

## General Services Administration

## § 105-8.103

(2) For class deviations, requests shall be sent to only the Administrator of General Services.

[55 FR 1673, Jan. 18, 1990]

### § 105-1.150 Citation.

(a) In formal documents, such as legal briefs, citations of chapter 105 material shall include a citation to title 41 of the Code of Federal Regulations or other titles as appropriate; e.g., 41 CFR 105-1.150.

(b) Any section of chapter 105, for purpose of brevity, may be informally identified as "GSPMR" followed by the section number. For example, this paragraph would be identified as "GSPMR 105-1.150(b)."

## PART 105-8—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY GENERAL SERVICES ADMINISTRATION

Sec.

- 105-8.101 Purpose.
- 105-8.102 Application.
- 105-8.103 Definitions.
- 105-8.104—105-8.109 [Reserved]
- 105-8.110 Self-evaluation.
- 105-8.111 Notice.
- 105-8.112—105-8.129 [Reserved]
- 105-8.130 General prohibitions against discrimination.
- 105-8.131—105-8.139 [Reserved]
- 105-8.140 Employment.
- 105-8.141—105-8.147 [Reserved]
- 105-8.148 Consultation with the Architectural and Transportation Barriers Compliance Board.
- 105-8.149 Program accessibility: Discrimination prohibited.
- 105-8.150 Program accessibility: Existing facilities.
- 105-8.150-1 General.
- 105-8.150-2 Methods.
- 105-8.150-3 Time period for compliance.
- 105-8.150-4 Transition plan.
- 105-8.151 Program accessibility: New construction and alterations.
- 105-8.152 Program accessibility: Assignment of space.
- 105-8.153 Program accessibility: Interagency cooperation.
- 105-8.153-1 General.
- 105-8.153-2 Requests from occupant agencies.
- 105-8.154 Program accessibility: Exceptions.
- 105-8.155—105-8.159 [Reserved]
- 105-8.160 Communications.

- 105-8.161—105-8.169 [Reserved]
- 105-8.170 Compliance procedures.
- 105-8.170-1 Applicability.
- 105-8.170-2 Employment complaints.
- 105-8.170-3 Responsible Official.
- 105-8.170-4 Filing a complaint.
- 105-8.170-5 Notification to the Architectural and Transportation Barriers Compliance Board.
- 105-8.170-6 Acceptance of complaint.
- 105-8.170-7 Investigation/conciliation.
- 105-8.170-8 Letter of findings.
- 105-8.170-9 Filing an appeal.
- 105-8.170-10 Acceptance of appeals.
- 105-8.170-11 Hearing.
- 105-8.170-12 Decision.
- 105-8.170-13 Delegation.
- 105-8.171 Complaints against an occupant agency.

AUTHORITY: 29 U.S.C. 794.

SOURCE: 56 FR 9871, Mar. 8, 1991, unless otherwise noted.

### § 105-8.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

### § 105-8.102 Application.

This part applies to all programs or activities conducted by the agency, except for programs or activities conducted outside the United States that do not involve individuals with handicaps in the United States.

### § 105-8.103 Definitions.

For purposes of this part, the term—*Agency* means the General Services Administration (GSA), except when the context indicates otherwise.

*Assistant Attorney General* means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

*Auxiliary aids* means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of programs or activities conducted by GSA. 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, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

*Complete complaint* means a written statement that contains the complainant's name and address and describes the agency's alleged discriminatory action in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

*Facility* means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

*Historic preservation program* means programs conducted by the agency that have preservation of historic properties as a primary purpose.

*Historic properties* means those properties that are listed or eligible for listing in the National Register of Historic Places or properties designated as historic under a statute of the appropriate State or local government body.

*Individual with handicaps* means any person who has a physical or mental impairment that substantially limits one or more 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:

(1) *Physical or mental impairment* includes—

(i) 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; or

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

disabilities. 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, and drug addiction and alcoholism.

(2) *Major life activities* includes functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *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 major life activities.

(4) *Is regarded as having an impairment* means—

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

(ii) 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

(iii) Has none of the impairments defined in paragraph (a) of this definition but is treated by the agency as having such an impairment.

*Official or Responsible Official* means the Director of the Civil Rights Division of the General Services Administration or his or her designee.

*Qualified individual with handicaps* means—

(1) With respect to any agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, an individual with handicaps who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(2) With respect to any other program or activity, an individual with handicaps who meets the essential eligibility requirements for participation

## General Services Administration

## § 105-8.130

in, or receipt of benefits from, that program or activity; and

(3) *Qualified handicapped person* as that term is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § 105-8.140.

*Respondent* means the organizational unit in which a complainant alleges that discrimination occurred.

*Section 504* means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516, 88 Stat. 1617); the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95-602, 92 Stat. 2955); and the Rehabilitation Act Amendments of 1986 (Pub. L. 99-506, 100 Stat. 1810); the Civil Rights Restoration Act of 1987 (Pub. L. 100-259, 102 Stat. 28); and Handicapped Program Technical Amendments Act of 1988 (Pub. L. 100-630, 102 Stat. 3312). As used in this part, section 504 applies only to programs or activities conducted by the agency and not to federally assisted programs.

*Substantial impairment* means a significant loss of the integrity of finished materials, design quality, or special character resulting from a permanent alteration of historic properties.

### §§ 105-8.104—105-8.109 [Reserved]

#### § 105-8.110 Self-evaluation.

(a) The agency shall, by March 9, 1992, evaluate its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall provide an opportunity to interested persons, including individuals with handicaps or organizations representing individuals with handicaps, to participate in the self-evaluation process by submitting comments (both oral and written).

(c) The agency shall, for at least three years following completion of the self-evaluation, maintain on file and make available for public inspection:

(1) A list of interested persons consulted;

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

(3) A description of any modifications made or to be made.

#### § 105-8.111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the Administrator finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this part.

### §§ 105-8.112—105-8.129 [Reserved]

#### § 105-8.130 General prohibitions against discrimination.

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

(1) The agency, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

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

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

(iii) Provide a qualified individual with handicaps with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to individuals with handicaps or to any class of individuals with handicaps than is provided to others unless such action is necessary to