

**(d) Standards used in determining violation of section**

The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,<sup>1</sup> of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

**(e) Avoidance of duplicative efforts and inconsistencies**

The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 [42 U.S.C. 12101 et seq.] are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.

(Pub. L. 93–112, title V, § 503, Sept. 26, 1973, 87 Stat. 393; Pub. L. 95–602, title I, § 122(d)(1), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 99–506, title I, § 103(d)(2)(B), (C), title X, §§ 1001(f)(2), (3), 1002(e)(3), Oct. 21, 1986, 100 Stat. 1810, 1843, 1844; Pub. L. 100–630, title II, § 206(c), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title I, § 102(p)(31), title V, § 505, Oct. 29, 1992, 106 Stat. 4360, 4427.)

## REFERENCES IN TEXT

The Americans with Disabilities Act of 1990, referred to in subsecs. (d) and (e), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327, which is classified principally to chapter 126 (§12101 et seq.) of Title 42, The Public Health and Welfare. Title I of the Act is classified generally to subchapter I (§12111 et seq.) of chapter 126 of Title 42. Section 510 of the Act was renumbered section 511 by Pub. L. 110–325, §6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

## AMENDMENTS

1992—Subsec. (a). Pub. L. 102–569, §§102(p)(31)(A), 505(a), substituted “\$10,000” for “\$2,500” in two places, struck out “, in employing persons to carry out such contract,” after “contain a provision requiring that”, and substituted “individuals with disabilities” for “individuals with handicaps as defined in section 706(8) of this title”.

Subsec. (b). Pub. L. 102–569, §102(p)(31)(B), substituted “individual with a disability” for “individual with handicaps” and “individuals with disabilities” for “individuals with handicaps”.

Subsec. (c). Pub. L. 102–569, §505(b), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d), (e). Pub. L. 102–569, §505(c), added subsecs. (d) and (e).

1988—Subsec. (a). Pub. L. 100–630, §206(c)(1), inserted a comma after “to carry out such contract”.

Subsec. (b). Pub. L. 100–630, §206(c)(2), substituted “refused” for “refuses”.

Subsec. (c). Pub. L. 100–630, §206(c)(3), substituted “which the President” for “which The President” and “when the President” for “when The President”.

1986—Subsec. (a). Pub. L. 99–506, §§103(d)(2)(C), 1002(e)(3), substituted “individuals with handicaps” for “handicapped individuals” and “section 706(8) of this title” for “section 706(7) of this title”.

Subsec. (b). Pub. L. 99–506, §§103(d)(2)(B), (C), 1001(f)(2), substituted “individual with handicaps” for “handicapped individual”, “individuals with handicaps” for “handicapped individuals”, and “a contract” for “his contract”.

Subsec. (c). Pub. L. 99–506, §1001(f)(3), substituted “The President” for “he” in two places and substituted “the reasons” for “his reasons”.

1978—Subsec. (a). Pub. L. 95–602 substituted “section 706(7) of this title” for “section 706(6) of this title”.

**§ 794. Nondiscrimination under Federal grants and programs****(a) Promulgation of rules and regulations**

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

**(b) “Program or activity” defined**

For the purposes of this section, the term “program or activity” means all of the operations of—

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

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

(B) a local educational agency (as defined in section 7801 of title 20), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

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

(B) 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 (1), (2), or (3);

<sup>1</sup> See References in Text note below.

any part of which is extended Federal financial assistance.

**(c) Significant structural alterations by small providers**

Small providers are not required by subsection (a) of this section to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on March 22, 1988.

**(d) Standards used in determining violation of section**

The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510,<sup>1</sup> of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

(Pub. L. 93–112, title V, § 504, Sept. 26, 1973, 87 Stat. 394; Pub. L. 95–602, title I, §§ 119, 122(d)(2), Nov. 6, 1978, 92 Stat. 2982, 2987; Pub. L. 99–506, title I, § 103(d)(2)(B), title X, § 1002(e)(4), Oct. 21, 1986, 100 Stat. 1810, 1844; Pub. L. 100–259, § 4, Mar. 22, 1988, 102 Stat. 29; Pub. L. 100–630, title II, § 206(d), Nov. 7, 1988, 102 Stat. 3312; Pub. L. 102–569, title I, § 102(p)(32), title V, § 506, Oct. 29, 1992, 106 Stat. 4360, 4428; Pub. L. 103–382, title III, § 394(i)(2), Oct. 20, 1994, 108 Stat. 4029; Pub. L. 105–220, title IV, § 408(a)(3), Aug. 7, 1998, 112 Stat. 1203; Pub. L. 107–110, title X, § 1076(u)(2), Jan. 8, 2002, 115 Stat. 2093.)

