

§ 791. Employment of individuals with disabilities

(a) Interagency Committee on Employees who are Individuals with Disabilities; establishment; membership; co-chairmen; availability of other Committee resources; purpose and functions

There is established within the Federal Government an Interagency Committee on Employees who are Individuals with Disabilities (hereinafter in this section referred to as the “Committee”), comprised of such members as the President may select, including the following (or their designees whose positions are Executive Level IV or higher): the Chairman of the Equal Employment Opportunity Commission (hereafter in this section referred to as the “Commission”), the Director of the Office of Personnel Management, the Secretary of Veterans Affairs, the Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services. Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons of the Committee or the Director or Chairman shall serve as the sole chairperson of the Committee, as the Director and Chairman jointly determine, from time to time, to be appropriate. The resources of the President’s Disability Employment Partnership Board and the President’s Committee for People with Intellectual Disabilities shall be made fully available to the Committee. It shall be the purpose and function of the Committee (1) to provide a focus for Federal and other employment of individuals with disabilities, and to review, on a periodic basis, in cooperation with the Commission, the adequacy of hiring, placement, and advancement practices with respect to individuals with disabilities, by each department, agency, and instrumentality in the executive branch of Government and the Smithsonian Institution, and to insure that the special needs of such individuals are being met; and (2) to consult with the Commission to assist the Commission to carry out its responsibilities under subsections (b), (c), and (d) of this section. On the basis of such review and consultation, the Committee shall periodically make to the Commission such recommendations for legislative and administrative changes as it deems necessary or desirable. The Commission shall timely transmit to the appropriate committees of Congress any such recommendations.

(b) Federal agencies; affirmative action program plans

Each department, agency, and instrumentality (including the United States Postal Service and the Postal Regulatory Commission) in the executive branch and the Smithsonian Institution shall, within one hundred and eighty days after September 26, 1973, submit to the Commission and to the Committee an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities in such department, agency, instrumentality, or Institution. Such plan shall include a description of the extent to which and methods whereby the special needs of employees who are individuals with disabilities are being met. Such plan shall be updated annually, and shall be reviewed annually and approved by the Commission, if the Commission determines, after consultation with the Committee, that such plan provides sufficient assurances, procedures and commitments to provide adequate hiring, placement, and advancement opportunities for individuals with disabilities.

(c) State agencies; rehabilitated individuals, employment

The Commission, after consultation with the Committee, shall develop and recommend to the Secretary for referral to the appropriate State agencies, policies and procedures which will facilitate the hiring, placement, and advancement in employment of individuals who have received rehabilitation services under State vocational rehabilitation programs, veterans programs, or any other program for individuals with disabilities, including the promotion of job opportunities for such individuals. The Secretary shall encourage such State agencies to adopt and implement such policies and procedures.

(d) Report to Congressional committees

The Commission, after consultation with the Committee, shall, on June 30, 1974, and at the end of each subsequent fiscal year, make a complete report to the appropriate committees of the Congress with respect to the practices of and achievements in hiring, placement, and advancement of individuals with disabilities by each department, agency, and instrumentality and the Smithsonian Institution and the effectiveness of the affirmative action programs required by subsection (b) of this section, together with recommendations as to legislation which have been submitted to the Commission under subsection (a) of this section, or other appropriate action to insure the adequacy of such practices. Such report shall also include an evaluation by the Committee of the effectiveness of the activities of the Commission under subsections (b) and (c) of this section.

(e) Federal work experience without pay; non-Federal status

An individual who, as a part of an individualized plan for employment under a State plan approved under this chapter, participates in a program of unpaid work experience in a Federal agency, shall not, by reason thereof, be considered to be a Federal employee or to be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(f) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleg-
ing 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 501.1 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101-12204 and 12210), as such sections relate to employment.


REFERENCES IN TEXT

Level IV of the Executive Schedule, referred to in subsec. (a), is set out in section 3315 of Title 5, Government Organization and Employees.


subsec. (a), is set out in section 5315 of Title 5, Government Organization and Employees. and Employees. and Employees. After “in the executive branch” and substituted “such department, agency, instrumentality, or Institution” for “such department, agency, or instrumentality”.


Subsec. (e). Pub. L. 105–220, §408(a)(1)(B), substituted “individualized plan for employment” for “individualized written rehabilitation program”.


Subsec. (a). Pub. L. 102–569, §102(p)(29)(B), (C), substituted “Interagency Committee on Employees who are Individuals with Disabilities” for “Interagency Committee on Handicapped Employees” and “individuals with disabilities” for “individuals with handicaps” in two places.

Subsec. (b). Pub. L. 102–569, §102(p)(29)(C), (D), substituted “individuals with disabilities” for “individuals with handicaps” after “advancement of” and after “opportunities for” and “employees who are individuals with disabilities” for “employees with handicaps”.

Subsecs. (c), (d), (f)(2). Pub. L. 102–569, §102(p)(29)(C), substituted “individuals with disabilities” for “individuals with handicaps”.

Subsec. (g). Pub. L. 102–569, §503(b), added subsec. (g).

1991—Subsec. (a). Pub. L. 102–54 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans Affairs”.


Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services” for “Secretaries of Labor and Education and Health and Human Services” in first sentence, “co-chairpersons” for “co-chairmen” in second sentence, and “Commission” for “Office” in cl. (2).


Subsec. (e). Pub. L. 100–630, §206(a)(8), substituted “an individualized” for “a individualized”.


1See References in Text note below.
Subsec. (e). Pub. L. 99–506, §1001(f)(1), substituted "a individualized” for "his individualized”.

Subsec. (f)(2). Pub. L. 99–506, §103(d)(2)(C), substituted "individuals with handicaps” for "handicapped individu als”.


Subsec. (b). Pub. L. 98–221, §104(b)(3)(C), (D), substituted "Office of Personnel Management” for "Civil Service Commission” and substituted "Office” for "Commission” in three places.


EFFECTIVE DATE OF 1998 AMENDMENT
Amendment by section 341(c) of Pub. L. 105–220 effective Aug. 7, 1998, and applicable to and may be raised in any administrative or judicial claim or action brought before Aug. 7, 1998, but pending on such date, and any administrative or judicial claim or action brought after such date regardless of whether the claim or action arose prior to such date, if the claim or action brought within the applicable statute of limitations, see section 341(d) of Pub. L. 105–220, formerly set out as a note under section 631a of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

(a) EFFECTIVE DATE—Except as provided in subsection (b), this title [enacting sections 718 to 718b, 725 to 722a, and 740 to 744 of this title, amending this section and sections 701, 705 to 707, 709, 711 to 715, 717, 720 to 724, 730 to 732, 740, 741, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 761, 762, 763, 764, 765, 766, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 795b, 795c, 795d, 795e, and 795f of this title, repealing section 752 of this title, enacting provisions set out as notes under section 712 of this title, and amending provisions set out as a note under section 701 of this title] and the amendments made by this title shall take effect on the date of enactment of this Act [Oct. 29, 1992].

(b) COMPLIANCE—Each State agency subject to the provisions of title I of the Rehabilitation Act of 1973 [29 U.S.C. 720 et seq.] shall comply with the amendments made by this subtitle [subtitle B (§§121–138) of title I of Pub. L. 102–569, enacting sections 725 to 728a and 740 to 744 of this title, amending sections 705, 720 to 724, and 730 to 732 of this title, and repealing section 752 of this title], as soon as is practicable after the date of enactment of this Act [Oct. 29, 1992], consistent with the effective and efficient administration of the Rehabilitation Act of 1973 [29 U.S.C. 701 et seq.], but not later than October 1, 1993."

EFFECTIVE DATE OF 1986 AMENDMENT
Pub. L. 99–506, title X, §1006, Oct. 21, 1986, 100 Stat. 1846, provided that: "Except as otherwise provided in this Act [see Short Title of 1986 Amendment note set out under section 701 of this title], this Act shall take effect on the date of its enactment [Oct. 21, 1986]."

TERMINATION OF REPORTING REQUIREMENTS
For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which reports required under subsection (a) of this section are listed on page 188), see section 3003 of Pub. L. 104–66, set out as a note under section 1113 of Title 31, Money and Finance.

EXECUTIVE ORDER NO. 10640
Ex. Ord. No. 10640, Oct. 10, 1955, 20 F.R. 7717, formerly set out as a note under section 39 of this title, which related to President’s Committee on Employment of the Physically Handicapped, was superseded by section 6(a) of Ex. Ord. No. 10994, Feb. 14, 1962, 27 F.R. 1447, which established President’s Committee on Employment of the Handicapped.

