

to the Assistant Secretary upon request:

- (i) A list of the interested persons consulted;
- (ii) A description of areas examined and any problems identified; and
- (iii) A description of any modifications made and of any remedial steps taken.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51368, Aug. 26, 2003]

§ 32.7 Designation of responsible employee.

A recipient, other than a small recipient shall designate at least one person to coordinate its efforts to comply with this part.

§ 32.8 Notice.

(a) A recipient, other than a small recipient, shall take appropriate initial and continuing steps to notify participants, beneficiaries, referral sources, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations which have collective bargaining or professional agreements with the recipient, that it does not discriminate on the basis of handicap in violation of section 504 and of this part. The notification shall state, where appropriate, that the recipient does not discriminate in the admission or access to, or treatment or employment in, its programs or activities. The notification shall also include an identification of the responsible employee designated pursuant to § 32.7. A recipient shall make the initial notifications required by this paragraph within 90 days of the effective date of this part. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipient's publications, and distribution of memoranda or other written communications.

(b) If a recipient publishes or uses recruitment materials or publications containing general information that it makes available to participants, beneficiaries, applicants, or employees, it shall include in those materials or publications a statement of the policy described in paragraph (a) of this section. A recipient may meet the requirement

of this paragraph either by including appropriate inserts in existing materials and publications or by revising and reprinting the materials and publications.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51368, Aug. 26, 2003]

§ 32.9 Administrative requirements for small recipients.

The Assistant Secretary may require any recipient that provides services to fewer than 15 beneficiaries or with fewer than 15 employees, or any class of such recipients, to comply with §§ 32.7 and 32.8, in whole or in part, when the Assistant Secretary finds a violation of this part or finds that such compliance will not significantly impair the ability of the recipient or class of recipients to provide benefits or services.

§ 32.10 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped individuals to receive services, participate in programs or activities or practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped individuals than for nonhandicapped persons.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51368, Aug. 26, 2003]

Subpart B—Employment Practices and Employment Related Training Participation

§ 32.12 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped individual shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this part applies. This subpart is applicable to employees and applicants for employment with all

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recipients and to participants in employment and training under programs or activities financed in whole or in part by Federal financial assistance.

(2) A recipient shall make all decisions concerning employment or training under any program or activity to which this subpart applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees or participants in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants, employees or participants to discrimination prohibited by this subpart. The relationships referred to in this subparagraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeships.

(b) *Specific activities.* The provisions of this subpart apply to:

(1) Recruitment advertising, and the processing of applicants for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer-sponsored activities, including those that are social or recreational; and

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(9) Any other term, condition, or privilege of employment.

(c) *Collective bargaining agreements.* Whenever a recipient's obligation to comply with this subpart and to correct discriminatory practices impacts on and/or necessitates changes in a term of a collective bargaining agreement(s) to which the recipient is a party, the recipient shall attempt to achieve compliance consistent with the provisions of §32.17(a). However a recipient's obligation to comply with this subpart is not relieved by a term of any such collective bargaining agreement(s).

(d) *Compensation.* In offering employment or promotions to handicapped individuals, the recipient shall not reduce the amount of compensation offered because of any disability income, pension or other benefit the applicant or employee receives from other source.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51368, Aug. 26, 2003]

§ 32.13 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant, employee or participant unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program or activity.

(b) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program or activity, factors to be considered include:

(1) The overall size of the recipient's program or activity with respect to number of employees, number of participants, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce, and duration and type of training; and

(3) The nature and cost of the accommodation needed.

(c) A recipient may not deny any employment or training opportunity to a qualified handicapped employee, applicant or participant if the basis for the denial is the need to make reasonable