

§ 18.409

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and publications or by revising and reprinting the materials and publications.

[45 FR 63268, Sept. 24, 1980, as amended at 68 FR 51370, Aug. 26, 2003]

§ 18.409 Administrative requirements for certain recipients.

The Secretary may require any recipient with fewer than fifteen employees, or any class of such recipients, to comply with §§ 18.407 and 18.408 in whole or in part, when the 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.

§ 18.410 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 law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to 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 persons than for nonhandicapped persons.

EMPLOYMENT PRACTICES

§ 18.411 Discrimination prohibited.

(a) *General.* (1) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity to which this part applies.

(2) A recipient shall make all decisions concerning employment under any program or activity to which this part 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 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 or employees to discrimination in employment. The relationships referred to in this section include relationships with employment and referral agencies, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeships.

(b) *Specific activities.* Nondiscrimination in employment applies to:

(1) Recruitment, advertising, and the processing of applications 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 other forms 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

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

(c) *Collective bargaining agreements.* A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

[45 FR 63268, Sept. 24, 1980, as amended at 68 FR 51370, Aug. 26, 2003]

§ 18.412 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of a handicapped applicant or employee if such accommodation would enable that person to perform the essential functions of the