

## Office of the Secretary of Labor

## § 32.5

provided in or through a facility that has been constructed, expanded, altered, leased, rented, or otherwise acquired, in whole or in part, with Federal financial assistance.

(7)(i) In providing services receiving Federal financial assistance, except for employment-related training, a recipient to which this subpart applies, except small recipients, shall ensure that no handicapped participant is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination under the program or activity operated by the recipient because of the absence of auxiliary aids for participants with impaired sensory, manual or speaking skills. In employment and employment-related training, this paragraph shall apply only to the intake, assessment and referral services. A recipient shall operate each program or activity to which this subpart applies so that, when viewed in its entirety, auxiliary aids are readily available.

(ii) Auxiliary aids may include brailled and taped written materials, interpreters or other effective methods of making orally delivered information available to persons with hearing impairments, readers for persons with visual impairments, equipment adapted for use by persons with manual impairments, and other similar services and actions. Recipients need not provide attendants, individually prescribed devices, readers for personal use or study, or other devices or services of a personal nature.

(c) *Aid, benefits, services, or training limited by Federal law.* The exclusion of nonhandicapped persons from aid, benefits, program services, or training limited by Federal statute on Executive order to handicapped individuals or the exclusion of a specific class of handicapped individuals from aid, benefits, services, or training limited by Federal statute or Executive order to a different class of handicapped individuals is not prohibited by this part.

(d) *Integrated setting.* Recipients shall administer programs or activities in the most integrated setting appropriate to the needs of qualified handicapped individuals.

(e) *Communications with individuals with impaired vision and hearing.* Recipi-

ents shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51367 and 51368, Aug. 26, 2003]

### § 32.5 Assurances required.

(a) *Assurances.* An applicant for Federal financial assistance to which this part applies shall submit an assurance, on a form specified by the Assistant Secretary, that the program or activity will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to the Department.

(b) *Duration of obligation.* (1) In the case of Federal financial assistance extended in the form of real property or structures on the property, the assurance will obligate the recipient or, in the case of a subsequent transfer, the transferee, for the period during which the real property or structures are used for the purpose involving the provision of similar services or benefits.

(2) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(3) In all other cases the assurance will obligate the recipient for the period during which Federal financial assistance is extended or the federally-funded program or activity is operated, whichever is longer.

(c) *Covenants.* (1) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the instrument effecting or recording this transfer shall contain a covenant running with the land to assure non-discrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

(2) Where no Federal transfer of property is involved but property is purchased or improved with Federal financial assistance, the recipient shall agree to include the covenant described

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in paragraph (c)(1) of this section in the instrument effecting or recording any subsequent transfer of the property.

(3) Where Federal financial assistance is provided in the form of real property or interest in the property from the Department, the covenant shall also include a condition coupled with a right to be reserved by the Department to revert title to the property in the event of a breach of the covenant. If a transferee of real property proposes to mortgage or otherwise encumber the real property as security to finance construction of new, or improvement of existing, facilities on the property for the purposes for which the property was transferred, the Assistant Secretary may agree to forbear the exercise of such right to revert title for so long as the lien of such mortgage or other encumbrance remains effective. Such an agreement by the Assistant Secretary may be entered into only upon the request of the transferee (recipient) if it is necessary to accomplish such financing and upon such terms and conditions as the Assistant Secretary deems appropriate.

(d) *Interagency agreements.* Where funds are granted by the Department to another Federal agency, and where the grant obligates the recipient agency to comply with the rules and regulations of the Department applicable to that grant the provisions of this part shall apply to programs or activities operated with such funds.

[45 FR 66709, Oct. 7, 1980, as amended at 68 FR 51367 and 51368, Aug. 26, 2003]

### **§ 32.6 Remedial action, voluntary action, and self-evaluation.**

(a) *Remedial action.* (1) If the Assistant Secretary finds that a recipient has discriminated against persons on the basis of handicap in violation of section 504 of this part, the recipient shall take such remedial action as the Assistant Secretary deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the As-

sistant Secretary, where appropriate, may require either or both recipients to take remedial action.

(3) The Assistant Secretary may, where necessary to overcome the effects of discrimination in violation of section 504 or this part, require a recipient to take remedial action:

(i) With respect to handicapped individuals who would have been participants in the program or activity had the discrimination not occurred; and

(ii) With respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program or activity when the discrimination occurred; and

(iii) With respect to employees and applicants for employment.

(b) *Voluntary action.* A recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped individuals.

(c) *Self-evaluation.* (1) A recipient shall, within one year of the effective date of this part:

(i) Evaluate, with the assistance of interested persons who are selected by the recipient, including handicapped individuals or organizations representing handicapped individuals, its current policies and practices and the effects thereof that do not or may not meet the requirements of this part;

(ii) Modify, after consultation with interested persons who are selected by the recipient, including handicapped individuals or organizations representing handicapped individuals, any policies and practices that do not meet the requirements of this part; and

(iii) Take, after consultation with interested persons who are selected by the recipient, including handicapped individuals or organizations representing handicapped individuals, appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient, other than a small recipient, shall for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide