

## § 8.13

### § 8.13 Preemployment inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not make a preemployment inquiry or conduct a preemployment medical examination of an applicant to determine whether the applicant is an individual with handicaps or the nature or severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions.

(b) When a recipient is undertaking affirmative action efforts, voluntary or otherwise, the recipient may invite applicants for employment to indicate whether and to what extent they are handicapped, if the following conditions are met:

(1) The recipient states clearly on any written questionnaire used for this purpose, or makes clear orally if no written questionnaire is used, that the information requested is intended for use solely in connection with its remedial action obligations, or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential (as provided in paragraph (d) of this section), that refusal to provide the information will not subject the applicant or employee to any adverse treatment, and that the information will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment on the results of a medical examination conducted before the employee's entrance on duty if all entering employees in that category of job classification must take such an examination regardless of handicap, and the results of such examination are used only in accordance with the requirements of this part.

(d) Information obtained under this section concerning the medical condition or history of the applicant is to be collected and maintained on separate forms that are accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed of restrictions on the work or duties of individuals with handicaps

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and informed of necessary accommodations;

(2) First aid and safety personnel may be informed if the condition might require emergency treatment; and

(3) Government officials investigating compliance with section 504 shall be provided relevant information upon request.

### Subpart C—Program Accessibility

#### § 8.20 General requirement concerning program accessibility.

Except as otherwise provided in §§ 8.21(c)(1), 8.24(a), 8.25, and 8.31, no qualified individual with handicaps shall, because a recipient's facilities are inaccessible to or unusable by individuals with handicaps, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance.

#### § 8.21 Non-housing facilities.

(a) *New construction.* New non-housing facilities shall be designed and constructed to be readily accessible to and usable by individuals with handicaps.

(b) *Alterations to facilities.* Alterations to existing non-housing facilities shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with handicaps. For purposes of this paragraph, the phrase *to the maximum extent feasible* shall not be interpreted as requiring that a recipient make a non-housing facility, or element thereof, accessible if doing so would impose undue financial and administrative burdens on the operation of the recipient's program or activity.

(c) *Existing non-housing facilities*—(1) *General.* A recipient shall operate each non-housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps. This paragraph does not—

(i) Necessarily require a recipient to make each of its existing non-housing facilities accessible to and usable by individuals with handicaps;

(ii) In the case of historic preservation programs or activities, require the recipient to take any action that would