PART 8b—PROHIBITION OF DISCRIMINATION AGAINST THE HANDICAPPED IN FEDERALLY ASSISTED PROGRAMS OPERATED BY THE DEPARTMENT OF COMMERCE

Subpart A—General Provisions

§ 8b.3 Definitions.

As used in this part, the term:


(b) Applicant for assistance means one who submits an application, request, or plan required to be approved by a Department official or by a recipient as a condition to becoming a recipient.

(c) Department means the Department of Commerce and any of its constituent units authorized to provide Federal financial assistance.

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

(e) Federal financial assistance means any grant, loan, contract (other than a procurement contract or a contract of insurance or guarantee), or any other arrangement by which the Department provides or otherwise makes available assistance in the form of:

(1) Funds;
(2) Services of Federal personnel; or
§ 8b.3  

(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) Handicap means any condition or characteristic that renders a person a handicapped person as defined in paragraph (g) of this section.

(g) Handicapped person—(1) Handicapped person means any person who:

(i) Has a physical or mental impairment which substantially limits one or more major life activities;

(ii) Has a record of such an impairment; or

(iii) Is regarded as having such an impairment.

(2) For purposes of employment, the term “handicapped person” does not include any person who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents that individual from performing the duties of the job in question, or whose employment, because of current alcohol or drug abuse, would constitute a direct threat to property or to the safety of others.

(3) As used in paragraph (g)(1) of this section, the phrase:

(i) Physical or mental impairment means:

(A) 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; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(B) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(C) The term “physical or mental impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(ii) Major life activities means functions such as caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, and receiving education or vocational training.

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

(iv) Is regarded as having an impairment means that the individual:

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

(B) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(C) Has none of the impairments defined in paragraph (g)(3)(i) of this section, but is treated by a recipient as having such an impairment.

(h) Program or activity means all of the operations of any entity described in paragraphs (h)(1) through (4) of this section, any part of which is extended Federal financial assistance:

(1)(i) A department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(i) A college, university, or other postsecondary institution, or a public system of higher education; or

(ii) The entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(3)(i) An entire corporation, partnership, or other private organization, or an entire sole proprietorship—
(A) If assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(B) Which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (h)(1), (2), or (3) of this section.

(i) Qualified handicapped person means:

(1) With respect to employment, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question;

(2) With respect to post secondary and vocational education services, a handicapped person who meets the academic and technical standards requisite to admission or participation in the recipient’s education program or activity;

(3) With respect to other services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

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

(k) Secretary means the Secretary of Commerce, U.S. Department of Commerce.

(l) Section 504 means section 504 of the Act.

(m) Small recipient means a recipient who serves fewer than 15 beneficiaries and who employs fewer than 15 employees at all times during a grant year.