

Bur. of Consumer Financial Protection

§ 1072.103

granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. An applicant shall be paid the amount awarded within 60 days of entry of the final decision unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

PART 1072—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF DISABILITY IN PROGRAMS AND ACTIVITIES CONDUCTED BY THE BUREAU OF CONSUMER FINANCIAL PROTECTION

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AUTHORITY: 29 U.S.C. 794; 29 U.S.C. 794d.

SOURCE: 77 FR 46609, August 6, 2012, unless otherwise noted.

§ 1072.101 Purpose.

(a) This part implements section 504 of the Rehabilitation Act of 1973, as amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Sec. 119 (Pub. L. 95-602, 92 Stat. 2982), the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810), the Workforce Investment Act of 1998 (Pub. L. 105-220, 112 Stat. 936), and the Americans with Disabilities Act Amendments of 2008 (Pub. L. 110-325, 122 Stat. 3553), to prohibit discrimination on the basis of disability in programs or activities conducted by Executive agencies or the United States Postal Service.

(b) This part is also intended to implement section 508 of the Rehabilitation Act of 1973 as amended to ensure that employees and members of the public with disabilities have access to, and are able to use, electronic and information technology (EIT) to the same extent as individuals without disabilities, unless an undue burden would be imposed on the department or the Bureau. Specifically, this part clarifies that individuals with disabilities may utilize the complaint procedures established in section 504 to enforce rights guaranteed under section 508.

§ 1072.102 Application.

This part applies to all programs, activities, and electronic and information technology developed, procured, maintained, used, or conducted by the Bureau.

§ 1072.103 Definitions.

For purposes of this part *Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the Bureau. For example, auxiliary aids useful for persons with impaired vision include readers, Brailled materials, audio recordings and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunications devices for deaf persons (TDD's), interpreters, Computer-aided real-time transcription (CART), captioning, note takers, written materials, and other similar services and devices.

Bureau means the Bureau of Consumer Financial Protection.

Complete complaint means a written statement or a complaint in audio, Braille, electronic, and/or video format, that contains the complainant's name and address, and describes the Bureau's alleged discriminatory action in sufficient detail to inform the Bureau of the nature and date of the alleged violation of section 504 or section 508. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints in

audio, Braille, electronic, and/or video formats shall contain an affirmative identity statement of the individual, which for this purpose shall be considered to be functionally equivalent to a complaint's signature. Complaints filed on behalf of classes of individuals with disabilities shall also identify (where possible) the alleged victims of discrimination.

Electronic and information technology means information technology and any equipment or interconnected system or subsystem of equipment that is used in the creation, conversion, or duplication of data or information. The term includes, but is not limited to, telecommunications products (such as telephones), information kiosks and transaction machines, world-wide web sites, multimedia, and office equipment such as copiers and fax machines. The term does not include any equipment that contains embedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation are not electronic and information technology.

Facility means all or any portion of a building, structure, equipment, road, walk, parking lot, rolling stock or other conveyance, or other real or personal property.

Has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more of the individual's major life activities.

Is regarded as having an impairment means—

(1) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the Bureau as constituting such a limitation;

(2) Has a physical or mental impairment that substantially limits major life activities only as a result of the at-

titudes of others toward such impairment; or

(3) Has none of the impairments defined in paragraph (1) of this definition but is treated by the Bureau as having such an impairment.

Individual with a disability means any person who has a physical or mental impairment that substantially limits one or more of the individual's major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

Major life activities includes without limitation—

(1) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

(2) The operation of major bodily functions of the immune system, special sense organs and skin, normal cell growth, and digestive genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system.

(3) In determining other examples of major life activities, the Bureau will follow the guidance provided by EEOC in its 2011 regulations interpreting the Americans with Disabilities Act Amendments Act of 2008.

Physical or mental impairment includes without limitation:

(1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive, digestive; genitourinary; hemic and lymphatic; skin; and endocrine.

(2) Any mental or psychological disorder such as an intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(3) Diseases and conditions such as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy,

muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, intellectual disability, emotional illness, drug addiction and alcoholism.

Program or Activity means any activity of the Bureau permitted or required by its enabling statutes, including but not limited to any proceeding, investigation, hearing, or meeting.

Qualified individual with a disability means:

(1) In reference to individuals other than employees of the Bureau—

(i) With respect to any Bureau program or activity under which an individual is required to perform services or to achieve a level of accomplishment, an individual with a disability who, with or without reasonable accommodations, meets the essential eligibility requirements for participation in the program or activity, and who can achieve the purpose of the program or activity without modifications in the program or activity that would result in a fundamental alteration in its nature; or

(ii) With respect to any other program or activity, an individual with a disability who, with or without reasonable modification to rules, policies, or practices that do not change the fundamental nature of the activity, or the provision of auxiliary aids, meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity; or

(2) In reference to individuals employed by the Bureau, the definition of that term for purposes of employment contained in 29 CFR 1630.2(m), which is made applicable to this part by § 1072.101.

Section 504 means section 504 of the Rehabilitation Act of 1973 as amended. As used in this part, § 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

Section 508 means section 508 of the Rehabilitation Act of 1973 as amended.

§ 1072.104 Review of compliance.

(a) The Bureau shall, within two years of the promulgation of this regulation, review its current policies and practices in view of advances in relevant technology and achievability. Based on this review, the Bureau shall

modify its practices and procedures to ensure that the Bureau's programs and activities are fully accessible.

(b) The Bureau shall provide an opportunity to interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the review process.

(c) The Bureau shall maintain on file and make available for public inspection until three years following the completion of the compliance review—

(1) A description of areas examined and any problems identified; and

(2) A description of any modifications made.

§ 1072.105 Notice.

The Bureau shall make available to all Bureau employees, applicants, participants, beneficiaries, and other interested persons information regarding the provisions of this part and its applicability to the programs or activities conducted by the Bureau in a manner that apprises them of the protections against discrimination provided by § 504 and this regulation.

§ 1072.106 General prohibitions against discrimination.

(a) No qualified individual with a disability in the United States, shall, on the basis of disability, be excluded from the participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the Bureau.

(b) *Discriminatory actions prohibited.*
(1) The Bureau, in providing any aid, benefit, or service, may not directly or through contractual, licensing, or other arrangements, on the basis of disability—

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not substantially equivalent to that afforded others;

(iii) Provide different or separate aid, benefits or services to individuals with disabilities or to any class of individuals with disabilities than is provided