EXECUTIVE ORDER NO. 10994

EXECUTIVE ORDER NO. 11480

EX. ORD. NO. 11830, ENLARGING MEMBERSHIP OF INTERAGENCY COMMITTEE ON HANDICAPPED EMPLOYEES

By virtue of the authority vested in me by section 501(a) of the Rehabilitation Act of 1973 (Public Law 93–112; 87 Stat. 390) [subsec. (a) of this section], it is hereby ordered as follows:

SECTION 1. In accord with Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and Section 4 of Reorganization Plan No. 1 of 1978 (43 FR 18808) [set out in the Appendix to Title 5, Government Organization and Employees], the Interagency Committee on Handicapped Employees is enlarged and composed of the following, or their designees whose positions are Executive level IV or higher:

(1) Secretary of Defense.
(2) Secretary of Labor.
(3) Secretary of Education, Co-Chairman.
(4) Director of the Office of Personnel Management.
(5) Administrator of Veterans Affairs.
(6) Administrator of General Services.
(7) Chairman of the Federal Communications Commission.
(8) Chairman of the Equal Employment Opportunity Commission, Co-Chairman.
(9) Secretary of Health and Human Services.
(10) Postmaster General of the United States Postal Service.
(11) Chairman of the President’s Committee on Employment of People with Disabilities (Ex Officio).
(12) Such other members as the President may designate.

SEC. 2. The Interagency Committee on Handicapped Employees shall also be referred to as the Interagency Committee on Employment of People with Disabilities.

EXECUTIVE ORDER NO. 12640
§ 791

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Rehabilitation Act of 1973 (29 U.S.C. 791 et seq.), as amended, and in order to promote a model Federal workplace that provides reasonable accommodation for (1) individuals with disabilities in the application process for Federal employment; (2) Federal employees to perform the essential functions of a position; and (3) Federal employees with disabilities to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities, it is hereby ordered as follows:

SECTION 1. Establishment of Effective Written Procedures to Facilitate the Provision of Reasonable Accommodation.

(a) Each Federal agency shall establish effective written procedures for processing requests for reasonable accommodation by employees and applicants with disabilities. The written procedures may allow different components of an agency to tailor their procedures as necessary to ensure the expeditious processing of requests.

(b) As set forth in Re-charting the Course: The First Report of the Presidential Task Force on Employment of Adults with Disabilities (1998), effective written procedures for processing requests for reasonable accommodation should include the following:

(1) Explain that an employee or job applicant may initiate a request for reasonable accommodation orally or in writing. If the agency requires an applicant or employee to complete a reasonable accommodation request form for recordkeeping purposes, the form must be provided as an attachment to the agency’s written procedures;

(2) Explain how the agency will process a request for reasonable accommodation, and from whom the individual will receive a final decision;

(3) Designate a time period during which reasonable accommodation requests will be granted or denied, absent extenuating circumstances. Time limits for decision making should be as short as reasonably possible;

(4) Explain the responsibility of the employee or applicant to provide appropriate medical information related to the functional impairment at issue and the requested accommodation where the disability and/or need for accommodation is not obvious;

(5) Explain the agency’s right to request relevant supplemental medical information if the information submitted does not clearly explain the nature of the disability, or the need for the reasonable accommodation, or does not otherwise clarify how the requested accommodation will assist the employee to perform the essential functions of the job or to enjoy the benefits and privileges of the workplace;

(6) Explain the agency’s right to have medical information reviewed by a medical expert of the agency’s choosing at the agency’s expense;

(7) Provide that reassignment will be considered as a reasonable accommodation if the agency determines that no other reasonable accommodation will permit the employee with a disability to perform the essential functions of his or her current position;

(8) Provide that reasonable accommodation denials be in writing and specify the reasons for denial;

(9) Ensure that agencies’ systems of recordkeeping track the processing of requests for reasonable accommodation and maintain the confidentiality of medical information received in accordance with applicable law and regulations; and

(10) Encourage the use of informal dispute resolution processes to allow individuals with disabilities to obtain prompt reconsideration of denials of reasonable accommodation. Agencies must also inform individuals with disabilities that they have the right to file complaints in the Equal Employment Opportunity process and other statutory processes, as appropriate, if their requests for reasonable accommodation are denied.

Stated. 2. Submission of Agency Reasonable Accommodation Procedures to the Equal Employment Opportunity Commis-
sion (EEOC). Within 1 year from the date of this order, each agency shall submit its procedures to the EEOC. Each agency shall also submit to the EEOC any modifica-
tions to its reasonable accommodation procedures at the time that those modifications are adopted.

SIC. 3. Collective Bargaining Obligations. In adopting their reasonable accommodation procedures, agencies must honor their obligations to notify their collective bargaining representatives and bargain over such pro-
cedures to the extent required by law.

SIC. 4. Implementation. The EEOC shall issue guidance for the implementation of this order within 90 days from the date of this order.

SIC. 5. Construction and Judicial Review. (a) Nothing in this order limits the rights that individuals with dis-
abilities may have under the Rehabilitation Act of 1973, as amended.

(b) This order is intended only to improve the inter-
nal management of the executive branch and does not dis-
authorize or require the taking of any action enforceable at law or equity by a party against the
United States, its agencies, its officers, its employees, or any person.

WILLIAM J. CLINTON.

EX. ORD. NO. 13548. INCREASING FEDERAL EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES

Ex. Ord. No. 13548, July 26, 2010, 75 F.R. 45039, pro-
vided:

By the authority vested in me as President by the
Constitution and the laws of the United States of
America, and in order to establish the Federal Gov-
ernment as a model employer of individuals with disabil-
ities, it is hereby ordered as follows:

SECTION 1. Policy. Approximately 54 million Ameri-
cans are living with a disability. The Federal Gover-
ment has an important interest in reducing discrimina-
tion against Americans living with a disability, in
elminating the stigma associated with disability, and in
encouraging Americans with disabilities to seek em-
ployment in the Federal workforce. Yet Americans
with disabilities have an employment rate far lower than that of Americans without disabilities, and they are underrepresented in the Federal workforce. Individ-
uals with disabilities currently represent just over 1
percent of the nearly 2.5 million people in the Federal
workforce, and individuals with targeted disabilities (as defined below) currently represent less than 1 per-
cent of that workforce.

On July 26, 2000, in the final year of his administra-
tion, President Clinton signed Executive Order 13163, calling for an additional 100,000 individuals with dis-
abilities hired by the Federal Government over 5 years. Yet few steps were taken to implement that Executive Order in subsequent years.

As the Nation’s largest employer, the Federal Gov-
ernment must become a model for the employment of individuals with disabilities. Executive departments and agencies (agencies) must improve their efforts to
employ workers with disabilities through increased re-
cruitment, hiring, and retention of the individuals.
My Administration is committed to increasing the
number of individuals with disabilities in the Federal
workforce through compliance with Executive Order 13163 and achievement of the goals set forth therein over 5 years, including specific goals for hiring individ-
uals with targeted disabilities.

SIC. 2. Recruitment and Hiring of Individuals with Dis-
abilities. (a) Within 60 days of the date of this order, the
Director of the Office of Personnel Management, in
consultation with the Secretary of Labor, the Chair of
the Equal Employment Opportunity Commission, and
the Director of the Office of Management and Budget,
shall design model recruitment and hiring strategies for
agencies seeking to increase their employment of people with disabilities and develop mandatory train-
ing programs for both line personnel and hiring managers on the employment of individuals with disabilities.

(b) Within 120 days of the date of the Office of Person-
nel Management sets forth strategies and programs re-
quired under subsection (a), each agency shall develop
an agency-specific plan for promoting employment op-
portunities for individuals with disabilities. The plan
shall be developed in consultation with and, as appro-
prate, subject to approval by the Director of the Office
of Personnel Management and the Director of the Of-
fice of Management and Budget, and shall, consistent
with law, include performance targets and numerical

goals for employment of individuals with disabilities
and sub-goals for employment of individuals with tar-
ged disabilities.

(c) Each agency shall designate a senior-level agency
official to be accountable for enhancing employment
opportunities for individuals with disabilities and indi-
viduals with targeted disabilities within the agency,
consistent with law, and for meeting the goals of this
order. This official, among other things, shall be ac-
countable for developing and implementing the agen-
cy’s plan under subsection (b), creating recruitment
and training programs for employment of Individuals
with disabilities and targeted disabilities. The agency
must honor their obligations to notify their collective
bargaining representatives of the plans and the new stra-
geties, executive branch hiring programs, and training
and mentoring programs.

(e) The Office of Personnel Management shall assist
agencies with the implementation of their plans. The
Director of the Office of Personnel Management, in
consultation with the Director of the Office of Manage-
ment and Budget, shall implement a system for report-
ing regularly to the President, the heads of agencies,
and the public on agencies’ progress in implementing
their plans and the objectives of this order. The Office
of Personnel Management, to the extent permitted by
law, shall compile and post on its website Government-
wide statistics on the hiring of individuals with disabil-
ities.

SIC. 3. Increasing Agencies’ Retention and Return to
Work of Individuals with Disabilities. (a) The Director
of the Office of Personnel Management, in consultation
with the Secretary of Labor and the Chair of the Equal
Employment Opportunity Commission, shall identify
and assist agencies in implementing strategies for re-
taining Federal workers with disabilities in Federal
employment including, but not limited to, training pro-
grams, fellowships, and training and mentoring pro-
grams.

