or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from aid, benefits, or services limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall take appropriate steps to ensure that communications with their applicants, employees and handicapped persons participating in federally assisted programs or activities or receiving aids, benefits or services, are available to persons with impaired vision and hearing.

(e) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.


§ 1040.64 Effect of State or local law or other requirements and effect of employment opportunities.

(a) The obligation to comply with this subpart is not obviated or alleviated by the existence of any State or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

(b) The obligation to comply with this part is not obviated or alleviated because employment opportunities in any occupation or profession are or may be more limited for handicapped persons than for non-handicapped persons.

(c) **Effect of other regulations.** All regulations, orders, or similar directions issued by any officer of DOE which impose requirements designed to prohibit discrimination against individuals on the grounds of race, color, national origin, sex, age, or handicap under any program or activity to which this part applies, and which authorize the suspension, termination or refusal to grant or to continue Federal financial assistance for failure to comply with these requirements, are superseded to the extent that discrimination is prohibited by this part. Nothing in this part is to relieve any person of the obligation assumed or imposed under any superseded regulation, order, instruction, or similar direction prior to the effective date of this part. Nothing in this part is to supersede the effective date of this part. Nothing in this part is to supersede Executive Orders 10925, 11114, 11063, 11246, and regulations issued under these authorities, or supersede any other regulations or instructions which prohibit discrimination on the ground of race, color, national origin, sex, age, or handicap in any program or activity to which this part does not apply.


§ 1040.65 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 are adopted and incorporated in this section by reference. These procedures may be found in subparts G and H of this part.

**EMPLOYMENT PRACTICES**

§ 1040.66 Discrimination prohibited.

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

(2) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(3) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, labor unions, organizations providing or administering fringe benefits to employees of the recipient, and organizations providing training and apprenticeships.

(b) **Specific activities.** The provisions of this subpart apply to:
§ 1040.69 Preemployment inquiries.

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

(b) When a recipient is taking remedial action to correct the effects of