REFERENCES IN TEXT

The amendments to this section made by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Act of 1978, referred to in subsec. (a), mean the amendments made by Pub. L. 95–602. See 1978 Amendments note below.

The Americans with Disabilities Act of 1990, referred to in subsec. (d), is Pub. L. 101–336, July 26, 1990, 104 Stat. 327. Title I of the Act is classified generally to subchapter I (§ 12111 et seq.) of chapter 126 of Title 42, The Public Health and Welfare. Section 510 of the Act was renumbered section 511 by Pub. L. 110–325, § 6(a)(2), Sept. 25, 2008, 122 Stat. 3558. For complete classification of this Act to the Code, see Short Title note set out under section 12101 of Title 42 and Tables.

AMENDMENTS

2002—Subsec. (b)(2)(B). Pub. L. 107–110 substituted “section 7801 of title 20” for “section 8801 of title 20”.

1998—Subsec. (a). Pub. L. 105–220 substituted “section 705(20)” for “section 706(8)”.

1994—Subsec. (b)(2)(B). Pub. L. 103–382 substituted “section 8801 of title 20” for “section 2891(12) of title 20”.

1992—Subsec. (a). Pub. L. 102–569, § 102(p)(32), substituted “a disability” for “handicaps” and “disability” for “handicap” in first sentence.

Subsec. (d). Pub. L. 102–569, § 506, added subsec. (d).

1988—Subsec. (a). Pub. L. 100–630, § 206(d)(1), substituted “her or his handicap” for “his handicap”.

Pub. L. 100–259, § 4(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 100–259, § 4(2), added subsec. (b).

Subsec. (b)(2)(B). Pub. L. 100–630, § 206(d)(2), substituted “section 2891(12) of title 20” for “section 2854(a)(10) of title 20”.

Subsec. (c). Pub. L. 100–259, § 4(2), added subsec. (c).

1986—Pub. L. 99–506 substituted “individual with handicaps” for “handicapped individual” and “section 706(8) of this title” for “section 706(7) of this title”.

1978—Pub. L. 95–602 substituted “section 706(7) of this title” for “section 706(6) of this title” and inserted provision prohibiting discrimination under any program or activity conducted by any Executive agency or by the United States Postal Service and requiring the heads of these agencies to promulgate regulations prohibiting discrimination.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of Title 20, Education.

EXCLUSION FROM COVERAGE

Amendment by Pub. L. 100–259 not to be construed to extend application of this chapter to ultimate beneficiaries of Federal financial assistance excluded from coverage before Mar. 22, 1988, see section 7 of Pub. L. 100–259, set out as a Construction note under section 1687 of Title 20, Education.

ABORTION NEUTRALITY

Amendment by Pub. L. 100–259 not to be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal funds to perform or pay for an abortion, see section 8 of Pub. L. 100–259, set out as a note under section 1688 of Title 20, Education.

CONSTRUCTION OF PROHIBITION AGAINST DISCRIMINATION UNDER FEDERAL GRANTS

Rights or protections of this section not affected by any provision of Pub. L. 98–457, see section 127 of Pub. L. 98–457, set out as a note under section 5101 of Title 42, The Public Health and Welfare.

COORDINATION OF IMPLEMENTATION AND ENFORCEMENT OF PROVISIONS

For provisions relating to the coordination of implementation and enforcement of the provisions of this section by the Attorney General, see section 1–201 of Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d–1 of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 11914

Ex. Ord. No. 11914, Apr. 28, 1976, 41 F.R. 17871, which related to nondiscrimination in federally assisted programs, was revoked by Ex. Ord. No. 12250, Nov. 2, 1980, 45 F.R. 72995, set out as a note under section 2000d–1 of Title 42, The Public Health and Welfare.

**§ 794a. Remedies and attorney fees**

(a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–16), including the application of sections 706(f) through 706(k) (42 U.S.C. 2000e–5(f) through (k)) (and the application of section 706(e)(3) (42 U.S.C. 2000e–5(e)(3)) to claims of discrimination in compensation), shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action rem-

<sup>1</sup> See References in Text note below.