(b) Agencies shall make special efforts, to the extent
permitted by law, to ensure the retention of those who
are injured on the job. Agencies shall work to improve,
expand, and increase successful return-to-work out-
comes for those of their employees who sustain work-
related injuries and illnesses, as defined under the Fed-
eral Employees’ Compensation Act (FECA), by increas-
ing the availability of job accommodations and light or
limited duty jobs, removing disincentives for FECA
claimants to return to work, and taking other appro-
priate measures. The Secretary of Labor, in consulta-
tion with the Director of the Office of Personnel
Management, shall pursue innovative re-employment strat-
egies and develop policies, procedures, and structures
that foster improved return-to-work outcomes, includ-
ing by pursuing overall reform of the FECA system.
The Secretary of Labor shall also propose specific out-
come measures and targets by which each agency
progress in carrying out return-to-work and FECA
claims processing efforts can be assessed.

SIC. 4. Definitions. (a) “Disability” shall be defined as

(b) “Targeted disability” shall be defined as set forth
on the form for self-identification of disability, Stand-
§ 792. Architectural and Transportation Barriers Compliance Board

(a) Establishment; membership; chairperson; vice-chairperson; term of office; termination of membership; reappointment; compensation and travel expenses; bylaws; quorum requirements

(1) There is established within the Federal Government the Architectural and Transportation Barriers Compliance Board (hereinafter referred to as the “Access Board”) which shall be composed as follows:

(A) Thirteen members shall be appointed by the President from among members of the general public of whom at least a majority shall be individuals with disabilities.

(B) The remaining members shall be the heads of each of the following departments or agencies (or their designees whose positions are executive level IV or higher):

(i) Department of Health and Human Services.

(ii) Department of Transportation.

(iii) Department of Housing and Urban Development.

(iv) Department of Labor.

(v) Department of the Interior.

(vi) Department of Defense.

(vii) Department of Justice.

(viii) General Services Administration.

(ix) Department of Veterans Affairs.

(x) United States Postal Service.

(xi) Department of Education.

(xii) Department of Commerce.

The chairperson and vice-chairperson of the Access Board shall be elected by majority vote of the members of the Access Board to serve for terms of one year. When the chairperson is a member of the general public, the vice-chairperson shall be a Federal official; and when the chairperson is a Federal official, the vice-chairperson shall be a member of the general public. Upon the expiration of the term as chairperson of a member who is a Federal official, the subsequent chairperson shall be a member of the general public; and vice versa.

(2)(A)(i) The term of office of each appointed member of the Access Board shall be 4 years, except as provided in clause (ii). Each year, the terms of office of at least three appointed members of the board shall expire.

(ii) (1) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

(2) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

(3) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.

(B) A member whose term has expired may continue to serve until a successor has been appointed.

(C) A member appointed to fill a vacancy shall serve for the remainder of the term to which that member’s predecessor was appointed.

(3) If any appointed member of the Access Board becomes a Federal employee, such member may continue as a member of the Access Board for not longer than the sixty-day period beginning on the date the member becomes a Federal employee.

(4) No individual appointed under paragraph (1)(A) of this subsection who has served as a member of the Access Board may be reappointed to the Access Board more than once unless such individual has not served on the Access Board for a period of two years prior to the effective date of such individual’s appointment.

(5)(A) Members of the Access Board who are not regular full-time employees of the United States shall, while serving on the business of the Access Board, be entitled to receive compensation at rates fixed by the President, but not to exceed the daily equivalent of the rate of pay for level IV of the Executive Schedule under section 5315 of title 5, including travel time, for each day they are engaged in the performance of their duties as members of the Access Board; and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(B) Members of the Access Board who are employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out their duties under this section.

(6)(A) The Access Board shall establish such bylaws and other rules as may be appropriate to enable the Access Board to carry out its functions under this chapter.

(B) The bylaws shall include quorum requirements. The quorum requirements shall provide that (i) a proxy may not be counted for purposes of establishing a quorum, and (ii) the (i) not less than half the members required for a quorum shall be members of the general public appointed under paragraph (1)(A).
(b) Functions

It shall be the function of the Access Board to—

(1) ensure compliance with the standards prescribed pursuant to the Act entitled “An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped”, approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 12131 et seq., 12181 et seq.) with respect to the application of such Act to the United States Postal Service, including enforcing all standards under such Act, and ensuring that all waivers and modifications to the standards are based on findings of fact and are not inconsistent with the provisions of this section;

(2) develop advisory information for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this subchapter or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq., and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

(3) establish and maintain—

(A) minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

(B) minimum guidelines and requirements for the standards issued pursuant to titles II and III of the Americans with Disabilities Act of 1990;

(C) guidelines for accessibility of telecommunications equipment and customer premises equipment under section 255 of title 47; and

(D) standards for accessible electronic and information technology under section 794d of this title;

(4) promote accessibility throughout all segments of society;

(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

(6) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems, (A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems, and (B) to make housing available and accessible to individuals with disabilities or to meet sheltered housing needs; and

(7) promote accessibility throughout all segments of society;

(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

(9) make to the President and to the Congress such recommendations for legislative and administrative changes as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5);

(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities; and

(11) carry out the responsibilities specified for the Access Board in section 794d of this title.

c) Additional functions; transportation barriers and housing needs; transportation and housing plans and proposals

The Access Board shall also (1) determine how and to what extent transportation barriers impede the mobility of individuals with disabilities and aged individuals with disabilities and consider ways in which travel expenses in connection with transportation to and from work for individuals with disabilities can be met or subsidized when such individuals are unable to use mass transit systems or need special equipment in private transportation, and (B) consider the housing needs of individuals with disabilities; (2) determine what measures are being taken, especially by public and other nonprofit agencies and groups having an interest in and a capacity to deal with such problems, (A) to eliminate barriers from public transportation systems (including vehicles used in such systems), and to prevent their incorporation in new or expanded transportation systems, and (B) to make housing available and accessible to individuals with disabilities or to meet sheltered housing needs; and (3) prepare plans and proposals for such further actions as may be necessary to the goals of adequate transportation and housing for individuals with disabilities, including proposals for bringing together in a cooperative effort, agencies, organizations, and groups already working toward such goals or whose cooperation is essential to effective and comprehensive action.

d) Electronic and information technology accessibility training

Beginning in fiscal year 2000, the Access Board, after consultation with the Secretary, representatives of such public and private entities as the Access Board determines to be appropriate (including the electronic and information technology industry), targeted individuals and entities (as defined in section 3002 of this title), and State information technology officers, shall provide training for Federal and State employees on any obligations related to section 794d of this title.

(e) Investigations; hearings; orders; administrative procedure applicable; final orders; judicial review; civil action; intervention

(1) The Access Board shall conduct investigations, hold public hearings, and issue such orders as it deems necessary to ensure compliance with the provisions of the Acts cited in subsection (b). Except as provided in paragraph (3) of subsection (f), the provisions of subchapter II of chapter 5, and chapter 7 of title 5 shall apply
to procedures under this subsection, and an order of compliance issued by the Access Board shall be a final order for purposes of judicial review. Any such order affecting any Federal department, agency, or instrumentality of the United States shall be final and binding on such department, agency, or instrumentality. An order of compliance may include the withholding or suspension of Federal funds with respect to any building or public conveyance or rolling stock found not to be in compliance with standards enforced under this section. Pursuant to chapter 7 of title 5, any complainant or participant in a proceeding under this subsection may obtain review of a final order issued in such proceeding.

(2) The executive director is authorized, at the direction of the Access Board—

(A) to bring a civil action in any appropriate United States district court to enforce, in whole or in part, any final order of the Access Board under this subsection; and

(B) to intervene, appear, and participate, or to appear as amicus curiae, in any court of the United States or in any court of a State in civil actions that relate to this section or to the Architectural Barriers Act of 1968 [42 U.S.C. 4151 et seq.].

Except as provided in section 518(a) of title 28, relating to litigation before the Supreme Court, the executive director may appear for and represent the Access Board in any civil litigation brought under this section.

(f) Appointment of executive director, administrative law judges, and other personnel; provisions applicable to administrative law judges; authority and duties of executive director; finality of orders of compliance

(1) There shall be appointed by the Access Board an executive director and such other professional and clerical personnel as are necessary to carry out its functions under this chapter. The Access Board is authorized to appoint as many administrative law judges as are necessary for proceedings required to be conducted under this section. The provisions applicable to administrative law judges appointed under section 3105 of title 5 shall apply to administrative law judges appointed under this subsection.

(2) The Executive Director shall exercise general supervision over all personnel employed by the Access Board (other than administrative law judges and their assistants). The Executive Director shall have final authority on behalf of the Access Board, with respect to the investigation of alleged noncompliance and in the issuance of formal complaints before the Access Board, and shall have such other duties as the Access Board may prescribe.

(3) For the purpose of this section, an order of compliance issued by an administrative law judge shall be deemed to be an order of the Access Board and shall be the final order for the purpose of judicial review.

