency that is empowered to extend financial assistance.

(d) *Recipient* means any State or its political subdivision, any instrumentality of a State or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(e) *Federal financial assistance* means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other

Department of Justice

§ 41.6

arrangement by which the agency provides or otherwise makes available assistance in the form of:

- (1) Funds;
- (2) Services of Federal personnel; or
- (3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(f) *Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

[43 FR 2132, Jan. 13, 1978. Redesignated and amended at 46 FR 40686, 40687, Aug. 11, 1981]

§ 41.4 Issuance of agency regulations.

(a) Each agency shall issue, after notice and opportunity for comment, a regulation to implement section 504 with respect to the programs and activities to which it provides assistance. The regulation shall be consistent with this part.

(b) Each agency shall issue a notice of proposed rulemaking no later than 90 days after the effective date of this part. Each agency shall issue a final regulation no later than 135 days after the end of the period for comment on its proposed regulation: *Provided*, That the agency shall submit its proposed final regulation to the Assistant Attorney General, Civil Rights Division, Department of Justice, for review at least 45 days before it is to be issued.

(c) Each such agency regulation shall:

(1) Define appropriate terms, consistent with the definitions set forth in § 41.3 and with the standards for determining who are handicapped persons set forth in subpart B of this part; and

(2) Prohibit discriminatory practices against qualified handicapped persons in employment and in the provision of aid, benefits, or services, consistent with the guidelines set forth in subpart C of this part.

The regulation shall include, where appropriate, specific provisions adapted

to the particular programs and activities receiving financial assistance from the agency.

[43 FR 2132, Jan. 13, 1978. Redesignated and amended at 46 FR 40686, 40687, Aug. 11, 1981]

§ 41.5 Enforcement.

(a) Each agency shall establish a system for the enforcement of section 504 and its implementing regulation with respect to the programs and activities to which it provides assistance. The system shall include:

(1) The enforcement and hearing procedures that the agency has adopted for the enforcement of title VI of the Civil Rights Act of 1964, and

(2) A requirement that recipients sign assurances of compliance with section 504.

(b) Each agency regulation shall also include requirements that recipients:

(1) Notify employees and beneficiaries of their rights under section 504,

(2) Conduct a self-evaluation of their compliance with section 504, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, and

(3) Otherwise consult with interested persons, including handicapped persons or organizations representing handicapped persons, in achieving compliance with section 504.

§ 41.6 Interagency cooperation.

(a) Where each of a substantial number of recipients is receiving assistance for similar or related purposes from two or more agencies or where two or more agencies cooperate in administering assistance for a given class of recipients, the agencies shall:

(1) Coordinate compliance with section 504, and

(2) Designate one of the agencies as the primary agency for section 504 compliance purposes.

(b) Any agency conducting a compliance review or investigating a complainant of an alleged section 504 violation shall notify any other affected agency upon discovery of its jurisdiction and shall inform it of the findings made. Reviews or investigations may be made on a joint basis.