(g) Technical, administrative, or other assistance; appointment, compensation, and travel expenses of advisory and technical experts and consultants

(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

(B) Any funds appropriated to such a department or agency for the purpose of providing such technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

(C) The Access Board may arrange to carry out the technical assistance responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

(2) The departments or agencies specified in subsection (a) of this section shall make available to the Access Board such technical, administrative, or other assistance as it may require to carry out its functions under this section, and the Access Board may appoint such other advisors, technical experts, and consultants as it deems necessary to assist it in carrying out its functions under this section. Special advisory and technical experts and consultants appointed pursuant to this paragraph shall, while performing their functions under this section, be entitled to receive compensation at rates fixed by the Chairperson, but not exceeding the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5302 of title 5, including travel time, and while serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

(h) Omitted

(i) Grants and contracts to aid Access Board in carrying out its functions; acceptance of gifts, devises, and bequests of property

(1) The Access Board may make grants to, or enter into contracts with, public or private organizations to carry out its duties under subsections (b) and (c).

(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (2) and (4) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

2 So in original. Probably should not be capitalized.
(B) The Access Board shall publish regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.

(3) Omitted.

(j) Authorization of appropriations

There are authorized to be appropriated for the purpose of carrying out the duties and functions of the Access Board under this section $7,448,000 for fiscal year 2015, $8,023,000 for fiscal year 2016, $8,190,000 for fiscal year 2017, $8,371,000 for fiscal year 2018, $8,568,000 for fiscal year 2019, and $8,750,000 for fiscal year 2020.


REFERENCES IN TEXT

Executive level IV, referred to in subsec. (a)(1)(B), is set out in section 5315 of Title 5, Government Organization and Employees.


AMENDMENTS

2014—Subsec. (j). Pub. L. 113–128 substituted $7,448,000 for fiscal year 2015, $8,023,000 for fiscal year 2016, $8,190,000 for fiscal year 2017, $8,371,000 for fiscal year 2018, $8,568,000 for fiscal year 2019, and $8,750,000 for fiscal year 2020.


Subsec. (b)(3). Pub. L. 105–220, § 408(a)(2)(B)(ii), added par. (3) and struck out former par. (3) which read as follows: “establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990.”


Subsec. (d)(1). Pub. L. 105–220, § 408(a)(2)(C), substituted “procedures under this subsection” for “procedures under this section.”

Subsec. (e). Pub. L. 105–394, § 203(a)(1), (3), redesignated subsec. (d) as (e) and substituted “subsection (f)” for “subsection (e)” in second sentence of par. (1). Former subsec. (e) redesignated (f).


Subsec. (g). Pub. L. 105–394, § 203(a)(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (g)(2). Pub. L. 105–220, § 408(a)(2)(D), substituted “Committee on Education and the Workforce” for “Committee on Education and Labor”.


Subsec. (h)(2)(A). Pub. L. 105–220, § 408(a)(2)(E), substituted “paragraphs (2) and (4)” for “paragraphs (3) and (7)”.


1993—Subsec. (a)(5)(A). Pub. L. 103–73 substituted “level IV of the Executive Schedule under section 5315” for “level 4 of the Senior Executive Service Schedule under section 5382”.

1992—Pub. L. 102–569, § 504(a)(2), (3), substituted “the Access Board” and “the Access Board” for “the Board” and “The Board”, respectively, wherever appearing.


Subsec. (a)(1)(A). Pub. L. 102–569, § 504(b)(1)(A), substituted “Thirteen” for “Twelve” and “at least a majority” for “six”.

Pub. L. 102–569, § 102(p)(30), substituted “individuals with disabilities” for “individuals with handicaps”.


Subsec. (a)(2)(A). Pub. L. 102–569, § 504(b)(2), designated existing provisions as cl. (i), substituted “4 years, except as provided in clause (ii)” for “three years” and “at least three” for “four”, and added cl. (ii).
§ 792

Subsec. (a)(3). Pub. L. 102–569, § 504(b)(3), substituted "a Federal" for "such an" after "member becomes".

Subsec. (a)(5)(A). Pub. L. 102–569, § 504(b)(4), substituted "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382" for "the daily rate prescribed for GS–18 under section 5322".

Subsec. (b). Pub. L. 102–569, § 504(c), amended subsec. (b) generally, substituting present provisions for provisions which outlined eight specific functions of the Access Board.


Subsec. (d)(1). Pub. L. 102–569, § 504(d)(1), in first sentence, substituted "The Access Board shall conduct" for "In carrying out its functions under this chapter, the Access Board shall, directly or through grants to public or private nonprofit organizations or contracts with private nonprofit or for-profit organizations, carry out its functions under subsections (b) and (c) of this section, and shall conduct" and "to ensure compliance" for "to insure compliance".

Subsec. (d)(3). Pub. L. 102–569, § 504(d)(2), struck out par. (3) which read as follows: "The Access Board, in consultation and coordination with other concerned Federal departments and agencies and agencies within the Department of Education, shall develop standards and guidelines appropriate for technical assistance to public or private activity, person, or entity affected by regulations prescribed pursuant to this subchapter with respect to overcoming architectural, transportation, and communication barriers. Any funds appropriated to any such department or agency for the purpose of providing such assistance may be transferred to the Access Board for the purpose of carrying out this paragraph. The Access Board may arrange to carry out its responsibilities under this paragraph through such other departments and agencies for such periods as the Access Board determines is appropriate. In carrying out its technical assistance responsibilities under this paragraph, the Access Board shall establish a procedure to insure separation of its compliance and technical assistance responsibilities under this section.".

Subsec. (f). Pub. L. 102–569, § 504(e), added par. (1), designated existing provisions as par. (2) and substituted "paragraph" for "subsection" and "Chairperson" for "Secretary", and "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382" for "the daily pay rate for a person employed as a GS–18 under section 5322".

Subsec. (g). Pub. L. 102–569, § 504(f), designated existing provisions as par. (1), substituted paragraphs (8) and (9) of such subsection for "clauses (5) and (6) of subsection (b) of this section", struck out at end "The Access Board shall prepare two final reports of its activities under subsection (c). One such report shall be on its activities in the field of transportation barriers facing individuals with disabilities, and the other such report shall be on its activities in the field of the housing needs of individuals with disabilities. The Access Board shall, not later than September 30, 1975, submit such each report, together with its recommendations, to the President and the Congress. The Access Board shall also prepare for such submission an interim report of its activities in each such field within 18 months after September 26, 1973. The Access Board shall submit and publish two additional reports of its activities under subsection (c) of this section, one report on its activities in the field of transportation barriers facing individuals with disabilities and the other report on its activities in the field of the housing needs of individuals with disabilities. The two additional reports required by the previous sentence shall be submitted not later than February 1, 1988", and added par. (2).

Pub. L. 102–569, § 102(p)(30), substituted "individuals with disabilities" for "individuals with handicaps" wherever appearing.

Subsec. (h)(1). Pub. L. 102–569, § 504(g)(1)–(3), redesignated par. (2) as (1), struck out at end "The Access Board may also make grants to any designated State unit for the purpose of conducting studies to provide the cost assessments required by paragraph (1). Before a report containing an assessment of the amounts required to be expended by States and by political subdivisions thereof to provide individuals with disabilities with full access to all programs and activities receiving Federal assistance.

Pub. L. 102–569, § 102(p)(30), substituted "individuals with disabilities" for "individuals with handicap" before "with full access".

Subsec. (h)(2). Pub. L. 102–569, § 504(g)(4), which directed the addition of par. (2) "at the end of subsection (b), was executed by adding par. (2) before par. (3) to reflect the probable intent of Congress. Former par. (2) redesignated (1).

Subsec. (i). Pub. L. 102–569, § 504(h), substituted "fiscal years 1993 through 1997" for "fiscal years 1987 through 1992", but in no event shall the amount appropriated for any one fiscal year exceed $5,000,000.".


Subsec. (i) of this section, struck out former par. (2) which read as follows: "The term of office of each appointed member of the Board shall be three years; except that (i) the members first taking office shall serve, as designated by the President at the time of appointment, for a term of one year, four for a term of two years, and three for a term of three years, (ii) a member whose term has expired may continue to serve until a successor has been appointed, and (iii) a member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed. ".

Subsec. (a)(3). Pub. L. 102–630, § 206(b)(2), substituted "the member" for "he".


Subsec. (b). Pub. L. 100–630, § 206(b)(1), inserted a comma after "surface transportation" in cl. (2), and substituted "Administrator of General Services" for "Administrator of the General Services Administration" in cl. (4), "results to" for "results of" in cl. (5), and "individuals with physical handicap" for "physically handicapped persons" in cl. (8).

Subsec. (c)(2)(A). Pub. L. 100–630, § 206(b)(8), inserted a comma after "expanded transportation systems".

Subsec. (d)(2)(B). Pub. L. 100–630, § 206(b)(9), substituted "that relate to" for "which related to".

Subsec. (f). Pub. L. 100–630, § 206(b)(10), substituted "daily pay rate for" for "daily pay rate for", "section 5332 of title 5" for "section 5332 of title 45", and "traveltime" for "traveltime".

Subsec. (g). Pub. L. 100–630, § 206(b)(11), substituted "transportation barriers facing individuals with handicaps" for "transportation barriers to individuals with handicaps" and for "transportation barriers of handicapped individuals" in fourth and seventh sentences, respectively, and "housing needs of individuals with handicaps" for "housing needs of handicapped individuals" in seventh sentence.


Subsec. (a)(1)(B). Pub. L. 99–956, § 601(a)(1), substituted provision that Chairperson and vice-chairperson of Board shall be elected by majority vote of members of Board to serve for terms of one year, for provision that
President had to appoint first Chairman of such Board who was to serve for term of not more than two years, with subsequent Chairmen to be elected by majority vote of Board for term of one year, and inserted provisions that positions of Chairperson and vice-chairperson each be held alternately in succession by Federal official and by member of general public, and that whenever office is held by member of general public, the other will be held by Federal official.


Subsec. (b)(2), (c). Pub. L. 99–506, § 1002(d)(2)(C), substituted “alleged noncompliance and in” for “alleged noncompliance in”.


§ 792  TITLE 29—LABOR  Page 284

Subsec. (g), Pub. L. 93-516, § 111(q), substituted “not later than September 30, 1975” for “prior to January 1, 1975.”
Pub. L. 93-516, § 111(q), amended subsec. (g) in exactly the same manner as it was amended by Pub. L. 93-516.

Subsec. (h), Pub. L. 93-516, § 110, authorized appropriation of $1,500,000 for fiscal year ending June 30, 1976.
Pub. L. 93-516, § 110, amended subsec. (b) in exactly the same manner as it was amended by Pub. L. 93-516.

EFFECTIVE DATE OF 1980 AMENDMENT
Amendment by Pub. L. 96-374 effective Oct. 1, 1980, see section 1393(a) of Pub. L. 96-374, set out as a note under section 1001 of Title 20, Education.

EXTENSION OF VOCATIONAL REHABILITATION PROGRAMS THROUGH FISCAL YEAR ENDING SEPTEMBER 30, 1978; EFFECTIVE DATE OF 1976 AMENDMENT
Pub. L. 94-230, §§ 11(a), (b)(1), (c), Mar. 15, 1976, 90 Stat. 213, 214, extended certain program authorizations in the absence of congressional action, provided that the amendments made by section 11(b) of Pub. L. 94-230 would take effect at the close of Apr. 15, 1977, unless Congress passed legislation preempting those amendments, and provided that Congress would not be deemed to have had such legislation unless it became law.

TERMINATION OF ADVISORY PANELS
Advisory panels established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a panel established by the President or an officer of the Federal Government, such panel is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a panel established by the Congress, its duration is otherwise provided for by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

ACCESSIBILITY OF INFORMATION ON PRESCRIPTION DRUG CONTAINER LABELS BY VISUALLY IMPAIRED AND BLIND CONSUMERS
Pub. L. 112-144, title IX, § 904, July 9, 2012, 126 Stat. 1090, provided that:

“(a) ESTABLISHMENT OF WORKING GROUP.—

“(1) IN GENERAL.—The Architectural and Transportation Barriers Compliance Board (referred to in this section as the ‘Access Board’) shall convene a stakeholder working group (referred to in this section as the ‘working group’) to develop best practices on access to information on prescription drug container labels for individuals who are blind or visually impaired.

“(2) MEMBERS.—The working group shall be comprised of representatives of national organizations representing blind and visually impaired individuals, national organizations representing the elderly, and industry groups representing stakeholders, including retail, mail-order, and independent community pharmacies, who would be impacted by such best practices. Representation within the working group shall be divided equally between consumer and industry advocates.

“(3) BEST PRACTICES.—

“(A) IN GENERAL.—The working group shall develop, not later than 1 year after the date of the enactment of this Act (July 9, 2012), best practices for pharmacies to ensure that blind and visually impaired individuals have safe, consistent, reliable, and independent access to the information on prescription drug container labels.

“(B) PUBLIC AVAILABILITY.—The best practices developed under subparagraph (A) may be made publicly available, including through the Internet Web sites of the working group participant organizations, and through other means, in a manner that provides access to interested individuals, including individuals with disabilities.

“(C) LIMITATIONS.—The best practices developed under subparagraph (A) shall not be construed as accessibility guidelines or standards of the Access Board, and shall not confer any rights or impose any obligations on working group participants or other persons. Nothing in this section shall be construed to limit or condition any right, obligation, or remedy available under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) or any other Federal or State law requiring effective communication, barrier removal, or nondiscrimination on the basis of disability.

“(4) CONSIDERATIONS.—In developing and issuing the best practices under paragraph (3)(A), the working group shall consider—

“(A) the use of—

“(i) Braille;

“(ii) auditory means, such as—

“(I) ‘talking bottles’ that provide audible container label information;

“(II) digital voice recorders attached to the prescription drug container; and

“(III) radio frequency identification tags;

“(iii) enhanced visual means, such as—

“(I) large font labels or large font ‘duplicate’ labels that are affixed or marked at a prescription drug container;

“(II) high-contrast printing; and

“(III) sans-serif font; and

“(iv) other relevant alternatives as determined by the working group;

“(B) whether there are technical, financial, man-power, or other factors unique to pharmacies with 20 or fewer retail locations which may pose significant challenges to the adoption of the best practices; and

“(C) such other factors as the working group determines to be appropriate.

“(5) INFORMATION CAMPAIGN.—Upon completion of development of the best practices under subsection (a)(3), the National Council on Disability, in consultation with the working group, shall conduct an informational and educational campaign designed to inform individuals with disabilities, pharmacists, and the public about such best practices.

“(6) FACA WAIVER.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the working group.

“(b) GAO STUDY.—

“(1) IN GENERAL.—Beginning 18 months after the completion of the development of best practices under subsection (a)(3)(A), the Comptroller General of the United States shall conduct a review of the extent to which pharmacies are utilizing such best practices, and the extent to which barriers to accessible information on prescription drug container labels for blind and visually impaired individuals continue.

“(2) REPORT.—Not later than September 30, 2016, the Comptroller General of the United States shall submit to Congress a report on the review conducted under paragraph (1). Such report shall include recommendations about how best to reduce the barriers experienced by blind and visually impaired individuals to independently accessing information on prescription drug container labels.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘pharmacy’ includes a pharmacy that receives prescriptions and dispenses prescription drugs through an Internet Web site or by mail;

“(2) the term ‘prescription drug’ means a drug subject to section 503(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(b)(1)); and

“(3) the term ‘prescription drug container label’ means the label with the directions for use that is affixed to the prescription drug container by the pharmacist and dispensed to the consumer.”
§ 793. Employment under Federal contracts

(a) Amount of contracts or subcontracts; provisions for employment and advancement of qualified individuals with disabilities; regulations

Any contract in excess of $10,000 entered into by any Federal department or agency for the procurement of personal property and nonpersonal services (including construction) for the United States shall contain a provision requiring that the party contracting with the United States shall take affirmative action to employ and advance in employment qualified individuals with disabilities. The provisions of this section shall apply to any subcontract in excess of $10,000 entered into by a prime contractor in carrying out any contract for the procurement of personal property and nonpersonal services (including construction) for the United States. The President shall implement the provisions of this section by promulgating regulations within ninety days after September 26, 1973.

(b) Administrative enforcement; complaints; investigations; departmental action

If any individual with a disability believes any contractor has failed or refused to comply with the provisions of a contract with the United States, relating to employment of individuals with disabilities, such individual may file a complaint with the Department of Labor. The Department shall promptly investigate such complaint and shall take such action thereon as the facts and circumstances warrant, consistent with the terms of such contract and the laws and regulations applicable thereto.

(c) Waiver by President; national interest special circumstances

waiver of particular agreements; waiver by Secretary of Labor of affirmative action requirements

(1) The requirements of this section may be waived, in whole or in part, by the President with respect to a particular contract or subcontract, in accordance with guidelines set forth in regulations which the President shall prescribe, when the President determines that special circumstances in the national interest so require and states in writing the reasons for such determination.

(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor’s or subcontractor’s facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this chapter.

(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.

(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 506 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.


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), 506(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(b) 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, § 506(b), designated existing provisions as par. (1) and added par. (2).

Subsecs. (d), (e). Pub. L. 102–569, § 405(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 "individuals with handicaps" for "handicapped individuals".

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".

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

1992—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 assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other post-secondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 7801 of title 20), system of career and technical 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);

any part of which is extended Federal financial assistance.

(c) Significant structural alterations by small providers

Small providers are not required by subsection (a) 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, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.


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.


AMENDMENTS


1998—Subsec. (a). Pub. L. 105–220 substituted “section 706(20) of this title” for “section 706(19) of this title”.


1 See References in Text note below.


1986—Pub. L. 99–506 substituted “individual with handicap” for “handicapped individual” and “section 706(b)” 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 2015 Amendment**

Amendment by Pub. L. 114–95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114–95, set out as a note under section 6301 of Title 20, Education.

**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 1697 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**


**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. 72965, set out as a note under section 2004d–1 of Title 42, The Public Health and Welfare.

**Executive Order No. 11914**


**§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 remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternatives therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) (and in subsection (e)(3) of section 706 of such Act (42 U.S.C. 2000e–5), applied to claims of discrimination in compensation) shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistance under section 794 of this title.

(b) In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney’s fee as part of the costs.


**References in Text**


**Amendments**


**Effective Date of 2009 Amendment**

Amendment by Pub. L. 111–2 effective as if enacted May 28, 2007, and applicable to certain claims of discrimination in compensation pending on or after that date, see section 6 of Pub. L. 111–2, set out as a note under section 2000e–5 of Title 42, The Public Health and Welfare.
§ 794c  TITLE 29—LABOR  Page 288

(1) to persons operating community rehabilitation programs; and
(2) with the concurrence of the Access Board established by section 792 of this title, to any public or nonprofit agency, institution, or organization;

for the purpose of assisting such persons or entities in removing architectural, transportation, or communication barriers. Any concurrence of the Access Board under paragraph (2) shall reflect its consideration of cost studies carried out by States.

(b) Any such experts or consultants, while serving pursuant to such contracts, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, including travel time, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(c) The Secretary, with the concurrence of the Access Board and the President, may provide, directly or by contract, financial assistance to any public or nonprofit agency, institution, or organization for the purpose of removing architectural, transportation, and communication barriers. No assistance may be provided under this subsection until a study demonstrating the need for such assistance has been conducted and submitted under section 792(1)(1) of this title.

(d) In order to carry out this section, there are authorized to be appropriated such sums as may be necessary.

(Pub. L. 93–112, title V, § 506, as added Pub. L. 95–602, title I, § 120(a), Nov. 6, 1978, 92 Stat. 2983; amended Pub. L. 100–630, § 206(e)(1), (3), redesignated former par. (2) as subsec. (b) and substituted “travel time” for “traveltime”.

Subsec. (b). Pub. L. 100–630, § 206(e)(1), (4), redesignated former par. (3) as subsec. (c) and inserted a comma after “the President”.


§ 794c. Interagency Disability Coordinating Council

(a) Establishment

There is hereby established an Interagency Disability Coordinating Council (hereafter in this section referred to as the “Council”) composed of the Secretary of Education, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, the Chairperson of the National Council on Disability, and such other officials as may be designated by the President.

(b) Duties

The Council shall

(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for promoting the full integration into society, independence, and productivity of individuals with disabilities; and

(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal Government responsible for promoting the full integration into society, independence, and productivity of individuals with disabilities;

(3) carry out such studies and other activities, subject to the availability of resources, with advice from the National Council on Disability, in order to identify methods for overcoming barriers to integration into society, independence, and productivity of individuals with disabilities.

(c) Report

On or before July 1 of each year, the Interagency Disability Coordinating Council shall prepare and submit to the President and to the Congress a report of the activities of the Council designed to promote and meet the employment needs of individuals with disabilities, together with such recommendations for legislative and administrative changes as the Council concludes are desirable to further promote this section, along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with disabili-
§ 794d. Electronic and information technology

(a) Requirements for Federal departments and agencies

(1) Accessibility

(A) Development, procurement, maintenance, or use of electronic and information technology

When developing, procuring, maintaining, or using electronic and information technology, each Federal department or agency, including the United States Postal Service, shall ensure, unless an undue burden would be imposed on the department or agency, that the electronic and information technology allows, regardless of the type of medium of the technology—

(i) individuals with disabilities who are Federal employees to have access to and use of information and data that is comparable to the access to and use of the information and data by Federal employees who are not individuals with disabilities; and

(ii) individuals with disabilities who are members of the public seeking information or services from a Federal department or agency to have access to and use of information and data that is comparable to the access to and use of the information and data by such members of the public who are not individuals with disabilities.

(B) Alternative means efforts

When development, procurement, maintenance, or use of electronic and information technology that meets the standards published by the Access Board under paragraph (2) would impose an undue burden, the Federal department or agency shall provide individuals with disabilities covered by paragraph (1) with the information and data involved by an alternative means of access that allows the individual to use the information and data.

(2) Electronic and information technology standards

(A) In general

Not later than 18 months after August 7, 1998, the Architectural and Transportation Barriers Compliance Board (referred to in this section as the “Access Board”), after consultation with the Secretary of Education, the Administrator of General Services, the Secretary of Commerce, the Chairman of the Federal Communications Commission, the Secretary of Defense, and the head of any other Federal department or agency that the Access Board determines to be appropriate, including consultation on relevant research findings, and after consultation with the electronic and information technology industry and appropriate public or nonprofit agencies or organizations, including organizations representing individuals with disabilities, shall issue and publish standards setting forth—

(i) for purposes of this section, a definition of electronic and information technology that is consistent with the defini-
§ 794d

Council shall revise the Federal Acquisition standards required under paragraph (2), the
incorporate the revisions. Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each appropriate Federal department or agency shall revise the procurement policies and directives, as necessary, to incorporate those standards. Not later than 6 months after the Access Board publishes any standards required under paragraph (2), the Council shall revise the Federal Acquisition Regulation and each appropriate Federal department or agency shall revise the procurement policies and directives, as necessary, to incorporate the revisions.

(3) Incorporation of standards

Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Federal Acquisition Regulatory Council shall revise the Federal Acquisition Regulation and each Federal department or agency shall revise the Federal procurement policies and directives under the control of the department or agency to incorporate those standards. Not later than 6 months after the Access Board publishes the standards required under paragraph (2), the Council shall revise the Federal Acquisition Regulation and each appropriate Federal department or agency shall revise the procurement policies and directives, as necessary, to incorporate the revisions.

(4) Acquisition planning

In the event that a Federal department or agency determines that compliance with the standards issued by the Access Board under paragraph (2) relating to procurement imposes an undue burden, the documentation by the department or agency supporting the procurement shall explain why compliance creates an undue burden.

(5) Exemption for national security systems

This section shall not apply to national security systems, as that term is defined in section 11103(a) of title 40.

(6) Construction

(A) Equipment

In a case in which the Federal Government provides access to the public to information or data through electronic and information technology, nothing in this section shall be construed to require a Federal department or agency—

(i) to make equipment owned by the Federal Government available for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public; or

(ii) to purchase equipment for access and use by individuals with disabilities covered by paragraph (1) at a location other than that where the electronic and information technology is provided to the public.

(B) Software and peripheral devices

Except as required to comply with standards issued by the Access Board under paragraph (2), nothing in paragraph (1) requires the installation of specific accessibility-related software or the attachment of a specific accessibility-related peripheral device at a workstation of a Federal employee who is not an individual with a disability.

(b) Technical assistance

The Administration of General Services and the Access Board shall provide technical assistance to individuals and Federal departments and agencies concerning the requirements of this section.

(c) Agency evaluations

Not later than 6 months after August 7, 1996, the head of each Federal department or agency shall evaluate the extent to which the electronic and information technology of the department or agency is accessible to and usable by individuals with disabilities described in subsection (a)(1), compared to the access to and use of the technology by individuals described in such subsection who are not individuals with disabilities, and submit a report containing the evaluation to the Attorney General.

(d) Reports

(1) Interim report

Not later than 18 months after August 7, 1996, the Attorney General shall prepare and submit to the President a report containing information on and recommendations regarding the extent to which the electronic and information technology of the Federal Government is accessible to and usable by individuals with disabilities described in subsection (a)(1).

(2) Biennial reports

Not later than 3 years after August 7, 1996, and every 2 years thereafter, the Attorney General shall prepare and submit to the President and Congress a report containing information on and recommendations regarding the state of Federal department and agency compliance with the requirements of this section, including actions regarding individual complaints under subsection (f).

(e) Cooperation

Each head of a Federal department or agency (including the Access Board, the Equal Employment Opportunity Commission, and the General Services Administration) shall provide to the Attorney General such information as the Attorney General determines is necessary to conduct the evaluations under subsection (c) and prepare the reports under subsection (d).

(f) Enforcement

(1) General

(A) Complaints

Effective 6 months after the date of publication by the Access Board of final standards described in subsection (a)(2), any individual with a disability may file a complaint alleging that a Federal department or agency fails to comply with subsection (a)(1) in providing electronic and information technology.

(B) Application

This subsection shall apply only to electronic and information technology that is procured by a Federal department or agency not less than 6 months after the date of pub-
ication by the Access Board of final standards described in subsection (a)(2).

(2) Administrative complaints

Complaints filed under paragraph (1) shall be filed with the Federal department or agency alleged to be in noncompliance. The Federal department or agency receiving the complaint shall apply the complaint procedures established to implement section 794 of this title for resolving allegations of discrimination in a federally conducted program or activity.

(3) Civil actions

The remedies, procedures, and rights set forth in sections 794a(a)(2) and 794a(b) of this title shall be the remedies, procedures, and rights available to any individual with a disability filing a complaint under paragraph (1).

(g) Application to other Federal laws

This section shall not be construed to limit any right, remedy, or procedure otherwise available under any provision of Federal law (including sections 791 through 794a of this title) that provides greater or equal protection for the rights of individuals with disabilities than this section.


CODIFICATION


AMENDMENTS


Subsec. (f)(1)(B). Pub. L. 106–246, § 2405(2), substituted “6 months after the date of publication by the Access Board of final standards described in subsection (a)(2).” for “2 years after August 7, 1998.”

1998—Pub. L. 105–220 amended section catchline and text generally. Prior to amendment, text consisted of subsections (a) and (b) relating to electronic and information technology accessibility guidelines.

1992—Pub. L. 102–569 amended section generally, substituting present provisions for provisions relating to electronic equipment accessibility guidelines, in consultation with electronic industry, designed to insure individuals with handicaps use of electronic office equipment with or without special peripherals, requiring the Administrator of General Services to adopt guidelines for electronic equipment accessibility established under this section for Federal procurement of electronic equipment, and defining term “special peripherals”.

1986—Subsec. (a)(1). Pub. L. 100–630, § 206(f)(1), inserted “the Director of” before “the National Institute”, struck out “the” before “General Services”, and substituted “individuals with handicaps” for “handicapped individuals”.

Subsec. (a)(3). Pub. L. 100–630, § 206(f)(2), inserted “by the Director of the National Institute on Disability and Rehabilitation Research and the Administrator of General Services in consultation with the electronics industry and the Interagency Committee for Computer Support of Handicapped Employees” after “revised”.

Subsec. (c). Pub. L. 100–630, § 206(f)(3), substituted “an individual with handicap” for “a handicapped individual”.

§ 794e. Protection and advocacy of individual rights

(a) Purpose and construction

(1) Purpose

The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

(A) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 732 of this title; and

(B)(i) are ineligible for protection and advocacy programs under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 1501 et seq.] because the individuals do not have a developmental disability, as defined in section 102 of such Act [42 U.S.C. 15002]; and

(ii) are ineligible for services under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 [42 U.S.C. 10801 et seq.] because the individuals are not individuals with mental illness, as defined in section 102 of such Act [42 U.S.C. 10802].

(2) Construction

This section shall not be construed to require the provision of protection and advocacy services that can be provided under the Assistive Technology Act of 1998 [29 U.S.C. 3001 et seq.] in each State to protect the legal and human rights of individuals with disabilities who—

(A) need services that are beyond the scope of services authorized to be provided by the client assistance program under section 732 of this title; and

(B)(i) are ineligible for protection and advocacy programs under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 1501 et seq.] because the individuals do not have a developmental disability, as defined in section 102 of such Act [42 U.S.C. 15002]; and

(ii) are ineligible for services under the Protection and Advocacy for Mentally Ill Individuals Act of 1986 [42 U.S.C. 10801 et seq.] because the individuals are not individuals with mental illness, as defined in section 102 of such Act [42 U.S.C. 10802].

(b) Appropriations less than $5,500,000

For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of subparagraphs (A) and (B) of subsection (a)(1).

(c) Appropriations of $5,500,000 or more

(1) Reservations

(A) Technical assistance

For any fiscal year in which the amount appropriated to carry out this section is more than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of subparagraphs (A) and (B) of subsection (a)(1).
§ 794e

(4) Systems within other jurisdictions

(2) Allotments

For any such fiscal year, after the reservations required by paragraph (1) have been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for individuals referred to in subsection (b).

(3) Systems within States

(A) Population basis

Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

(B) Minimums

Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or 1/3 of 1 percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or 1/3 of 1 percent of such remainder shall be increased to the greater of the two amounts.

(4) Systems within other jurisdictions

(A) In general

For the purposes of paragraph (3)(B), Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

(B) Allotment

The eligible system within a jurisdiction described in subparagraph (A) shall be allotted under paragraph (3)(A) not less than $50,000 for the fiscal year for which the allotment is made.

(5) Adjustment for inflation

For any fiscal year, beginning in fiscal year 1999, in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section for the preceding fiscal year, the Commissioner shall increase each of the minimum grants or allotments under paragraphs (1)(B), (3)(B), and (4)(B) by a percentage that shall not exceed the percentage increase in the total amount appropriated to carry out this section between the preceding fiscal year and the fiscal year involved.

(d) Proportional reduction

To provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(3)(B), or to provide minimum allotments to systems within States (as increased under subsection (c)(5)) under subsection (c)(4)(B), the Commissioner shall proportionately reduce the allotments of the remaining systems within States under subsection (c)(3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under subsection (c)(5)) under subsection (c)(3)(B), or the minimum allotment for a State (as increased under subsection (c)(5)) under subsection (c)(4)(B), as appropriate.

(e) Reallotment

Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

(f) Application

In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

(2) have the same general authorities, including the authority to access records and program income, as are set forth in subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.];

(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State or the American Indian consortium who are individuals described in subsection (a)(1);

(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State or the American Indian consortium;

(5) develop a statement of objectives and priorities on an annual basis, and provide to the
public, including individuals with disabilities and, as appropriate, the individuals’ representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 732 of this title, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15001 et seq.], and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 2 [42 U.S.C. 10801 et seq.];

(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

(g) Carryover and direct payment

(1) Direct payment

Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State or the grant for the eligible system that serves the American Indian consortium involved under this section, unless the State or American Indian consortium provides otherwise.

(2) Carryover

Any amount paid to an eligible system that serves a State or American Indian consortium for a fiscal year that remains unobligated at the end of such year shall remain available to such system that serves the State or American Indian consortium for obligation during the next fiscal year for the purposes for which such amount was paid.

(h) Limitation on disclosure requirements

For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

(i) Administrative cost

In any State in which an eligible system is located within a State agency, a State may use a portion of any allotment under subsection (c) for the cost of the administration of the system required by this section. Such portion may not exceed 5 percent of the allotment.

(j) Delegation

The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

(k) Report

The Commissioner shall annually prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

(l) Authorization of appropriations

There are authorized to be appropriated to carry out this section $17,650,000 for fiscal year 2015, $19,013,000 for fiscal year 2016, $19,408,000 for fiscal year 2017, $19,838,000 for fiscal year 2018, $20,305,000 for fiscal year 2019, and $20,735,000 for fiscal year 2020.

(m) Definitions

As used in this section:

(1) Eligible system

The term “eligible system” means a protection and advocacy system that is established under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15001 et seq.] and that meets the requirements of subsection (f).

(2) American Indian consortium

The term “American Indian consortium” means a consortium established as described in section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).

(2) American Indian consortium

The term “American Indian consortium” means a consortium established as described in section 142 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6042).

References in Text

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (a)(1)(B)(i), (f)(2), (g)(B), and (m)(1), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1676, which is classified principally to chapter 144 (§15001 et seq.) of Title 42, The Public Health and Welfare. Subtitle C of title I of the Act is classified to chapter 144 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under Title 42.


2See References in Text note below.


The Older Americans Act of 1965, referred to in subsec. (d)(5)(B), is Pub. L. 89-73, July 14, 1965, 79 Stat. 218, as amended, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.


AMENDMENTS

2014—Subsec. (c)(1)(A). Pub. L. 113-128, §457(1), inserted “a grant, contract, or cooperative agreement for” before “training”.

Subsec. (c)(2). Pub. L. 113-128, §457(2), substituted “general authorities, including the authority to access records” for “general authorities, including access to records” and inserted “of title I” after “subtitle C”.

Subsec. (f)(2). Pub. L. 113-128, §457(3), substituted “$17,650,000 for fiscal year 2015, $19,013,000 for fiscal year 2016, $19,406,000 for fiscal year 2017, $19,838,000 for fiscal year 2018, $20,305,000 for fiscal year 2019, and $20,735,000 for fiscal year 2020, for such sums as may be necessary for each of the fiscal years 2019 through 2023.”


1998—Pub. L. 105-220 amended section catchline and text generally. Prior to amendment, text consisted of subsecs. (a) to (n) relating to protection and advocacy of individual rights.


1995—Subsec. (a)(1). Pub. L. 105-73, §112(c)(1), added par. (1) and struck out former par. (1) which read as follows: “are ineligible for client assistance programs under section 732 of this title; and”.

Subsec. (b). Pub. L. 103-73, §112(c)(2), added subsec. (b) and struck out heading and text of former subsec. (b).

Text read as follows: “(1) ALLOTMENTS.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).”

“(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.”


Subsec. (c)(5). Pub. L. 103-73, §112(c)(3)(B), added par. (5) and struck out heading and text of former par. (5).

Text read as follows: “(A) STATES.—For purposes of determining the minimum amount of an allotment under paragraph (3)(B), the amount $100,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

“(B) CERTAIN TERRITORIES.—For purposes of determining the minimum amount of an allotment under paragraph (4)(B), the amount $50,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.”

Subsec. (d), Pub. L. 103-73, §112(c)(4), added subsec. (d) and struck out heading and text of former subsec. (d).

Text read as follows: “Amounts necessary to provide allotments to systems within States in accordance with subsection (c)(3)(B) as increased under subsection (c)(5), or to provide allotments in accordance with subsection (c)(4)(B) as increased in accordance with subsection (c)(5), shall be derived by proportionately reducing the allotments of the remaining systems within States under subsection (c)(5), but with such adjustments as may be necessary to prevent the allotment of any such remaining systems within States from being thereby reduced to less than the greater of $100,000 or one-third of one percent of the sums made available for purposes of this section for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(5).”

Subsec. (1). Pub. L. 103-73, §112(c)(6), which directed the amendment of this section “in subsection (i), to read as follows:”, was executed by adding subsec. (1). Former subsec. (i) redesignated (n).

Subsec. (j). Pub. L. 103-73, §112(c)(7), added subsec. (j) and struck out heading and text of former subsec. (j).

Text read as follows: “An eligible system may not use more than 5 percent of any allotment under subsection (c) for the cost of administration of the system required by this section.”

Subsec. (n). Pub. L. 103-73, §112(c)(5), redesignated subsec. (i) as (n).

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-12 effective Apr. 30, 1997, applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, and also applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of Title 42, The Public Health and Welfare.
§ 794f. Establishment of standards for accessible medical diagnostic equipment

(a) Standards

Not later than 24 months after March 23, 2010, the Architectural and Transportation Barriers Compliance Board shall, in consultation with the Commissioner of the Food and Drug Administration, promulgate regulatory standards in accordance with the Administrative Procedure Act (2 U.S.C. 551 et seq.), setting forth the minimum technical criteria for medical diagnostic equipment used in (or in conjunction with) physician’s offices, clinics, emergency rooms, hospitals, and other medical settings. The standards shall ensure that such equipment is accessible to, and usable by, individuals with accessibility needs, and shall allow independent entry to, use of, and exit from the equipment by such individuals to the maximum extent possible.

(b) Medical diagnostic equipment covered

The standards issued under subsection (a) for medical diagnostic equipment shall apply to equipment that includes examination chairs, examination tables, eye examinations or procedures, weight scales, mammography equipment, x-ray machines, and other radiological equipment commonly used for diagnostic purposes by health professionals.

(c) Review and amendment

The Architectural and Transportation Barriers Compliance Board, in consultation with the Commissioner of the Food and Drug Administration, shall periodically review and, as appropriate, amend the standards in accordance with the Administrative Procedure Act (2 U.S.C. 551 et seq.).

References in Text

March 23, 2010, referred to in subsec. (a), was in the original “the date of enactment of the Affordable Health Choices Act”, which was translated as meaning the date of enactment of the Patient Protection and Affordable Care Act, Pub. L. 111–148, title IV, § 4203, Mar. 23, 2010, 124 Stat. 570.

§ 794g. Limitations on use of subminimum wage

(a) In general

No entity, including a contractor or subcontractor of the entity, which holds a valid certificate pursuant to section 14(c) of the Fair Labor Standards Act of 1938.

(2) The individual, before beginning work that is compensated at a subminimum wage, has completed, and produces documentation indicating completion of, each of the following actions:

(A) The individual has received pre-employment transition services that are available to the individual under section 733 of this title, or transition services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) such as transition services available to the individual under section 614(d) of that Act (20 U.S.C. 1414(d)).

(B) The individual has applied for vocational rehabilitation services under subchapter I, with the result that—

(1)(I) the individual has been found ineligible for such services pursuant to that subchapter and has documentation consistent with section 722(a)(5)(C) of this title regarding the determination of ineligibility; or

(II)(aa) the individual has been determined to be eligible for vocational rehabilitation services;

(bb) the individual has an individualized plan for employment under section 722 of this title;

(cc) the individual has been working toward an employment outcome specified in such individualized plan for employment, with appropriate supports and services, including supported employment services, for a reasonable period of time without success; and

(dd) the individual’s vocational rehabilitation case is closed; and

(ii)(I) the individual has been provided career counseling, and information and referrals to Federal and State programs and other resources in the individual’s geographic area that offer employment-related services and supports designed to enable the individual to explore, discover, experience, and attain competitive integrated employment; and

(II) such counseling and information and referrals are not for employment compensated at a subminimum wage provided by an entity described in this subsection, and such employment-related services are not compensated at a subminimum wage and do not directly result in employment compensated at a subminimum wage provided by an entity described in this subsection.

(b) Construction

(1) Rule

Nothing in this section shall be construed to—

(A) change the purpose of this chapter described in section 701(b)(2) of this title, to empower individuals with disabilities to maximize opportunities for competitive integrated employment; or

(B) preference employment compensated at a subminimum wage as an acceptable vo-
(2) **Contracts**

A local educational agency (as defined in section 7801 of title 20) or a State educational agency (as defined in such section) may not enter into a contract or other arrangement with an entity described in subsection (a) for the purpose of operating a program for an individual who is age 24 or younger under which work is compensated at a subminimum wage.

(3) **Voidability**

The provisions in this section shall be construed in a manner consistent with the provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.), as amended before or after the effective date of this Act.

(c) **During employment**

(1) **In general**

The entity described in subsection (a) may not continue to employ an individual, regardless of age, at a subminimum wage unless, after the individual begins work at that wage, at the intervals described in paragraph (2), the individual (with, in an appropriate case, the individual’s parent or guardian)—

(A) is provided by the designated State unit career counseling, and information and referrals described in subsection (a)(2)(B)(ii), delivered in a manner that facilitates independent decisionmaking and informed choice, as the individual makes decisions regarding employment and career advancement; and

(B) is informed by the employer of self-advocacy, self-determination, and peer mentorship training opportunities available in the individual’s geographic area, provided by an entity that does not have any financial interest in the individual’s employment outcome, under applicable Federal and State programs or other sources.

(2) **Timing**

The actions required under subparagraphs (A) and (B) of paragraph (1) shall be carried out once every 6 months for the first year of the individual’s employment at a subminimum wage, and annually thereafter for the duration of such employment.

(3) **Small business exception**

In the event that the entity described in subsection (a) is a business with fewer than 15 employees, such entity can satisfy the requirements of subparagraphs (A) and (B) of paragraph (1) by referring the individual, at the intervals described in paragraph (2), to the designated State unit for the counseling, information, and referrals described in paragraph (1)(A) and the information described in paragraph (1)(B).

(d) **Documentation**

(1) **In general**

The designated State unit, in consultation with the State educational agency, shall develop a new process or utilize an existing process, consistent with guidelines developed by the Secretary, to document the completion of the actions described in subparagraphs (A) and (B) of subsection (a)(2) by a youth with a disability who is an individual with a disability.

(2) **Documentation process**

Such process shall require that—

(A) in the case of a student with a disability, for documentation of actions described in subsection (a)(2)(A)—

(i) if such a student with a disability receives and completes each category of required activities in section 733(b) of this title, such completion of services shall be documented by the designated State unit in a manner consistent with this section; and

(ii) if such a student with a disability receives and completes any transition services available for students with disabilities under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.], including those provided under section 614(d)(1)(A)(i)(VIII), such completion of services shall be documented by the appropriate school official responsible for the provision of such transition services, in a manner consistent with this section; and

(B) when an individual has completed the actions described in subsection (a)(2)(B), the designated State unit shall provide the individual a document indicating such completion, in a form and manner consistent with this section, of the completion of pre-employment transition services as described in clause (i), or transition services under the Individuals with Disabilities Education Act as described in clause (ii), to the student with a disability within a reasonable period of time following the completion; and

(2) **During employment**

(A) **In general**

In order to continue to employ an individual at a subminimum wage, the entity described in subsection (a) shall verify completion of the requirements of subsection (c), including reviewing any relevant documents provided by the individual, and shall maintain copies of the documentation described in subsection (d).
(B) Review of documentation

The entity described in subsection (a) shall be subject to review of individual documentation described in subsection (d) by a representative working directly for the designated State unit or the Department of Labor at such a time and in such a manner as may be necessary to fulfill the intent of this section, consistent with regulations established by the designated State unit or the Secretary of Labor.

(f) Federal minimum wage

In this section, the term ‘‘Federal minimum wage’’ means the rate applicable under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)).

(4) Take effect on the same date as section 458(a) of the Workforce Innovation and Opportunity Act (Public Law 113–128; 128 Stat. 1676) [enacting this section] takes effect on the same date as section 458(a) of the Workforce Innovation and Opportunity Act (Public Law 113–128; 128 Stat. 1676; amended Pub. L. 114–95, title IX, § 461(1), (2), July 22, 2014, 112 Stat. 2188, provided that: ''The amendment to reference in original act which appears out under section 3101 of this title), or the effective date of this section, consistent with regulations established by the designated State unit or the Secretary of Labor.


Prior sections 795a to 795f were omitted in the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795b were contained in section 795a of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795c were contained in section 795b of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795d were contained in section 795c of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795e were contained in section 795d of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795f were contained in section 795e of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795g were contained in section 795f of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795h were contained in section 795g of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795i were contained in section 795h of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795j were contained in section 795i of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795k were contained in section 795j of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795l were contained in section 795k of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795m were contained in section 795l of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795n were contained in section 795m of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795o were contained in section 795n of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795p were contained in section 795o of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795q were contained in section 795p of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795r were contained in section 795q of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795s were contained in section 795r of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795t were contained in section 795s of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795u were contained in section 795t of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795v were contained in section 795u of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795w were contained in section 795v of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795x were contained in section 795w of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795y were contained in section 795x of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Prior sections 795a to 795z were contained in section 795y of this title prior to the general amendment of this subchapter by Pub. L. 105–220.

Short Title

For short title of this section, see section 612 of Pub. L. 93–112, as amended, set out as a note under section 701 of this title.